

APPEALS AND COMPLAINTS

What can be done if you disagree with an inspector's decision or order?

- Anyone who disagrees with an inspector's decision or order can file an appeal with the Ontario Labour Relations Board within 30 days of the decision. The Board may affirm or rescind an inspector's orders or substitute its findings, and the Board's decision is final. **Sec. 61**

How are appeals dealt with by the OLRB?

- The board requires that you file your appeal in writing on Form A-65 within 30 calendar days of the inspector's decision. All of the OLRB forms and Information Bulletins are available on the provincial government website. Look for the OLRB link on the Ministry of Labour's site.
- The board will then send a copy of the completed Appeal Form (A-65) and a blank Response to Appeal Form (A-66) to all the responding parties to the appeal. The parties to the appeal usually include the worker, the union, the employer, and the inspector.
- The board will appoint a labour relations officer (LRO) to meet with the parties in an effort to resolve the appeal. **Sec. 61, Sub .3**
- The LRO will report the results of this effort to the board. If the matter is not resolved, the case will be set for a consultation or hearing, and a Notice of Consultation or Hearing will be sent to all of the parties.
- The Response to Appeal (Form A-66) must be completed and delivered to the Board and all of the parties no later than 21 calendar days before the consultation or hearing date.

How are requests for a suspension of an inspector's decision processed by the OLRB?

- Suspension requests will be processed only if an application for appeal has also been filed with the board.

- An application for suspension of an inspector's decision is filed with the Board on Form A-67. In giving your reasons for a suspension request, applicants must address the following criteria:

1. Will the health and safety of the workers be assured if the order is suspended?
2. Will there be any negative impact on the applicant if the decision is not suspended?
3. Is there a good chance of succeeding in your appeal?
4. Is there a good reason to vary the inspector's decision or order before the appeal can be dealt with?
5. And any other information that might be supportive.

- A completed Form A-68 must be delivered to all parties within 14 calendar days of confirmation of filing sent by the board.
- Applications for suspension are usually dealt with through consideration of written submissions only. In certain instances, the Board may call for an oral hearing or consultation.

What options can the OLRB take in appeal/suspension applications?

- Hold formal hearings;
- Limit the presentation of evidence by the parties;
- Issue a decision without holding a hearing after consulting with the parties;
- Suspend the inspector's order pending the disposition of the appeal;
- Reconsider any decision or order an inspector has made.

How are Section 50 reprisal complaints processed by the OLRB?

- Applications alleging that an employer has violated Section 50 must be made on Form A-53. The applicant must fully describe how Section 50 was violated and provide facts and documents in support of the allegations that the employer imposed an unlawful reprisal on a worker.
- Before filing the application with the board, the worker must deliver an Application Package to the employer. This consists of the completed application, a blank response Form A-54, a Notice of Application Form C-26, and a copy of the Board's Information Bulletin.
- No later than five days after delivering the Application Package to the employer, the worker must file two copies of the application with the board. The matter will be terminated if the application is not filed within five days of delivery to the employer.
- After receiving the Application Package, the employer has 10 working days to Respond to the application on Form A-54. The employer must first deliver a copy of the response to the worker and then file 2 copies to the Board.
- After the response has been filed, the board will assign an LRO who will attempt to mediate a settlement.
- If no settlement is reached, a hearing will be held. At the hearing, the employer must establish that it did not impose an unlawful reprisal. Usually, the employer must give its evidence first.

What is the role of the OLRB under the Act?

- The Act empowers the Board to hear and decide: Appeals of inspectors' orders and decisions. **Sec. 61**
- Complaints from certified members or an inspector that the bilateral work stoppage provision does not protect the workers from serious risk to their health and safety. **Sec. 46**
- Complaints that a certified member has exercised or failed to exercise the power to stop work recklessly or in bad faith. **Sec. 4**

- Complaints that an employer has taken a reprisal against a worker. These are filed on Form A-53 with the OLRB.

Sec. 50

How can an application to the board under Section 46 assist workers?

- An application places the employer under the close scrutiny of the OLRB.
- The employer is faced with the possibility of having the unilateral shutdown Provision imposed or having an inspector assigned on a full-time or part-time basis.

What must you carefully document to build a case against a bad employer?

- obstruction of the internal responsibility system;
- cases where the employer ignores the recommendations of the joint committee;
- cases where the employer fails to correct identified safety violations;
- the number of orders, repeat orders or charges;
- the incidence of occupational illness and injury;
- lack of policies, programs, safety procedures and training;
- the number of health and safety reprisals.

(See Regulation 243/95)

