



Employment Insurance Helpful Tips

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

Applications

It is unlikely you will meet with a client prior to them making a claim for EI.

If a client left their employment voluntarily their application should detail why they had no reasonable alternative but to leave their employment.

If a client lost their employment due to misconduct their application should provide their version of the events that lead to their dismissal. It may be helpful to include copies of workplace rules or policies.

Reconsideration

Reconsideration is mostly a paper based process. The person conducting the reconsideration will engage in some fact finding if necessary which may involve contacting the claimant, and other parties.

Any additional information in support of your client's claim should be submitted at this stage. Examples of additional information could include: letters to or from the employer, employment contracts, workplace rules or policies, etc...

While objective evidence is the most useful at this stage you may wish to consider submitting subjective evidence from your client or other witnesses in the form of sworn statements.

Social Security Tribunal

Prior to a hearing before the SST your client will receive a package of documents. These documents will contain all of the factual information upon which the Commission's decision was based. Review the facts to ensure their accuracy.

The package will also contain a memorandum of facts and law written by an employee of the Commission. Review this document **carefully**. It contains the legal reasons why your client's claim was denied including cases supporting the Commission's position. You should review the cases cited by the Commission to better understand its legal position in your client's appeal.

The EI Commission does not send a representative to the SST General Division hearings, however other interested parties (i.e. an employer) have the option to attend. This would most likely occur in the event of a hearing into misconduct.

Remember that this is your client's first chance to tell their story, and have their credibility assessed by a decision maker.

You should walk your client through their version of the events in question keeping in mind the legal reason why your client's claim was denied.

Any witnesses who wish to give evidence should be present at the hearing.

After all of the evidence has been presented you should summarize your client's case, and explain how the evidence has addressed the legal issue which lead to the denial of your client's claim.

You may wish to submit case law to the SST in support of your client's case.

First Meeting

Ask a potential EI client to bring the following to their first meeting with you:

- i. A copy of their EI Application (if applicable);
- ii. ROE's for the preceding 52 weeks;
- iii. Any correspondence from the EI Commission (if applicable);
- iv. Any correspondence from the SST (if applicable); and
- v. Any other relevant information to their claim.
 - This will depend on the reason for the denial. For example if someone left voluntarily due to a significant change in work duties you may ask the client to bring in their old and new job descriptions. You may only ascertain what you need after your first meeting.

During the first meeting you should obtain the following from your client:

- i. If applicable an Authorization to Disclose allowing you to speak to the SST. The form can be found in the following link:
<http://www.canada.gc.ca/sst-tss/hta-cij/eigendiv-divgenae-eng.html>
- ii. Consent forms to obtain any other records, i.e. medical, if applicable (*insert hyperlink to medical consent form*).

Finally, you should also advise your client that if they are in receipt of income assistance they will have to repay the income assistance they received for any period of time they also receive EI.

If Your Client is Successful

Congratulations! However you should ensure your client is reminded of the following:

- i. Your client will receive EI retroactive to their initial application date (minus the two week waiting period). You should ensure they do not spend that money upon receipt as they may owe all, or a portion of it, to the Province if they were in receipt of income assistance pending receipt of their EI; and
- ii. While on EI your client has certain responsibilities. These will be explained to them by the EI Commission; however you should impress upon them that they should be taken seriously as violations can result in financial penalties, and more stringent eligibility requirements for future claims.

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](#).

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