

Employment and Assistance Appeal Tribunal
Guideline for Members

Panels of Less Than Three

June 2009

Panels appointed to hear appeals can be comprised of up to three members (*Employment and Assistance Act* section 22(1)). For panels of less than three members, consent of the appellant is required:

Practices and Procedures

- 3.4 (b) The Tribunal may convene a panel of less than three members with the appellant's consent.

The appellant is provided an opportunity to indicate consent for a panel of less than three on the Notice of Appeal. The decision to appoint a panel of less than three members can be made either prior to the hearing by the Tribunal Chair or at the hearing.

Prior to the Hearing

At initial appointment, if the Notice of Appeal indicates consent, the Tribunal Chair may choose to appoint a panel of less than three members. Notwithstanding the lack of consent on the Notice of Appeal, if the Tribunal Chair feels that a panel of less than three is still appropriate in a particular circumstance, the Tribunal will contact the appellant and seek consent.

When consent of the appellant has been obtained by the Tribunal, the parties and the panel will be notified in the Notice of Hearing letter that the appellant consented to a panel of less than three members.

The panel is not to confirm consent at the hearing, as the hearing has already convened with a panel of less than three members.

At the Hearing

The decision to appoint a panel of less than three can also be made at the hearing:

Practices and Procedures

4.5 Absence of Panel Member(s)

- (a) If any of the appointed panel members have been prevented from attending the hearing and
 - (i) the appellant previously consented to a panel of less than three members, the panel will proceed with the hearing; or
 - (ii) the appellant did not previously consent to a panel of less than three members, the appellant will be given the choice:
 - (A) to proceed with the hearing at the scheduled time before a panel of less than three members; or
 - (B) to proceed with the hearing as soon as possible before a panel of three members.
- (b) If the appellant chooses (a)(ii)(B), and the Tribunal cannot arrange for alternative panel member(s) to attend the scheduled hearing, the hearing will be adjourned.
- (c) The panel chair will immediately notify the Tribunal of any adjournment.

If the panel chair was prevented from attending, the panel member(s) must contact the Tribunal so that the Tribunal Chair can appoint another member to be panel chair.

In the event that the appellant has not attended the hearing, and did not previously consent to a panel of less than three members, the hearing must be adjourned.

As applicable, the panel chair must note the appellant's choice and any adjournment in the "Part E - Summary of Facts" section of the Tribunal Decision as a procedural item.