



INDUSTRIAL WORKERS OF THE WORLD

VANCOUVER GENERAL MEMBERSHIP BRANCH

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Vancouver BC V6B 4A4

Hearings

This Employment Standards Factsheet is also available in a [printable pdf format](#)

The Employment Standards Branch encourages employees and employers to solve problems without immediate government intervention. If a problem cannot be resolved, the Branch will try to mediate a resolution or, if necessary, will hold an adjudication hearing and issue a decision.

When a complaint is received

When the Branch accepts a complaint, an officer will review the complaint to determine:

- Whether there is a possibility the complaint could be resolved through mediation.
- What facts, if any, are in dispute.

If more information is needed at this point the Branch will contact the employer or the employee.

The Branch will then send a **Notice of Hearing** to both the employer and the employee (“the Complainant”). The notice will include:

- Information about the complaint.
- Where and when branch mediation will take place.
- Where and when the Adjudication Hearing will take place.
- A list of documents and records the parties must produce and where and when the records must be produced.

Note: Documents will be shared between the parties before the hearing. Failure to produce records as required, will result in a \$500 penalty.

Branch Mediation

The Director of Employment Standards may appoint a mediator to assist the parties in solving an employment standards problem. The mediator does not impose a decision but works with the parties to come up with an agreeable solution.

If mediation is successful, the employee and the employer will sign a Settlement Agreement. Settlement Agreements can be enforced through the courts if necessary.

If a mediated solution is not possible, the mediator can assist the parties in arriving at an agreed “statement of facts” that can be used during adjudication.

Mediators are separate from the Branch adjudication process. Information the mediator obtains during mediation (other than records demanded by the Branch) cannot be disclosed to the Branch Adjudicator without the consent of all parties.

Adjudication

The Employment Standards Branch uses Adjudication Hearings to decide if an employer has contravened the *Employment Standards Act*. Employers and employees have a right to be present and/or be represented at these hearings.

Adjournment of hearings

The Branch Adjudicator may grant adjournments in extraordinary circumstances. Requests for adjournments must normally be in writing, include reasons, and be delivered to the Branch at least one week before the scheduled hearing date.

Witnesses

Witnesses may appear at hearings on behalf of an employer or a complainant.

Any request to the Branch to issue a summons for a witness to testify must be submitted in writing before the hearing, and must:

- a) Set out the name and address of the witness.
- b) Provide a summary of the evidence the witness is expected to produce.
- c) Describe any documents that the witnesses must bring to the hearing.

The party requesting a summons is responsible for any witness fees.

Preparing for the Adjudication Hearing

Before the Adjudication Hearing, employers and complainants should:

- Review any documents or written submissions including the *Problem Description Form* or *Request for Payment form* from the Self-Help Kit.
- Review the “Agreed Statement of Facts” if there is one.
- List the points to make at the hearing.
- If witnesses are being called, prepare a list of questions for witnesses.

What Happens at the Adjudication Hearing

Only the Branch Adjudicator, the employer, the complainant and/or their representatives will be in the hearing room for the entire adjudication hearing. Witnesses will be required to wait outside the hearing until they are called to give evidence.

All documents to be used at the hearing must be provided in advance. The Branch Adjudicator may refuse to consider any documents introduced at the hearing itself.

At the beginning of the hearing, the Branch Adjudicator will introduce her-or-himself and explain the procedures to all those present.

The Branch Adjudicator will state which sections of the Act the complaint relates to and what facts the employer and the complainant have already agreed to.

The Branch Adjudicator will ask the complainant and the employer to present evidence or call any witnesses relevant to the complaint.

The complainant and the employer will both be given an opportunity to respond to evidence or statements made by the other party or witnesses.

The Branch Adjudicator may also ask questions of the complainant, the employer and any witnesses.

When all the evidence has been presented, the Branch Adjudicator will listen to any closing arguments.

For more information, please see:

[Complaint Hearing Procedures](#)

[Guide to the Adjudication Process](#)

After the hearing

After the hearing, the Branch Adjudicator will make a decision (called a “Determination”) and provide it to the complainant and the employer. This may happen at the end of the hearing or at a later date.

Within seven days either party may request written reasons for a determination.

If it is determined that the employer has contravened requirements set out under the Act, the Determination may also include a penalty.

A Determination can be filed at any time in Supreme Court and enforced as a judgment of the Court.