

# Employment Standards Position Descriptions

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## Purpose of Board

The Employment Standards Board (the Board) is established under Section 4(1) of the *Employment Standards Act* (the *Act*). The function of the board is to exercise the powers conferred upon it under the *Act* and to determine all questions of fact or law that arise in any matter before it including any question as to whether

- (a) a person is an employer or an employee; or
- (b) an employer or other person is doing or has done anything contrary to the *Act* or the regulations or has failed to do something required by the *Act* or Regulations.

The Board also has a statutory obligation to conduct an annual review of the Minimum Wage Order under Section 5(1) of the *Act*.

The Board has exclusive jurisdiction within its powers under the *Act* and to determine all questions of fact or law that arise in any matter before it. The action or decision of the Board is final. Nevertheless, the Board does have the power to reconsider any decision or order.

The Board may present a stated case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Board is a question of law.

## Employment Standards Position Descriptions

### Role of Members

Members of the Employment Standards Board assist the Board in carrying out its work in accordance with the *Employment Standards Act* (the *Act*). Members bring practical perspectives and experience to Board discussions and panel deliberations. Board decisions must be rendered impartially and must appropriately consider the *Act*, prior Board decisions, evidence, Board policy, administrative law requirements and other applicable law. Tripartite hearings are conducted in a respectful environment for the parties, their representatives and other Board members and Board staff.

A Member:

- Prepares for and assists in conducting hearings or reconsiderations, and in making rulings and/or reaching decisions.
- Applies the *Employment Standards Act* and other applicable laws and Board policy in reaching decisions.
- Applies excellent judgment and a sound knowledge of administrative law principles to a variety of hearing formats involving unrepresented parties and parties with varying types of representation.
- Participates as part of a tripartite panel in hearings and reconsiderations.
- Hears submissions and evidence presented by appellants/parties to a dispute, and ensures that all issues are dealt with at the hearing.
- Actively listens to comprehend interests and positions, which are sometimes difficult to ascertain.
- Assists in making rulings necessary for the proper and expeditious conduct, control and completion of the hearing or review.
- Exercises collegiality with panel members to ensure that all viewpoints are considered.
- Reviews and analyzes all evidence and submissions thoroughly and assists in making decisions based on the evidence and consideration and application of relevant legislation, Board policy and Board case law.
- Assists in making rulings and issuing written decisions that are free of outside influence.
- Reviews written decisions prepared by the Chair or Vice-Chair.
- Participates in Board orientation training and stays current in the field by engaging in ongoing professional development and attending training sessions.
- Reads other Board decisions as part of their continuing education.
- Participates in meetings of the Board.
- Complies with policies and practices set out by the Board.
- Performs all work so as to maintain and enhance the credibility of the Board.
- Respects the need for due process, the requirements of natural justice, applicable legislation, Board procedures and practices and rules of evidence.
- Refrains from making public statements on matters that may be adjudicated.
- Maintains positive and appropriate relationships with all parties appearing before the Board.
- Assists in ensuring equal access, fair treatment and due process in all Board practices.
- Assists in dealing with conflict and diverging interests while maintaining decorum.
- Deals appropriately with situations that may involve bias or conflict of interest.
- Acts with integrity, honesty and in the best interests of the Board and the public.

## Employment Standards Position Descriptions

### **Qualifications & Abilities**

- Ability to understand, interpret and apply legislation with specific knowledge of the *Employment Standards Act* and related law.
- Understand the role of Board.
- Understand the concept of fairness/natural justice.
- Demonstrate analytical, problem-solving, decision-making and writing skills.
- Ability to listen and communicate clearly and effectively.
- Ability to assist in formulating reasoned decisions.
- Exhibit impartiality and sound judgment to fairly assess cases.
- Ability to perform the work required in an effective, self-directed and timely manner.
- Display a commitment to respect diversity, and to maintain fair and transparent processes that meet high professional standards.
- Demonstrate computer literacy.
- Ability and willingness to travel to hearing locations within the Province.

## Employment Standards Position Descriptions

### **Role of the Vice-Chair**

A Vice-Chair has all of the responsibilities of a Member, plus the following:

- Performs the role of Chair when the Chair is unavailable.
- Prepares for and conducts hearings, makes rulings and / or writes decisions.
- Ensures panel decisions are rendered impartially and in compliance with the *Act* and Regulations, Board policy, administrative law requirements and any other applicable law.
- Utilizes a sound knowledge of administrative law principles to a variety of hearing formats involving unrepresented parties and parties with varying types of representation.
- Makes rulings necessary for the proper and expeditious conduct of the hearing.
- Ensures that all points of view of a panel are considered in decision-making.
- Makes rulings and issues written decisions that are free of outside influence.
- Issues decisions in a timely manner.
- Issues clear, well-written, soundly reasoned decisions, which are understandable and can be implemented by the Board and the appellants / parties to a dispute.
- Works constructively and contributes to a collegial atmosphere at the Board by sharing knowledge, time and experience with other Board appointees.
- Ensures equal access, fair treatment and due process in dispute resolution practices.
- Deals with conflict and diverging interests while maintaining decorum.
- Deals appropriately with situations that may involve bias or conflict of interest.

### **Qualifications**

In addition to the qualifications of a member, Vice Chairs should also exhibit

- Experience in managing meetings effectively.
- Experience in dispute resolution.
- Understand how to conduct hearings.
- Comprehensive knowledge of the *Act* and related law, policy and legal processes.
- Experience in interpreting and applying administrative law.
- Understand the role of Board.
- Ability to formulate reasoned decisions and write them in a timely manner.
- Self-management skills to perform the work in an effective, self-directed and timely manner,
- Display commitment to ongoing professional development in the field.
- Good organizational skills to manage a heavy workload with complex, ongoing processes.
- Demonstrate sensitivity to the diverse interests of parties.
- Express commitment to respect diversity, and to maintain fair, transparent processes that meet high professional standards.
- Commit to availability to serve appeal panels and issue decisions in accordance with the *Act*.

### **Role of the Chair**

The Chair has all of the responsibilities of a member and Vice Chair plus the Chair is responsible for the overall direction and performance of the Board to ensure that the Board fulfills its mandate and exercises its powers in accordance with the *Act*. Investing time on a regular basis to provide leadership to the Board, the Chair tracks trends in complaints and issues arising in the Province and nationally, arranges for Board development training and education, and sets the respectful and professional tone for the Board in all its work.

### **Board Case Management**

- Ensures Board policies and procedures are developed within its legal mandate.
- Supervises Board's decision-making processes to ensure clear communication of decisions.
- Chairs meetings of the Board to discuss emerging issues, build support for policy and process change, engage in professional sharing and development, and promote clarity and predictability in the exercise of independent decision-making.

### **Strategic Leadership**

- Mentors and develops Vice-Chair and Members by providing oversight and advice and discussing and encouraging professional development of and among appointees.
- Ensures independence in adjudicative functions by setting standards of behavior and conduct.
- Remains current in developments in administrative law, particularly with respect to employment standards-related matters.
- Responds to changes in demand for services, public expectations, legislative or regulatory change and government directives.
- Liaises with government (Director of Labour & Industrial Relations)
- Maintains open, effective and regular communication with the Board Secretary.
- Where appropriate, makes recommendations to government regarding impact of proposed policies.
- Acts with integrity and honesty, with actions guided by the best interests of the Board and the public.
- Determines when to seek legal advice on complex or novel matters.

### **Board Governance**

- Where appropriate, provides input to government policy development and recommends legislative changes to the government.
- Attends or makes presentations to legislative committees as requested and appropriate.
- Ensures the Annual Report of the Director, Labour & Industrial Relations appropriately reflects the work of the Board
- Keeps the Director informed in a timely fashion of issues affecting the Board and its stakeholders.
- Cooperates with any periodic review directed by the Minister.
- Ensures appointees are aware of their obligations and that they act in a manner that reflects the values and mission of the Board.

## Employment Standards Position Descriptions

### **Qualifications & Abilities**

In addition to the qualifications and abilities of the Vice Chair, the Chair should also exhibit

- Experience in leading, setting strategic direction to deliver efficient, effective and high quality services.
- Experience in facilitating public consultation.
- Experience in managing meetings effectively.
- Experience in dispute resolution.
- Knowledge of the professional, institutional, policy and community context of the Board.
- Understanding of the Board's policies.
- Knowledge of the continuum of dispute resolution practices.
- Understanding of government values and a commitment to working within government's accountability structure.
- Commitment to
  - protection of the public interest within the mandate of the Board
  - respect for diversity, and
  - fair and transparent processes that meet the highest professional standards.