

INTERVIEW EXAMINATION PROCESS

INTRODUCTION

The Labour Board's predecessor, The Nova Scotia Labour Relations Board, used an examination process conducted by Board staff in response to certain issues or matters arising in connection with an application or complaint to determine the facts in such heavily fact-oriented issues as inclusions and exclusions. The process was adopted to help avoid the necessity of attending a hearing before the Board or to reduce the amount of evidence and length of the hearing.

The unified Labour Board appreciates the value and necessity in utilizing a process similar to that used by the former Labour Relations Board and since August 2011 has implemented an interview process, as set out below, incorporating various aspects of the examination process as well as certain modifications. Under the former process counsel for the parties were in attendance and asked questions of the subject employees. The Board has determined that a more appropriate approach to gathering the information is to eliminate cross-examination of the employee incumbents. The information gathered is under oath and parties have the opportunity to make submissions at a later date should they wish to refute or clarify any of the information gathered. Modifying the process in this way also serves to reduce the amount of time required and ensures that employees are provided with a less confrontational environment in which to provide the information, free of unwarranted and rigorous cross-examination. The Board has determined that the downside of the previous procedure far outweighs any benefits. Besides, there are other ways to further the process and meet the intended objectives. Parties are now provided with a copy of the questions prior to the interview and the Board may ask some questions, during the interview, developed in collaboration with the parties to help elicit useful information.

PURPOSE

The Labour Board, as it deems necessary and appropriate, may direct that an interview be conducted by Board staff in response to an application or complaint. The interview may assist the Board in determining the facts in such heavily fact-oriented issues as inclusions and exclusions of employees from the bargaining unit. This process may help avoid the necessity of attending a hearing before the Board or reduce the amount of evidence and hearing time that may be needed to resolve the matter.

WHO PARTICIPATES

Participants in the interview process generally include a Board staff member and the incumbent employee. Employees are interviewed one at a time and generally not in the presence of others in the same classification.

WHERE

The interview process is most often conducted on the employer's premises and the Board normally requests the employer to arrange a suitable room for the interview.

WHEN

Once the date(s) for the interview has been set, the Board requests the employer to schedule and notify the persons to be interviewed of the date, place and time of the proceeding.

HOW ARE THE INTERVIEW QUESTIONS DEVELOPED

The Board has developed an inventory of questions focusing on factors relevant to issues it commonly decides. The Board circulates the questions it is proposing to use in advance of the interview for the parties' feedback. The Board usually also asks the parties to propose additional questions to be asked. Once the Board has received the parties' feedback and suggestions, it will decide the final set of questions to be asked.

WHAT TAKES PLACE

The Board seeks to provide an interview process that is informal enabling the interviewee to feel as comfortable as possible in their response to questioning. The evidence is given under oath or affirmation. The interviewer will use the final question set as the script for the interview; however, witnesses may ask to have a question clarified if they are unsure of the information it is seeking. In such cases, or if a witness appears to be uncertain about a question, the interviewer has discretion to rephrase the question, or ask further unscripted questions to obtain potentially significant information. The interviewer will generally ask questions submitted by the parties in verbatim form.

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WHAT HAPPENS AFTER THE INTERVIEW HAS TAKEN PLACE

The Board generally prepares a transcript of the proceedings for the parties who are given an opportunity to file written submissions in response to the interview. At this point the Board will decide if it will proceed by way of:

- (a) rendering a decision based upon its review of the interview transcripts along with written submissions from the parties, or
- (b) conducting a case management conference to try and resolve or narrow the issues and/or hold a hearing to receive further evidence and argument, or
- (c) a combination of the above.

If you have further questions regarding this procedure, please contact Labour Board staff at 902-424-6730 or fax 902-424-1744.