

2002/03
Annual 
 Report

GETTING
STARTED

Employment
and Assistance
Appeal Tribunal

November 2003

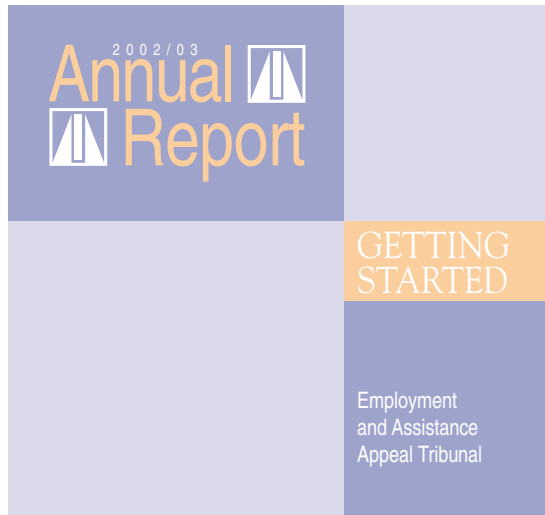
Honourable Murray Coell
Minister of Human Resources

I have the honour to transmit herewith my annual report to you,
in accordance with section 20(1) of the Employment and
Assistance Act.

A handwritten signature in blue ink, appearing to read 'B. Gifford', with a large, sweeping flourish at the end.

Brian Gifford
Chair, Employment and Assistance Appeal Tribunal

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Message from the Chair

It is a pleasure to present the first annual report of the new Employment and Assistance Appeal Tribunal. The tribunal's first year has been exciting and productive. With proclamation of the new act, we had the opportunity to create a new organization, incorporating principles from the Administrative Justice Project and recruiting panel members from across the province. We were able to accomplish our mandate this year in large part through the significant contributions of time and effort of our panel members.

I take pride in the fact that the tribunal's new appeal system, which deals with a high volume of appeals, is extremely efficient. It is very important that any uncertainty about whether an appellant is entitled to a benefit be resolved as quickly as possible, because his or her livelihood is at stake. We do this by commencing a hearing within 15 business days of receiving a Notice of Appeal, and requiring the panel to submit its decision to the tribunal within five business days after the hearing.

It is also important, however, that the appeal process be fair and accessible. We have worked hard to ensure fairness and accessibility by taking into account the diversity of the population with which we deal and by making the process as user-friendly as possible. We've used every means to make our office easy to access, through a toll-free number, fax, e-mail, the Web, and mail. We have published our practices and procedures, and we ensure that our staff are able to provide the information that appellants need. We try to accommodate the type of hearing requested by the appellants, and we hold hearings in the region and community in which the appellant lives. Each appeal is heard by a panel of three neutral, objective members of the community who have knowledge of conducting fair appeals and understanding of the relevant legislation.

As the Employment and Assistance Appeal Tribunal moves into its second year, we look forward to improving the appeal system we have developed and to making sure that the people who need us know who we are, how to find us and how to use the appeal process. In addition, we are planning new projects, including a pilot alternative dispute resolution program and development of a student placement program through the University of Victoria's School of Social Work, which we expect to report on next year.

A handwritten signature in blue ink, appearing to read 'B. Gifford', written over a thin blue line.

Brian Gifford
Chair, Employment and Assistance Appeal Tribunal

OUR MISSION

The mission of the
Employment and Assistance
Appeal Tribunal is to
provide an accessible appeal
process that delivers timely
and fair decisions reviewing
determinations of the Ministry
of Human Resources.

1 INTRODUCTION: Who We Are and What We Do

The Employment and Assistance Appeal Tribunal was established on September 30, 2002. The tribunal hears appeals of decisions about assistance made by the Ministry of Human Resources, and is independent of the ministry. (A complete statement of our mandate is included in Appendix A.)

The tribunal provides a streamlined and efficient one-step appeal process, replacing the appeal system that existed under the former BC Benefits Act and other related acts.

The tribunal consists of a tribunal chair and vice-chair, staff, and a roster of panel members located throughout the province. Three people are chosen from the roster by the tribunal chair to hear each appeal. Approximately 400 panel members are needed to provide reasonable levels of service. (A list of tribunal staff is included in Appendix B, and a list of tribunal members is included in Appendix C.)

Tribunal members

The tribunal chair and vice-chair are appointed by the Lieutenant Governor in Council. Tribunal panel members are recruited and screened by the tribunal chair and appointed by the Minister of Human Resources. The required qualifications for the tribunal chair, vice-chair and panel members are set out in the Employment and Assistance Regulation, and include:

- understanding the conduct of a fair and objective appeal
- understanding the relevant acts and regulations
- not being an employee of the Ministry of Human Resources
- not being a recipient of benefits under the Employment and Assistance Act or the Employment and Assistance for Persons with Disabilities Act.

Tribunal panel members are also required to commit to attending training, maintaining confidentiality, and following the tribunal's practices and procedures.

In addition, the tribunal chair and vice-chair must have demonstrated:

- skills in management, financial administration and human resource development
 - knowledge of administrative law.
-

The appeal process

Before coming to the tribunal, people must first request a Ministry of Human Resources reconsideration decision. People who apply for or receive assistance under the BC Employment and Assistance Program can ask for reconsideration of decisions that resulted in refusal, reduction or discontinuance of assistance, supplements or child care subsidies.

(More information about the ministry's reconsideration process is available from ministry offices and from the ministry's Web site, www.gov.bc.ca/mhr)

Those who disagree with an outcome of their request for reconsideration can, in most cases, appeal to the Employment and Assistance Appeal Tribunal. They must submit a Notice of Appeal form to the tribunal within seven days of receiving their reconsideration decision. (Appendix D includes instructions for appealing to the tribunal.)

On receiving a completed Notice of Appeal, the tribunal decides whether the matter can be appealed. Factors that are considered include whether the Notice of Appeal was submitted within the prescribed timelines and whether the issue is appealable under the legislation.

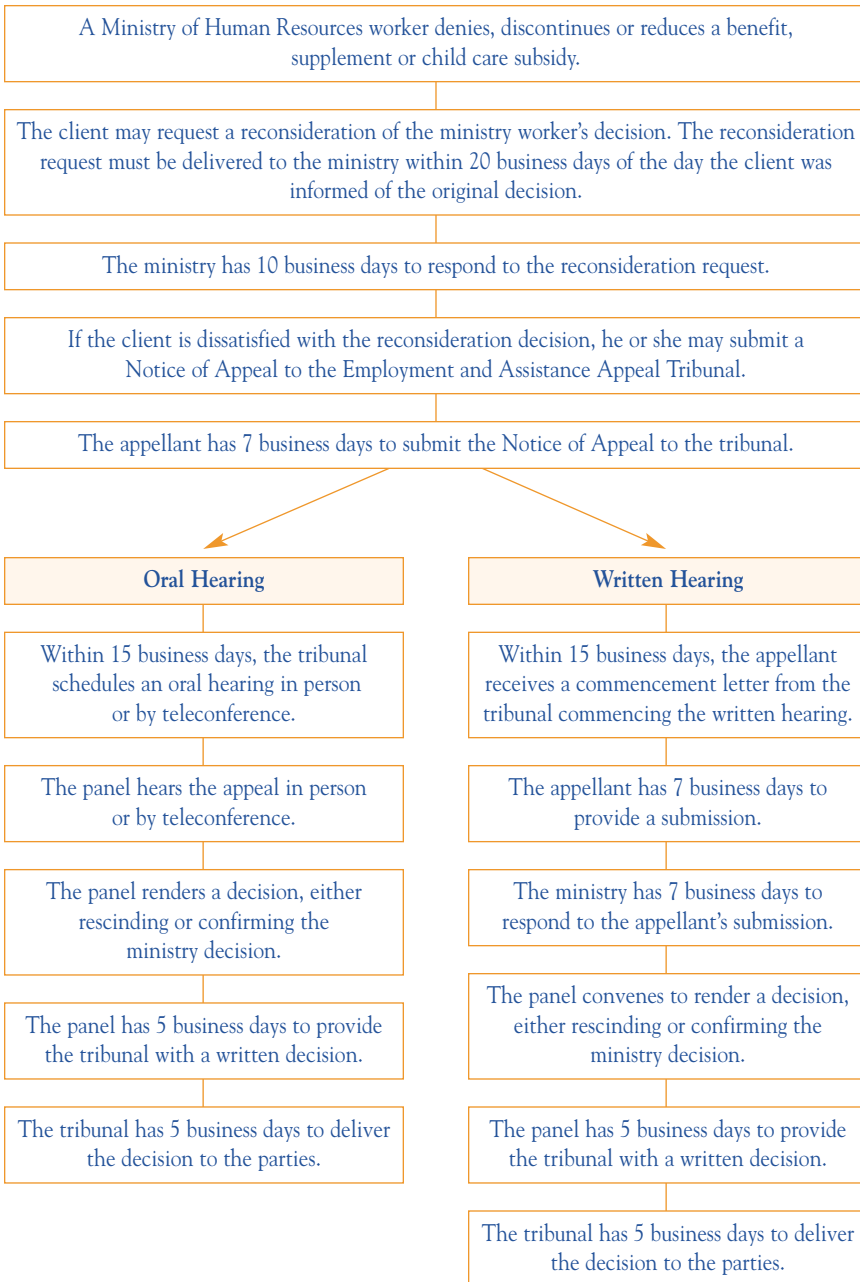
If the matter is eligible for appeal, a three-person panel is appointed, and the hearing is commenced within 15 business days of the Notice of Appeal being delivered to the tribunal. Most hearings are conducted in person, usually in or near the appellant's community. Hearings can also occur, however, by teleconference, or, if both parties consent, in writing.

The panel reviews the reconsideration decision and ministry appeal record, considers the evidence provided by the appellant and the ministry, and renders a written decision within five business days of the hearing. The tribunal office sends a copy of the decision to the appellant and the ministry within five business days of receiving it from the panel. Decisions of the tribunal are final.

The Employment and Assistance Appeal Tribunal hears appeals of reconsideration decisions that refuse, reduce or discontinue assistance and/or a supplement under:

- Section 17(3) of the Employment and Assistance Act
 - Section 16(3) of the Employment and Assistance for Persons with Disabilities Act, and
 - Section 6(3) of the Child Care Subsidy Act.
-

Appeal Process



VISION

The Employment and Assistance Appeal Tribunal will be known for:

- providing an independent, community-based, accessible, fair, timely, caring and ethical process to hear appellants' disagreements with decisions of the Ministry of Human Resources
- supporting panel members to provide quality service and raise community awareness and the profile of the tribunal
- creating a healthy work environment that supports staff to provide quality service and to continually learn and develop knowledge, skills and expertise.

2 OUR FIRST YEAR: What We've Done

Milestones

September 30, 2002	Employment and Assistance Act proclaimed Chair Brian Gifford and Vice-Chair Leonel Laval Perra appointed by Order in Council First panel members (184) appointed by Ministerial Order
October 17, 2002	First appeal hearing held
October 30, 2002 April 15, 2003 May 1, 2003	} Additional panel members appointed by Ministerial Order (12 in total)

Getting started

The Employment and Assistance Appeal Tribunal accomplished a great deal in its first year of operation, working with new legislation and a new mandate, and with new staff and new panel members. Here is a brief summary of our accomplishments in key areas.

Panel members

- The tribunal chair and vice-chair and the first 184 panel members were appointed just before the Employment and Assistance Act was proclaimed on September 30, 2002.
- After the act was proclaimed, we undertook a large panel member recruitment campaign in an effort to appoint more panel members in specific areas of the province. The campaign included newspaper advertisements, notices on Web sites, posters, and recruiting tours by the tribunal chair. Another 12 panel members were appointed during the year, with more than 40 more expected to be appointed early in our second year.
- We developed and distributed a training manual and provided one-day training sessions throughout the province for new panel members.

Infrastructure

- We opened and outfitted an office in Victoria, and hired staff (a director, manager of appeals, executive administrative assistant, office manager, administrative assistant, appeal panel assistant, and six appeal coordinators).

Policy

We developed:

- a policy manual for use by tribunal staff
- our practices and procedures – the rules to be followed by staff, panel members, and parties in the appeal process – and published them on our Web site
- the forms required for the appeal process
- a highly effective computerized tracking and reporting system.

Communications

- We developed information materials, including a brochure, poster and Web site. The Web site provides information about the tribunal, the basis for an appeal and preparation for an appeal, and panel member recruitment, as well as the required appeal forms, links to legislation, and a request for feedback.
- We held an open house on March 3, 2003, to celebrate the opening of the tribunal office.
- The tribunal chair met with advocacy organizations and attended workshops and conferences to provide information about the tribunal.

Strategic planning

- We developed a three-year service plan (available on our Web site), which sets out our mission, values, goals and objectives, and performance measurements.
- We held a strategic planning day to get input from staff in developing the service plan.

All appeals received and accepted by the tribunal, with the exception of one, were commenced within the legislated timeframe of 15 business days after receipt of the Notice of Appeal.

The tribunal's first appeal hearing was held on October 17, 2002. The appeal issue was a nutritional supplement.

Service plan tasks completed

Several tasks identified in the tribunal's service plan have already been completed, including:

- Policies respecting adjournments are developed, posted on the tribunal Web site and available in print by July 31, 2003.
 - Tribunal sends copies of all submissions received by a party to the other party.
 - Practices and procedures document is prepared and published on the tribunal's Web site and updated when changes occur.
 - Toll-free numbers are in place and are included on all tribunal publications.
 - Policy and procedure manual is developed and circulated to all staff.
 - Clear guidelines and procedures are established and implemented for the management of information to respect the confidentiality and privacy of the parties in the appeal process.
 - Computerized appeal tracking system is implemented by June 30, 2003.
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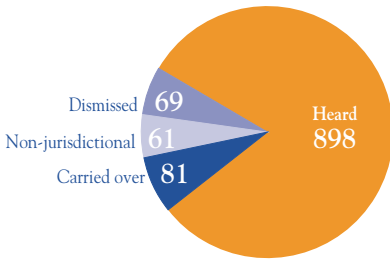
Tribunal budget information is included in Appendix E.

Results

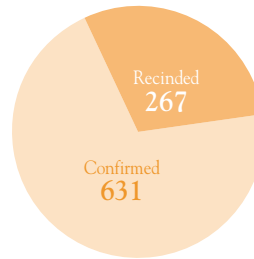
Here is a brief summary of the results of our work for the reporting period September 30, 2002 to September 30, 2003.

Notices of Appeal received	1109
Appeals assessed as not within the jurisdiction of the tribunal (i.e., not proceeding to hearing)	61
Appeals dismissed (i.e., both parties consented to withdraw the appeal)	69
Files with decision confirmed (i.e., Ministry of Human Resources reconsideration decision upheld)	631
Files with decision rescinded (i.e., Ministry of Human Resources reconsideration decision overturned)	267
Files carried over (i.e., Notice of Appeal received before September 30, 2003 but proceeding to hearing after September 30, 2003)	81

Appeals Received – 1109



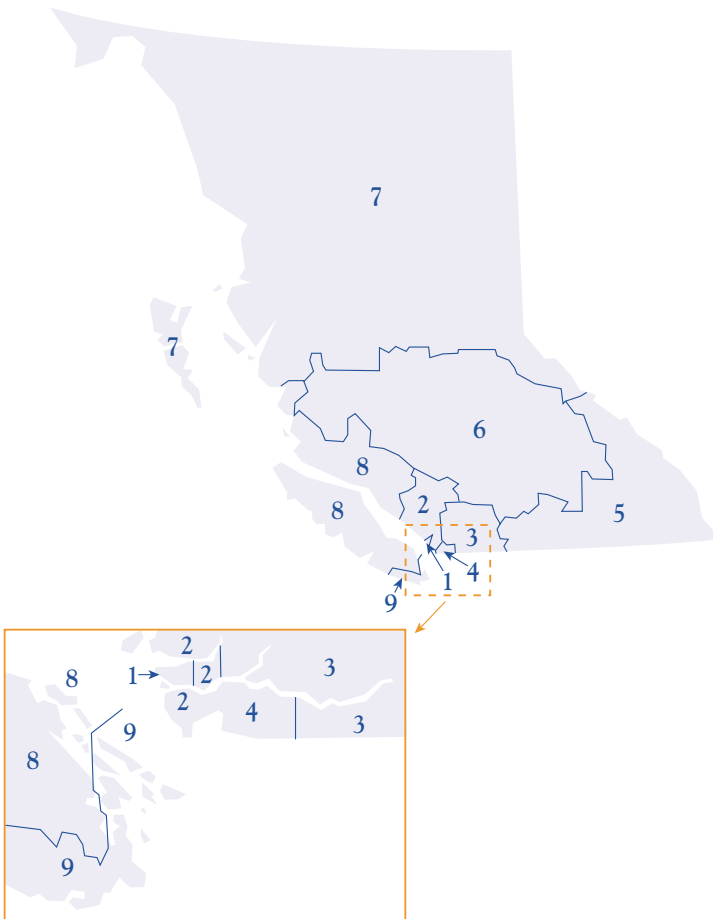
Appeals Heard – 898



Appeal Type

Disabilities – Persons with disabilities (PWD)	243
Disabilities – Persons with persistent multiple barriers (PPMB)	66
Eligibility – Deductions on income/earnings exemptions	9
Eligibility – Dependency/living arrangements	67
Eligibility – Eligibility audit	22
Eligibility – Excess income/assets	59
Eligibility – Failure to accept/pursue income/assets	13
Eligibility – Failure to provide information/verification	39
Eligibility – Undeclared income/assets	12
Employment – Dismissed/quit/refused employment	17
Employment – Employment plan/failure to look for work	185
Employment – Requirement for two year financial independence	10
Health Supplements – Dental supplement	26
Health Supplements – Diet/natal supplements	5
Health Supplements – MSP/other health supplements	55
Health Supplements – Medical equipment	53
Health Supplements – Medical supplies	12
Health Supplements – Medical transportation	7
Health Supplements – Monthly nutritional supplement (MNS)	67
Health Supplements – Short-term nutritional supplement products	6
Health Supplements – Therapies	7
Other – Child care	3
Other – Crisis supplement	57
Other – Family maintenance	5
Other – Hardship	5
Other – Other	59

Regional Boundaries



Regions		Appeal Files Entered by Region
Region 1	Vancouver	141
Region 2	Rainbow (Lower Mainland/Coast)	100
Region 3	Fraser North/Upper Valley	114
Region 4	Fraser South	121
Region 5	The Kootenays/Okanagan	89
Region 6	Central BC	237
Region 7	Prince George/Northern BC	65
Region 8	North Vancouver Island	105
Region 9	Garden City (Victoria)	137

OUR VALUES

In carrying out its mission,
the Employment and Assistance Appeal
Tribunal is guided by
the following values:

Fairness
Impartiality
Excellence
Efficiency
Timeliness
Accessibility
Accountability
Transparency
Independence

3 WHAT'S NEXT

Having completed the first year of operation, and having successfully developed and put in place all of the components of the new appeal process, the Employment and Assistance Appeal Tribunal can now turn its attention to improving on what we have done. Among the key tasks identified in our service plan are:

- public education, to ensure that people are aware of their right to appeal decisions of the Ministry of Human Resources and know how to access and use the appeal process
- fine-tuning our policies, practices and procedures, to ensure that we are providing the most efficient and fair process possible
- ongoing panel member recruitment, with targeting of specific areas of the province, to ensure that we have a full roster of capable and competent panel members located throughout B.C.
- panel member training, for both new and existing members.

Our next annual report will report on our progress on these and other tasks and priorities identified in our service plan.

Glossary

These are terms that you will find in this report, on our Web site and in our other materials.

act: the Employment and Assistance Act

Administrative Justice Project: a comprehensive review of the administrative justice system, initiated by the provincial government in 2001

advocate: an individual who serves as a spokesperson for one of the parties, typically the appellant

appeal panel: a panel of three persons appointed by the tribunal chair to hear an appeal under the act

appeal record: the information and records that were before the Minister of Human Resources when the reconsideration decision under appeal was made

appellant: a person who commences an appeal under section 21 of the act

business day: a day between the hours of 8:30 a.m. and 4:30 p.m. other than Saturday, Sunday or a statutory holiday

independent: the activities of the tribunal are separate and operate at “arms length” from the ministry

minister: the Minister of Human Resources

ministry: the Ministry of Human Resources

Notice of Appeal: the appeal form that must be submitted to the tribunal in order to commence an appeal

oral hearing: an appeal tribunal hearing that is conducted in the presence of the parties and the panel members or by teleconference

panel chair: the panel member designated by the tribunal chair to chair a specific appeal hearing

party: in relation to an appeal to the tribunal, the appellant and/or the minister whose decision is under appeal

quasi-judicial: an activity, process and/or body that is similar to that of a court of law, but without the formality and structure (judge, lawyers, jury) of a court of law

reconsideration decision: the final ministry decision pertaining to the initial request, and the decision that may be appealed to the Employment and Assistance Appeal Tribunal

representative: an agent, lawyer or advocate representing a party during the appeal

tribunal: the Employment and Assistance Appeal Tribunal established under section 19 of the act

tribunal chair: the chair of the tribunal appointed by the Lieutenant Governor in Council under section 19 of the act

witness: a person who provides evidence at a hearing

written hearing: an appeal tribunal hearing that is conducted through the submission of written documentation

Appendix A: Our Mandate

The Employment and Assistance Appeal Tribunal is an independent quasi-judicial agency established to determine appeals of Ministry of Human Resources decisions under section 17(3) of the Employment and Assistance Act, section 16(3) of the Employment and Assistance for Persons with Disabilities Act, and section 6(3) of the Child Care Subsidy Act pertaining to the following:

- a decision that results in a refusal to provide income assistance, disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;
- a decision that results in a discontinuance of income assistance, disability assistance or a supplement provided to or for someone in the person's family unit;
- a decision that results in a reduction of income assistance, disability assistance or a supplement provided to or for someone in the person's family unit;
- a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of the maximum amount of the supplement under the regulations, and the cost of the least expensive and appropriate manner of providing the supplement;
- a decision that results in a refusal to pay a child care subsidy to or for the person; and
- a decision that results in a discontinuance or reduction of the person's child care subsidy.

Section 20(1) of the Employment and Assistance Act gives the tribunal chair the responsibility for the general administration and management of the tribunal. Section 20(2) of the act also gives the tribunal chair the authority to establish practices and procedures for the tribunal and to make recommendations to the minister for appointments to the tribunal.

Appendix B: Tribunal Staff

Lenore Barron
Linda Blackman
Laurene Daniels
Lisa deMinns
Debbie Fauteaux
Kimberley Free
Christopher George
Brian Gifford
Shileen Grant
David Hosking
Jasmine Hsu
Goretti Lambeth
Ida Lindquist
Mike McCormack
Glenna McEwen
Dorinda Nyman
Laura Quan
Frances Sasvari
Linda Shout

Appendix C: Tribunal Panel Members

Appointed September 30, 2002

Brian Gifford, Chair
Leonel Laval Perra,
Vice-Chair

Doug Allan
Peter Allik-Petersenn
Frank Armitage
Elizabeth Ballard
Denise Barber-Haime
Bonnie Barrie
Maurice Bauche
Sheila Begg
Linda Berg
Glenys Parry
Blackadder
Gus Boersma
Richard Bogstie
Cliff Boldt
Tina Boyle
Richard Brock
Gail Brown
Mary Bruce
Brenda Campbell
Marion Campbell
Wayne Carkner
Dale Carlson
Mac Carpenter
Bill Carruthers
Harold Catt
Julia Chapman
Shelley Chrest
Kelly Connell

David Coombe
Paula Cooper-Varga
Linda Cross
Julie Cullen
Simon Cumming
Mariusurteanu
Eric Dahli
Janice Dalgarno
Jean Davidson
Ingrid Davis
Peter Davison
Bev Deets
T. Karl Deibert
Jennifer Dent
Immy Dhami
Anthony Dibley
Cindy Drew
Nanette Drobot
Alistair Duncan
Andrea Duncan
Richard Dunsdon
Susan Edwards-
Thompson
Barbara Ellemers
Karl Ellingsen
Thomas Ellwood
Leanne Eriksen
Denis Fallis
William Farr
Robert Ferguson
Ken Flannagan
Dean Francey
W. D. Frost
Samuel Fung

Archie Gaber
Bruce Gardiner
Duane Ghastant'
Aucoin
Roger Gibson
Maxine Glover
Vincent Gogolek
Martin Golder
Kensi Gounden
Peter Grauer
Eleanor Gregory
Raj-Mohinder Gurm
Peter Gustar
Uli Haag
Margaret Haigh
Colin Haime
Zig Hancyk
Leslie Hanes
Dave Hanna
Leanne Harder
June Harrison
Sheila Hart
Gina Hepp
Allan Hewett
Kathleen Higgs
Kitty Hoffman
Brian Hornidge
David Indge
Lee Jeffrey
Rowland Johnson
Joyce Johnston
Bijou Kartha
Bev Kennedy
Alan Kliewer
Janina Kon
Mebs Lalani
Patricia Lawrence
Donna Leemet

Allen Lees
Bernie Leong
Avo Lepp
Sehriban Lindsay
Catherine Lindseth
Aart Looye
Gary Lotochinski
Victor Lotto
Patricia Lowes
Doris Low-Renwick
Allan Luck
John MacKellar-
Fleming
Mario Macri
Carolynne Mahood
Chantal Martel
Garry McIntosh
Kathleen McIsaac
Marcia McKay
Ken McMillan
Marilyn McNamara
Raj Mehta
Richard Meyer
Maureen Mochuk
Pierre Morazain
Richard Morley
Patricia Morris
Sharon Morrisroe
Maurice Mourton
Henry Neufeld
Finn Nielsen
Kris Nielsen
Ethel Niessen
Corrine Elizabeth
Ongman
Gautam Parghi
Rita Parikh
Michael Patterson

Susan Pelletier
Nora Perekudoff
Art Perret
Anna Perry
Louise Peterson
Mary Pickering
Glenn Prior
Andrew Rasheed
Les Reid
Laurent Emil Rivard
William Robertson
John Rolston
Andy Roth
Lorna Sandler
Kundan Sangha
Phyllis Senay
Ken Serl
Maria Shawcross
Glen Shuttleworth
Debra Simpson
Nirmal Singh
Ravinder Singh Sidhu
Paul Skobleniuk
Tom Slater
Brian Smith
Robert Soper
Frances Stanley
Jacqueline Tarasoff
Diane Thomas
Geoffrey J. W. Thomas
Fred Thompson
Mark Thorburn
Dan Tutti
Ben Van der Woerd
Gilbert Vergilio
Guy Verreault
Lou Vujanich
Pearse Walsh

Elaine Wass
 Bruce Webber
 Raymond Welch
 Stuart Wells
 Adrian Westdorp
 Dave Wilbur
 Ian Wilson
 Kenneth Wilson
 Alfred Woo
 Paul Wortley
 Janet Wortsman
 Reece Wrightman
 Heidi Zetzsche

**Appointed
 October 30, 2002**
 Sheila Colbert-Kerns
 John Lovering

Barry Mayhew
 Margaret Ostrowski
 Keith Thomas Routley

**Appointed
 April 15, 2003**
 Adrian G. F. Harper
 Shirley Hutt
 Richard G. H. McCarthy
 Ken Porter
 Susanne Stushnoff
 Barry Richard Watson

**Appointed
 May 1, 2003**
 Douglas Gresham



Number of Panel Members by Region

Region 1	Vancouver	24
Region 2	Rainbow (Lower Mainland/Coast)	17
Region 3	Fraser North/Upper Valley	12
Region 4	Fraser South	19
Region 5	The Kootenays/Okanagan	23
Region 6	Central BC	24
Region 7	Prince George/Northern BC	17
Region 8	North Vancouver Island	23
Region 9	Garden City (Victoria)	28

Appendix D:

How to Appeal

1. If you disagree with an outcome of the Ministry of Human Resources' reconsideration process, and you wish to appeal to the Employment and Assistance Appeal Tribunal, get a Notice of Appeal form from your local ministry office, the tribunal, or the tribunal Web site (www.gov.bc.ca/eaat). (The tribunal alone is responsible for determining whether a matter is eligible for appeal.)
2. Complete the Notice of Appeal form and send it to the tribunal either by fax or by mail, within seven business days of the day after you received the ministry's reconsideration decision. You may not begin an appeal after that time.
3. The tribunal will determine whether the matter can be appealed. If the matter can be appealed, a three-person panel will be appointed to hear your appeal, and the hearing will commence within 15 business days after the tribunal received your completed Notice of Appeal.

Type of hearing

4. The tribunal will attempt to accommodate your request for type of hearing, indicated on your Notice of Appeal: oral (in person or by teleconference) or in writing.

Oral hearing – In person

5. If your hearing is proceeding as an oral hearing in person, the tribunal will send you a Notice of Hearing at least two business days before the hearing is to take place, notifying you of the date, time and place of the hearing. Hearings will take place at a location within reasonable distance of the parties wherever possible, and not in a Ministry of Human Resources office. Both you and a ministry representative have the right to present evidence and make arguments in support of your case. You also have the right to call witnesses to give evidence related to material in the appeal record, and to have an advocate assist you during the appeal process.

Oral hearing – By teleconference

6. If your hearing is proceeding as an oral hearing by teleconference, you will receive from the tribunal a Notice of Hearing at least two business days before the hearing is to take place, notifying you of the date and time of the hearing and instructions for accessing the teleconference. As in an in-person oral hearing, you have the right to present evidence and make arguments in support of your case, to call witnesses to give evidence related to material in the appeal record, and to have an advocate assist you during the appeal process.

Written hearing

7. If you requested a written hearing, and the ministry agrees, the tribunal will send you a letter establishing a schedule for making a written submission to support your case. You will be given seven business days to provide your submission. On receiving your submission by the deadline, the tribunal will forward it to the Ministry of Human Resources, and give the ministry seven days to provide a written response. The tribunal will then forward both submissions to the appeal panel for review.

Decisions of the appeal panel

8. The panel will provide the tribunal chair with a written decision within five business days of the conclusion of the hearing. The decision will either confirm or rescind the ministry's reconsideration decision. The tribunal chair will mail a copy of the decision to the parties within five business days of receiving it from the panel. Decisions will not be provided by the tribunal over the telephone. Panel decisions are final.

Note: For more detailed information about the appeal process, go to the "Practices and Procedures" page of the tribunal's Web site.

Appendix E:

Budget Information

September 2002 – March 2003

Operating Budget	
Salaries and Benefits	338,000
Boards, Fees and Commissions	157,000
Staff Travel	5,000
Professional Services	105,000
Information Systems	10,000
Office Expenses	43,000
Statutory Notices	4,000
Amortization Expense	6,000
Transfers Under Agreements	488,000
Total	1,156,000
FTE Allocation: 7.00	

April 2003 – March 2004

Operating Budget	
Salaries and Benefits	637,000
Boards, Fees and Commissions	320,000
Staff Travel	12,000
Professional Services	216,000
Information Systems	102,000
Office Expenses	58,000
Statutory Notices	4,000
Amortization Expense	12,000
Facilities	81,000
Transfers Under Agreements	975,000
Total	2,417,000
Capital Budget	
PC Hardware and Software	35,000
Total	35,000
FTE Allocation: 13.00	

How to Contact Us

Call us at (250) 356-6374 or toll-free at 1-866-557-0035

e-mail us at eaat@gems2.gov.bc.ca

visit our Web site at www.gov.bc.ca/eaat

or ask for a brochure at your local Employment and Assistance Centre