

#3 OFFICER'S SETTLEMENT AND INVESTIGATION POWERS

I. INTRODUCTION

The *Labour Relations Code* and the *Public Service Employee Relations Act* enables the Board to investigate any matter filed with the Labour Relations Board. Board Officers carry out these investigations on behalf of the Board.

Board Officers regularly assist the parties in attempting to resolve matters coming before the Board. *See: Sections 12(2), 13, 16(4)(a).*

Board Officers are not compellable witnesses before the Board or Court in regard to any information obtained under the Acts.

This Bulletin outlines the procedures used by the Board during an Officer's investigation or settlement process.

II. FILING OF APPLICATIONS

Parties make a variety of applications, references or complaints to the Board. Under the *Rules of Procedure*, the Director of Settlement evaluates every application received to ensure it is complete. If it is not, the Director requires that the applicant provide more information before processing the application. *See: Rules of Procedure, Rule 22; Bulletin 2.*

In processing an application, the Board has several options available to encourage early resolution where possible. One option available to the Director of Settlement is assigning an Officer to attempt to settle the matters. In some cases the Director may order an Officer's investigation. *See: Section 12(2)(a),(b),(h); Bulletins 1, 2.*

III. OFFICER'S SETTLEMENT POWERS

The Director of Settlement can and does routinely assign an Officer to attempt to settle the issues between the parties. Officers are skilled in acting as third-party neutrals to assist the parties in:

- resolving all the issues;
- narrowing the issues in preparation for hearing;
- preparing agreed statements of fact;
- agreeing on exhibits;

- scheduling hearing dates; and
- resolving pre-hearing procedural or preliminary issues.

Settlement discussions arranged by the Officer are considered confidential and are not reported to the hearing panel or used as evidence in Board hearings. *See: Rules of Procedure, Rule 29.*

During an investigation, the Officer may also help the parties in settling issues raised by the application. *See: Section 12(2); Stuart Olson et al. v. Labourers 92 et al. [1990] Alta.L.R.B.R. 210.*

IV. INVESTIGATION

Labour Relations Board staff, appointed as Officers under the Code and the Act, handle most investigations. *See: Sections 1(t), 8(8).*

Investigations may be general, covering the whole application, or confined to specific issues. The Director of Settlement informs the parties of the scope of any investigation. *See: Sections 12(2), 13.*

The Officer reports on the facts relating to the issues assigned. During an investigation, the Officer may obtain both oral and written information. An Officer may also help the parties settle one or more of the issues raised by the application.

An Officer has the right to examine and take extracts from all employment records of the employer. The Officer may also require a person to produce documents by making a demand in writing. The Code allows an Officer to enter an employer's premises, other than a private dwelling. *See: Section 13(1); PSERA Section 3(1).*

Officers may question an employee without the employer present. An employer, employers' organization, trade union or employee must give reasonable assistance to the Officer conducting an investigation.

V. DISPOSITION

Report

The report contains facts disclosed during the investigation. On completing an investigation, the Officer files a report with the Labour Relations Board. The parties concerned receive copies. They may accept the facts set out in the report or object to the facts within the specified time. *See: Rules of Procedure, Rule 26.*

The Board normally receives and accepts the facts set out in the investigating Officer's report as evidence. Other facts established at a hearing can rebut, modify or amplify the report. The onus is on an objecting party to rebut the facts set out in the Officer's report.

Objections

Objections to the investigating Officer's report must be in writing and identify specifically the points disagreed with in the report. The objector must also provide particulars on the objected points (i.e., who, when and what). *See: Bulletin 4; UA 488 v. Fish Int'l [1985] Alta. L.R.B. 85-073.*

The party objecting must send its objections to the Board and the other parties so that they receive a full business day's notice of the objections before the hearing. In some cases, the Director of Settlement may specify an earlier deadline for filing objections. If a party does not, the Board may proceed without considering the objections. *See: Rules of Procedure, Rule 26(2), (3).*

If the Board receives objections of substance to the report, it normally schedules a hearing. At the hearing, the objecting party must present evidence to support its objections.

No Objections

If no one objects to the Officer's report, the Board may process the application without further notice to the parties. It relies upon the Officer's report and decides the issue without a hearing based on those undisputed facts.

See also:

Information Bulletins 1, 2 and 4
Rules of Procedure

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