

<p style="text-align: center;">PRACTICE TIPS ON HOW THE SOCIAL BENEFITS TRIBUNAL'S EARLY RESOLUTION PILOT PROGRAM CAN WORK FOR YOU</p>

PURPOSE

The Early Resolution Pilot Program (ERP) at the Social Benefits Tribunal (Tribunal) is designed to be flexible so that Respondents (i.e. Ministry and Municipal representatives) and Appellant's representatives can find ways for the ERP to suit and complement their work environments. It is not intended to increase office workloads; rather, the ERP is created to provide an informal settlement opportunity that is adaptive to the particular circumstances of each case, prior to the Tribunal hearing.

These *Practice Tips* have been prepared to offer practical suggestions to assist participants involved in the ERP at the Tribunal. They will also help the parties to understand better their roles and responsibilities when participating in the ERP. A number of these suggested practices are based on procedures that have been developed by parties who have been participating in the ERP over the course of the past several months, and/or existing best practices gathered from these parties.

APPLICATION AND INTERPRETATION

These *Practice Tips* apply to appeals filed with the Tribunal that are included in the ERP. They should be considered together with the Tribunal's *Practice Direction 5*, found on the Tribunal's web site at: www.sbt.gov.on.ca. These *Practice Tips* are not legally binding or enforceable - they are suggestions only and may be changed or updated as the ERP continues to evolve.

Where the appeal is not resolved through the ERP and proceeds to a hearing before the Tribunal, these *Practice Tips* do not affect the duty of the Tribunal adjudicator to make a decision based on the circumstances and merits of each case, including the application of the evidence and the relevant legislation to the facts at hand.

IDENTIFICATION OF APPEAL CASES

Appeal cases are selected by the Tribunal for inclusion in the ERP Program based upon the nature of the appeal. For example, appeals dealing with issues of overpayments, failure to provide information, community start-up benefits, and special diet allowances are included in the ERP.

More recently, a number of Respondents (i.e. Ministry and Municipal representatives) have started to identify and select appeal cases that may be appropriate to include in the ERP, and to notify the Tribunal of these cases. Once notified, the Tribunal will generally include these cases in the ERP.

BINDING SETTLEMENT AUTHORITY

To maintain the integrity of the ERP, it is critical that all of the parties participating in the Program have binding authority to negotiate and to enter into a settlement of the appeal. It is especially important that the parties (or their representatives, if any) have binding authority to resolve the appeal at the time of the Early Resolution Session. In a number of area offices, for example, the Case Presenting Officer (CPO) has attended at the Early Resolution Session with the authority to enter into a settlement. The CPO reviews the settlement based upon the information presented at the Early Resolution Session. This practice has proven very beneficial for all parties and prevents unnecessary delays.

Where, however, a party (i.e. the CPO) does not have authority to enter into a settlement at the time of the Early Resolution Session, the ERP is subject to additional delay. In other words, the CPO has to obtain instructions from his or her supervisor in the subject area office in order to approve a settlement reached during the Early Resolution Session. Further, without appropriate settlement authority, settlement discussions can result in drawn-out, unproductive negotiations between the parties.

GOOD FAITH PARTICIPATION

Since the introduction of the ERP, parties and their representatives (if any) have been participating in the Early Resolution Sessions in good faith. ‘Good faith participation’ means that parties are available to participate on the pre-scheduled date for their Early Resolution Session, and are fully prepared to proceed at that time. To guide their participation, parties have been following the practices and procedures regarding the ERP set out under the Tribunal’s *Practice Direction 5*.

In terms of developing successful approaches to participation in the ERP, some Respondents have found it helpful to select one CPO within their respective offices who is responsible for participating in all the Early Resolution Sessions taking place within that office. This practice builds expertise in the ERP within the particular office, and maintains consistency in terms of approach and knowledge of the cases and the ERP.

Parties should also continue to participate in the ERP until the pilot period expires on August 31st, 2006, so that a proper evaluation of the ERP can be conducted at the end of the pilot period.

EXCHANGE OF DOCUMENTS

To ensure that the Early Resolution Sessions are productive, and to improve the chances of settlement, parties should continue to recognize the need for, and importance of, early disclosure of supporting information. Early disclosure requires the parties to exchange information with each other and the Tribunal as soon as possible, and before the Early Resolution Session takes place. While detailed submissions are not necessary at this early stage, it is important that all parties have sufficient information to understand the appeal.

Providing this information at this early stage may also allow parties to resolve the case before the start of the Early Resolution Session.

ONGOING DEVELOPMENT OF THE *PRACTICE TIPS*

These *Practice Tips* are a useful tool for parties and/or their representatives participating in the ERP. They offer suggestions and guidelines about managing and participating in the ERP in an efficient and productive manner.

Through the ongoing development of these *Practice Tips* and the ERP, the Tribunal welcomes feedback and comments from ERP participants. Obtaining input from parties enhances the Tribunal's ability to provide an effective and fair early resolution opportunity through the ERP and also improves the quality of these *Practice Tips*.

For general questions or comments regarding these *Practice Tips*, please contact Mary Lee, General Manager, Social Benefits Tribunal, at: (416) 326-5112.