

Employment and Assistance Appeal Tribunal Appointee Performance Framework & 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, 10 staff members, and approximately 75 part time tribunal panel members who are distributed throughout the province. The panel members are appointed by the Minister after a merit-based application process and in consultation with the Tribunal Chair. The Tribunal Chair and Vice-Chair are appointed by the Lieutenant Governor in Council after a merit-based process.

The Tribunal's Complement of Appointees (funded positions for FY 2023/24, 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	The 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 as either a panel member or panel chair.
Member	Part time panel members	75	Panel Members are appointed to "appeal hearing panels" to adjudicate appeals as either a panel member or panel chair.

Performance Framework

Panel Members

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

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interviewed by the Tribunal Chair and successful candidates are then recommended for appointment to the Minister by the Tribunal Chair.

Section 82 of the Employment and Assistance Regulation sets out prescribed qualifications for panel members. To be eligible 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;
- not be an employee or have been an employee within the past 6 months in the ministry of a minister charged with the administration of the Act;
- not be a recipient under the Acts; and
- not have a personal, professional, financial, or other interest in matters coming before the tribunal that would cause a reasonably informed person to have a reasonable perception that the tribunal member would not be independent and impartial.

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.

Because the rate of remuneration for panel members is set out under Section 83 of the Employment and Assistance Regulation, remuneration for panel members is not performance based. To ensure decisions meet the legislative requirements outlined in section 87(1) of the Employment and Assistance Regulation a decision review process is available to all members who wish to receive feedback. In addition, members receive regular ongoing training at various workshops, usually held online.

Tribunal Chair and Vice-Chair

Under section 82 of the Employment and Assistance Regulation, in addition to the above prescribed qualifications for panel members, the Tribunal Chair and Vice-Chair are also required to have:

- demonstrated skills regarding management, financial administration, and human resource development, and
- have demonstrated knowledge of administrative law.

The Tribunal Chair provides ongoing performance feedback to the Vice-Chair. Remuneration increases for the Vice-Chair are subject to any performance concerns identified by the Tribunal Chair.

Remuneration increases for the Tribunal Chair are subject to any performance concerns identified by the Minister or their designate in the following areas:

- Effectiveness
- Efficiency
- Compliance, with the ethical guidelines as set out in the Candidate Profile and Declaration (code of conduct, conflict of interest, charter of expectations, and integrity and public accountability), as well as the General Conduct Principles for Public Appointees
- Strategic planning, performance monitoring and reporting, organizational leadership, public policy, and governance

In addition, when requested, the Tribunal Chair will be responsible for providing the following information to the Minister or their designate to be considered in their decision making:

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- Budget management – balanced budget/on track to address the deficit
- Timely reporting, including annual reports
- User experience, as it relates to operational process, timeliness, etc. but not the outcome of decisions
- Annual performance meeting with the Minister, Deputy Minister or other ministry executive where appropriate
- Achievements of operational efficiency

Appointee Remuneration

Remuneration Ranges – Annual Rates (Full Time)		
	Minimum	Maximum
Tribunal Chair	\$171,625*	\$196,140*

Remuneration Rates – Part Time	
	Maximum
Vice-Chair	\$730 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

* Effective 2024 and 2025 the rates may increase under TBD 1-24.

** 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.

Panel Members

The rate of remuneration for panel members is set out under Section 83 of the Employment and Assistance Regulation (EAR). 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.

Tribunal Chair and Vice-Chair

Remuneration for the Tribunal Chair and the Vice-Chair must not exceed the maximum rate set for the position within the Level 3 classification of the tribunal. Increases to remuneration are subject to satisfactory performance, as outlined in the framework. There is no requirement that the maximum remuneration rate be paid. The remuneration plan must be applied in a manner respectful of the established fiscal budget and discretion must be applied to avoid operating in a deficit position.

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General

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 2 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 180 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 1-24.

The work of part-time Tribunal appointees is not insurable; 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.

Part-time 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: December 1, 2023