

# PAY EQUITY HEARINGS TRIBUNAL INFORMATION BULLETIN NO. 7

## Requests for Reconsideration

### GENERAL

The Pay Equity Hearings Tribunal is a quasi-judicial administrative tribunal with final and exclusive responsibility for hearing and determining all disputes arising under the *Pay Equity Act*. The Tribunal's processes and decisions are completely independent of the Pay Equity Office.

Subsection 30(2) of the *Pay Equity Act* gives the Tribunal the power to reconsider any decision or order, either on its own motion or at the request of any party. This Information Bulletin describes how the Tribunal deals with a request for reconsideration.

### WHAT IS RECONSIDERATION?

Decisions of the Tribunal are final and conclusive for all purposes. Reconsideration is a discretionary remedy; you do not have a right to reconsideration. It is **NOT** an appeal or an opportunity to repair a deficiency in your case. The Tribunal will only reconsider a decision where it finds that there are compelling and extraordinary circumstances. These include:

- new evidence or legal submissions that would be *practically conclusive of the case and that could not have been presented at the original hearing*;
- since the decision was issued a change of circumstances of such significance has occurred that the decision should change; or
- the decision is wrong in law.

### MAKING A REQUEST FOR RECONSIDERATION

#### What Goes in the Request?

Complete a "Request for Reconsideration" (Form 6). Your request must name all parties to the decision you wish reconsidered and include the Tribunal Case Number. If your address, telephone number, email address, contact person or representative has changed since the Tribunal issued the decision, provide that new information. If this information has changed for the responding party(ies) provide it also.

Part C of the Request is where you set out the facts and reasons which you say require the Tribunal to reconsider its decision. This should be done in consecutively numbered paragraphs. Be sure you explain how your Request meets the tests for granting reconsideration expressed in the Tribunal decisions identified above. The Tribunal usually decides Requests for Reconsideration without an oral hearing so what you say in the written Request is critical.

Part C of the Request is where you tell the Tribunal what you want it to do: set aside its decision; hold a new hearing; consider missing evidence etc.

### **Service and Filing**

The Request must be served on all the parties to the decision. Service may be by hand, regular mail, courier, facsimile transmission, or any other manner agreed on by the parties.

The Request for Reconsideration and Certificate of Delivery (Form 3) must be filed with the Tribunal. Unless you have the Tribunal's permission, the Request must be filed no later than 20 working days after the decision or order was issued by the Tribunal. Unless the Tribunal allows it to proceed, a Request filed after that time will be dismissed. The Request may be filed by hand, regular mail, courier, facsimile transmission, or e-filed.

### **RESPONDING TO A REQUEST**

A Responding Party may serve written submissions supporting or objecting to the Request on all parties. Service may be by hand, regular mail, courier, facsimile transmission, or any other manner agreed on by the parties. The submissions together with Certificate of Delivery (Form 3) must be filed with the Tribunal no later than 5 days after the effective date of service of the Request. Effective date of service is defined in the Rules.

In addition, the Tribunal may direct the responding party to serve and file submissions by a certain date. Once that date has passed, the Tribunal reviews all of the submissions.

### **DECIDING THE REQUEST FOR RECONSIDERATION**

The Tribunal does not usually hold an oral hearing when deciding a Request. If the Tribunal determines that an oral hearing is necessary, the Registrar will advise you of the date and location.

The Tribunal will review the Request to see if it is filed in time and raises issues upon which a decision to reconsider could be based. Where it does not meet these requirements the Tribunal may dismiss it. If this happens, the Tribunal will send the parties a decision giving its reasons for the dismissal.

Ordinarily, the same panel of the Tribunal which made the original decision or order will decide the reconsideration request. The original panel is usually in the best position to decide whether the Tribunal's discretion to reconsider should be exercised in the circumstances. After considering all the submissions, the Tribunal issues a decision containing its reasons for granting or dismissing the Request.