

Employment and Assistance Appeal Tribunal Appointee Remuneration Plan

Overview

The Employment and Assistance Appeal Tribunal (the Tribunal) is an independent quasi-judicial agency established to hear appeals of 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*. Although independent, the Tribunal falls within the responsibility of the Minister of Social Development and Poverty Reduction and is accountable to government through the Minister.

The Tribunal consists of a Tribunal Chair, a part time Vice-Chair, 11 staff members, and approximately 100 part time tribunal panel members who are distributed throughout the province. The Tribunal Chair and Vice-Chair are appointed by the Lieutenant Governor in Council after a merit-based process. The panel members are appointed by the Minister after a merit-based application process and in consultation with the Tribunal Chair.

Section 82 of the Employment and Assistance Regulation sets out prescribed qualifications for panel members, the Tribunal Chair and Vice-Chair. To be considered for appointment to the Tribunal, a person must have an understanding of the essential elements for the conduct of a fair and objective hearing and the key aspects of the relevant legislation. In addition to the above requirements, the Tribunal Chair and Vice-Chair are also required to have demonstrated skills regarding management, financial administration and human resource development, as well as have demonstrated knowledge of administrative law.

The application process for panel members is conducted using an interactive online program that assesses prospective members to ensure that they demonstrate the prescribed knowledge and skills prior to being considered for appointment. Individuals demonstrating the prescribed knowledge and skills are interviewed by the Tribunal Chair and successful candidates are then recommended for appointment to the Minister by the Tribunal Chair.

Once appointed, members must complete initial training before hearing an appeal. New members are appointed to hearings with an experienced panel chair who serves as a mentor. Once a member feels comfortable in their role, they may be assigned the role of panel chair. Again, a mentor will be assigned to provide support and guidance. A decision review process is available to all members who wish to receive feedback or wish to ensure that the decisions meet the legislative requirements outlined in section 87(1) of the Employment and Assistance Regulation. Members receive regular ongoing training at bi-annual workshops that are held throughout the province.

The rate of remuneration for panel members is set out under Section 83 of the Employment and Assistance Regulation. For each appeal heard, a panel member receives \$145 and the panel chair receives \$225. If the Tribunal Chair determines the appeal is extraordinarily complex and requires an extraordinary amount of time to prepare for, hear and provide written reasons, the panel chair receives \$450. Appeals before the Tribunal are generally heard before panels of three Tribunal members, one of which serves as panel chair.

The rate of remuneration is within *Treasury Board Directive 1-20 – Remuneration Guidelines for Administrative Tribunals and Regulatory Boards* (TBD 1-20). The Tribunal is classified as a Level 3 administrative tribunal.

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The Tribunal's Complement of Appointees (funded positions for FY 2020/21, actual numbers may vary)			
Category*	Position Name**	Number of Positions	Role Description
Tribunal Chair	Tribunal Chair Full Time	1	The Tribunal Chair acts as the chief executive officer of the Tribunal. Under section 20 of the EA Act the chair must submit to the minister an annual report concerning the tribunal's activities, the chair may establish practices and procedures that are consistent with the regulations for the tribunal, and the chair establishes panels to hear appeals and may terminate an appointment to a panel and/or fill a vacancy on a panel before a hearing starts.
Vice-Chair	Vice-Chair Part time	1	Vice-Chair leads support for the Tribunal Chair in coordinating the panels and other leadership functions. May also be appointed to "appeal hearing panels" to adjudicate appeals. May be appointed to "appeal hearing panels" as panel chair.
Member	Part time panel member: Panel chair	~ 100	Appointed to "appeal hearing panels" to adjudicate appeals and may be designated to hold other tribunal leadership roles.

* Type of appointee per TBD 1-20.

** The name of a position may differ from the classification under TBD 1-20, e.g. an individual may be appointed as a "member" but the position they hold may be called a "panel chair" and subject to different remuneration maximums than an individual appointed as a "member" for a tribunal.

Appointee Remuneration

Remuneration Ranges – Annual Rates (FT)		
	Minimum	Maximum
Tribunal Chair (FT)	\$147,000	\$168,000

Remuneration Rates – Part Time	
Vice-Chair	\$625 per day when performing Vice-Chair duties* When performing member duties, remunerated as set out below for panel members and/or panel chairs
Panel Chair	\$225 or \$450/hearing**
Member	\$145/hearing

* \$625 per day is an hourly rate based on an average fulltime workday.

** If the Tribunal Chair determines the appeal is extraordinarily complex and requires an extraordinary amount of time to prepare for, hear and provide written reasons, the panel chair receives \$450.

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Currently all appointees are reimbursed for transportation, accommodation, meal and out of pocket expenses incurred in the course of their duties in accordance with the Group 3 rates, policies, and procedures outlined in the *Terms and Conditions of Employment for Excluded Employees and Appointees*.

In remote areas of the province, panel members may be required to drive over 3 hours each way to attend an oral, in person appeal hearing. For travel over 32 km or 3 hours, an additional \$50 compensation will be provided to panel members.

To ensure consistent knowledge management, panel members may attend one to two-day training and development sessions per year. Panel members will be remunerated, at the Chair's discretion, up to the maximum per diem rate set out for level 3 tribunals in Treasury Board Directive 1-20

The work of appointees to the Tribunal is not insurable and therefore remuneration is not subject to Employment Insurance deductions.

The service of part-time Tribunal appointees remunerated on an "if and when needed basis" (i.e., per diem basis) is not pensionable work and their remuneration is not subject to CPP deductions.

Appointees to the Tribunal are considered to be "office holders" under the *Excise Tax Act* not employees or contractors and therefore appointee remuneration is not subject to GST/HST (either charged or payable).

Appointee remuneration is taxable income and income tax may be payable in accordance with the federal *Income Tax Act* unless the total remuneration for the tax year for the appointee (from all sources) is less than the basic personal amount (see CRA website for the applicable amounts each year).

Effective Date: March 23, 2021