

## Infosheet A-7: Appeals under the OH&S Act

July 2011

Appeals Under the Occupational Health and Safety Act	
An aggrieved person may appeal....	Written Notice to the Director after the order or decision is served on the recipient....
an order made by an officer under the Act or the regulations	within fourteen (14) days
the decision of an officer not to issue an order	
an officer's decision to advise an employee to return to work, or the decision to provide no advice	

Note: with regards to the "counting of days":

- 1) The day of the order or other initiating factor does not count, counting starts on the following day.
- 2) Days counted are calendar days - weekends and holidays do count.
- 3) If the last day falls on a weekend or holiday on which NS Government offices are closed, the deadline automatically goes to the next business day after the weekend or holiday.
- 4) The time limit ends at 11:59:59 p.m. on the last day of the appeal period. Items delivered or faxed after the close of business will still be accepted if they are received before midnight.

### Discriminatory Action Appeal?

Unlike the above appeal process, an appeal of a Discriminatory Action decision by an officer goes directly to the Labour Board and **NOT** to the Director. The time for a written notice of appeal is 21 days. The required Appeal form and additional information may be found here at the [Labour Board](#)

### Who can appeal?

- An "aggrieved" person may be: an employer, owner, self-employed person, employee, union representative etc.

"Aggrieved person" is a defined term under the [Occupational Health and Safety Act](#).

### What is the process and costs?

There is no cost to the aggrieved person for filing an appeal, other than the cost associated with gathering and providing information and documentation. The process does not require a lawyer; however, if you wish to be represented by a lawyer or have them prepare your appeal this would be at your own expense.

Download the [Appeal of an Order Form](#) (PDF)

An employer making an appeal has to post the application in the workplace; for example on an employee bulletin board. An employee appealing has to provide a copy to the employer. Again, the employer will post the application and deliver a copy to the Joint Occupational Safety and Health committee or representative, if any.

On an appeal the Director or Labour Board may consider new information including, but not limited to, information provided by any aggrieved person. Once all the information has been received (or heard), the Director will review the case and decide the matter. The Director's options are to confirm, vary, revoke, or suspend the appealed order or decision; or make any order or decision that an officer may make.

## Is the order or decision in effect if there is an appeal?

---

Generally, the order or decision that is appealed is not suspended during the appeal unless the Director suspends it. However, an order for payment of wages, etc., or with regard to discriminatory action, is automatically suspended pending the outcome of the appeal.

## Who receives the Director's decision?

---

The Director provides a copy of his decision to the person who appealed and any other aggrieved person who made representations in the appeal. The employer is required to post the decision in the workplace and provide a copy to the Joint Occupational Safety and Health Committee or representative, if any.

## May the Director's decision be appealed?

---

The Director's decision may be appealed by filing a notice of appeal with the Deputy Minister of Labour and Advanced Education within twenty-one (21) days of the date of the Director's order or decision. The Labour Board maintains the [form](#) for appealing a Director's decision.

## May the Labour Board's decision be appealed?

---

A decision of the Board is final and binding and not open to review except for an error of law or jurisdiction. The review is conducted by the [Nova Scotia Court of Appeal](#), and only if the Court agrees to review the decisions, with the recognition that a panel of the Board is constituted as an expert body in OHS matters.

If you require additional information on this or other Occupational Health and Safety matters. Please contact us at:

Occupational Health and Safety Division

Labour and Advanced Education

PO Box 697

B3J 2R7

902-424-5400 or toll free 1-800-952-2687