



# Employment Insurance **Applying for EI & Appeals**

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January 1, 2014

<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

## Application Process

There are two ways to apply for EI benefits. Online, at:  
<http://www.servicecanada.gc.ca/eng/ei/application/employmentinsurance.shtml>

Or in person at your local Service Canada office.

In order to process an EI application a claimant must have all of their Records of Employment (ROE) from the past 52 weeks.

If someone is experiencing difficulty in obtaining their ROE's they should contact Service Canada at 1-800-206-7218.

## Appeals

### Reconsideration

If a claimant's application for EI is denied they may request reconsideration of the denial **within 30 days** of the date they received the decision letter.

The form to request reconsideration is found here:  
<http://www.hrsdc.gc.ca/cgi-bin/search/eforms/index.cgi?app=prfl&frm=ins5210&ln=eng>

### Social Security Tribunal

If a claimant's request for reconsideration is denied they have another chance to appeal to the new Social Security Tribunal (SST). The SST is composed of a general and appeal division as well as an EI and Income Security section.

The SST began hearing EI cases as of April 1<sup>st</sup>, 2013. It replaced the Board of Referees and the Umpire which previously heard EI appeals.

While the Social Security Tribunal is a new body it still subject to the previous case law on EI.

### *Process*

A claimant has **30 days** from the receipt of the letter indicating that their reconsideration was denied to request an appeal to the Social Security Tribunal General Division EI Section.

Instructions on how to appeal an EI denial, along with the required forms, can be found at the Social Security Tribunal's website here:  
<http://www.canada.gc.ca/sst-tss/hta-cij/eigendiv-divgenae-eng.html>

After an appeal is filed the EI Commission must provide the SST a package of documents which will include the request for reconsideration, all documents relevant to the decision being appealed, a copy

of the decision being appealed and the submissions of the Commission. These documents must be sent by the SST to the appellant.

Along with the documentation pertaining to the appeal the SST will also include a Notice of Hearing or a Notice of Dismissal.

If the SST determines that an appeal has no reasonable chance for success they must summarily dismiss it – in other words there will be no hearing. Before summarily dismissing an appeal the SST must give written notice to the appellant, and offer the appellant a reasonable period of time to make submissions.

### *Hearings*

Hearings can either be in the form of written questions and answers or oral. Oral hearings can be via teleconference, videoconference or in person. You should request an oral hearing at the time of filing your Notice of Appeal to the SST.

The SST will provide interpretive services as required.

If you intend on calling witnesses at your hearing you should advise the SST as early in the appeal process as possible. This is extremely important as having witnesses will weigh in favour of having an oral hearing.

The SST will provide a copy to you (or your client) with all documentation submitted to it. However it will only provide one copy. Therefore it is extremely important that you retain the copy of the documentation you receive from the SST.

Do not bind or tab any submissions to the SST, the tribunal will do this for you.

One adjournment will be granted without reasons, however any subsequent adjournments will require exceptional circumstances.

### Social Security Tribunal Appeal Division

An appellant may appeal to the appeal division within 30 days of the date the decision is communicated to them by the SST general division.

### *Leave to Appeal*

Unlike at the SST general division an appellant must be granted 'leave to appeal' to the SST appeal division. Leave will only be granted in the following circumstances:

- i. the General Division failed to observe a principle of natural justice (i.e. the right to a fair hearing) or otherwise acted beyond or refused to exercise its jurisdiction;
- ii. the General Division erred in law in making its decision, whether or not the error appears on the face of the record; or

- iii. the General Division based its decision on an erroneous finding of fact that it made in an arbitrary manner or without taking into account the evidence before it.
- iv. The application for leave to appeal form to the SST Appeal Division can be found here:  
<http://www.servicecanada.gc.ca/eng/common/sst-tss/forms-formulaires/SST-ATATTAD.pdf>

The one exception to the requirement to obtain 'leave to appeal' is a decision by the SST general division to summarily dismiss an appeal.

### *Process*

Clients who wish to appeal to the SST Appeal Division should consult with a lawyer.

Any submissions in support of an appeal **must** be made within 45 days of leave to appeal being granted.

With certain exceptions, decisions of the SST appeal division can be judicially reviewed by the Federal Court of Appeal. Should a client wish to seek a judicial review they **must** consult a lawyer.

Applications for judicial review **must** be made within **30 days** of the decision being communicated to the appellant.

## Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

## Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

Laws change frequently. We will try our best to make sure the information contained in all of our documents, as well as any other information you receive from Dalhousie Legal Aid Service, is reliable. However, **we cannot guarantee that the information in this document is completely accurate and up-to-date.** By accessing information from Dalhousie Legal Aid Service you assume any risks that arise from doing so.