Appealing a Decision

Service Canada

Service Canada

Service Canada delivers the Employment Insurance (EI) program.

Service Canada always tries to be fair when making decisions about EI benefits. If we make a decision **not** to pay you, or if we ask you to refund an overpayment and pay a penalty, you will receive a letter from us giving you the reason. If you disagree, you should get in touch with your Service Canada benefits officer right away and explain why you don't agree. Ensure your benefits officer has all the details of your case, including any information that you have not previously presented.

How to appeal an EI decision

If you decide to appeal, you will need to submit either Form INS5210, *Notice of Appeal to the Board of Referees*, or a written notice of appeal to your local Service Canada Centre **within 30 days** of receiving notice of the decision. You can download the form from our Web site at **www.ei-ae.gc.ca**. For a paper copy of the Board of Referees appeal form, contact your Service Canada Centre or call 1-800-206-7218.

Your notice of appeal should contain:

- your name;
- your Social Insurance Number;
- the reasons why you are filing an appeal;
- whether you want to attend the hearing;
- whether you want your appeal heard in English or French;
- whether you will have someone representing you at the appeal (if so, include their name and address); and
- the date and your signature.

Even if you file an appeal, we recommend that you continue to fill out your EI claimant reports every two weeks, as usual, and submit them via the Internet, by telephone, or by mail.

Note

Before it reaches the first level of appeal, Service Canada Centre employees will review your appeal to see if it can be resolved right away. If this Service Canada review does not change the original decision, your appeal is sent to the Board of Referees.

First level of appeal – The Board of Referees

- A Service Canada benefits officer will prepare an appeal docket for the EI Board of Referees. You and any interested parties will be given a copy of the appeal docket to verify that all facts are correct. The Board is made up of people who do not work for Service Canada and who examine the facts from an impartial point of view.
- You (and your representative if you have one) will be told when and where the Board will hear your case. Appeals are usually heard within 30 days of Service Canada receiving your notice of appeal.
- You do not have to attend the hearing. However, we recommend that you do so because it gives you an opportunity to provide new evidence or clarification that may help the Board make its decision.
- If you have difficulty in the language that you have selected for the appeal hearing (English or French), you should bring someone who can interpret for you.
- Appellants and interested parties living in remote areas can attend the hearing by telephone or video conference. Contact your Service Canada Centre for more information.
- Visit the Serving Employment Insurance Appellants site at **www.ei-ae.gc.ca** to download Form INS5210, *Notice of Appeal to the Board of Referees*, to view the *Employment Insurance Act* and Regulations, to research the case law (jurisprudence), and to obtain general information on the appeal process. This information may assist you in preparing for your appeal hearing.
- At the hearing, if your case involves harassment and you feel uncomfortable providing information about the circumstances involved, the Board chairperson is authorized to ask certain people to leave the hearing room while you provide oral evidence.
- After the hearing, once the Board has made its decision, a copy will be mailed to you.

Note

Your former employer will receive a copy of your appeal submission, and may attend the hearing.

Second level of appeal – The Umpire

- Under certain circumstances, you may appeal the decision of the Board of Referees. An appeal to the Umpire is possible only if one or more of the following conditions apply:
  - the Board of Referees did not give you an impartial hearing or a reasonable opportunity to present your case, or did not operate within the limits of its jurisdiction;
  - the Board erred in law in making its decision; or
  - the Board based its decision on a misinterpretation of the facts.
- Simply disagreeing with the decision of the Board does not constitute sufficient grounds for an appeal.
- If you decide to appeal to the Umpire, you will need to submit either Form INS3042, *Notice of Appeal to the Umpire*, or a written notice of appeal to your local Service Canada Centre **within 60 days** of receiving the Board of Referees' decision.

Umpire appeal hearings are open to the public. Umpire decisions create case law (jurisprudence) and are a matter of public record. All of these decisions are available on the Internet to assist you with your appeal.

Visit the Serving Employment Insurance Appellants site at **www.ei-ae.gc.ca** to find out more about the appeal process, to download Form INS3042, *Notice of Appeal to the Umpire*, and to consult the jurisprudence. On the home page, the right sidebar contains a link to the "Jurisprudence Library" and the left sidebar menu has links to "Appeals to the Umpire," "Notice of Appeal Forms," and "Researching Similar Cases."

For a paper copy of the Umpire appeal form, contact your Service Canada Centre or call 1-800-206-7218.

Third and fourth levels of appeal

Usually, the decisions of the Umpire are final, but there are situations in which you can appeal to the Federal Court of Appeal and, finally, to the Supreme Court of Canada.

Please contact your local Service Canada Centre to find out how to go ahead with these levels of appeal, or for more information.

For general information on the appeal process, visit our Web site at **www.ei-ae.gc.ca**.

To find out more about Employment Insurance benefits:

CLICK **servicecanada.gc.ca**
CALL **1-800-206-7218**
VISIT **a Service Canada Centre**

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