

31. REVIEW OF FINAL DECISION OR FINAL ORDER

A Party may Request a Review

- 31.1 A Party may request of the Chair, or the Chair on his or her own initiative may bring, a Review of a Final Decision or final order of the TLAB.

Chair May Designate Any Member

- 31.2 The Chair may in writing designate any Member to conduct any or all of the Review process and make a decision in accordance with the Rules.

Review Request does not Operate as a Stay

- 31.3 A Review shall not operate as a stay, unless the Chair orders otherwise. A Party requesting that a Final Decision or final order be stayed shall do so at the same time the request for Review is made.

No Motions Except with Leave

- 31.4 No Motion may be brought with respect to a Review or request for Review except with leave of the TLAB.

Deadline for, and Service of, Review Request

- 31.5 A Review request shall be served on all Parties and filed with the TLAB within 30 Days of the Final Decision or final order, unless the Chair directs otherwise.

Contents of a Review Request

- 31.6 A Party's Review request shall be in writing and be accompanied by an Affidavit which contains a concise summary of the facts and reasons for the requested Review, with specific reference to any relevant evidence. The Review request shall also contain:
- a) a copy of the Final Decision or final order at issue;
 - b) a statement that explains the relevant grounds listed in Rule 31.24 that apply to the requested Review;
 - c) a concise written argument containing numbered paragraphs that includes applicable law and authorities;
 - d) copies of the referenced case law and authorities; and

e) a statement as to the requested remedy.

Transcripts

31.7 If any Party wishes to refer to any oral evidence presented at the Hearing that Party shall, if said oral evidence is contested and a recording thereof is available, have the relevant portion of the proceeding transcribed and certified by a qualified court reporter.

Fee for Filing Review

31.8 A Party shall at the same time as filing a Review request pay to the TLAB the required fee.

Early Response Accepted

31.9 Notwithstanding the timeline provided in Rule 31.19, a responding Party may choose to respond immediately, once served with a Review request.

Administrative Screening

31.10 The TLAB may not process a Review request if:

- a) it does not relate to a Final Decision or final order;
- b) it was submitted after the prescribed time for requesting a Review;
- c) it is incomplete;
- d) it was submitted without the required fee; or
- e) there is some other technical defect in the submitted Review request.

Notice of Administrative Screening

31.11 The TLAB shall give a Party who has submitted a Review request that appears deficient a Notice of Non-compliance which includes:

- a) the reasons the TLAB will not process the submitted Review request; and
- b) the requirements for resuming processing of the Review request, if applicable.

31.12 Except in the case of Rule 31.9(b), where requirements for resuming processing of a Review request apply, processing shall resume if the Party complies within 5 Days with the requirements set out in the Notice of Non-compliance.

31.13 After the expiry of the time period provided in Rule 31.11, the TLAB shall refer the matter for adjudicative screening under Rule 31.14.

Notice of Review Request Deemed Filed on Original Date

31.14 If a documentary or technical defect set out in a Notice of Non-compliance is corrected in accordance with the Rules the Review request is deemed to have been properly Filed on the Day it was first submitted, rather than on the Day the defect was cured.

Adjudicative Screening by Chair

31.15 The Chair may, on notice to all Parties, propose to dismiss all or part of a Review request without holding a Hearing on the grounds that:

- a) the reasons set out in the Review request do not disclose any grounds upon which the TLAB could allow all or part of the requested relief;
- b) the Review request is frivolous, vexatious or not commenced in good faith;
- c) the Review request is made only for the purpose of delay;
- d) the requesting Party has persistently and without reasonable grounds commenced Proceedings that constitute an abuse of process;
- e) the requesting Party has not provided written reasons and grounds for the Review request;
- f) the requesting Party has not paid the required fee;
- g) the requesting Party has not complied with the requirements provided pursuant to Rule 31.11(b) within the time period specified in Rule 31.12;
- h) the Review request relates to matters or grounds which are outside the jurisdiction of the TLAB; or
- i) the submitted Review request could not be processed and the matter was referred, pursuant to Rule 31.13, for adjudicative screening.

Requesting Party may Make Submissions in Screening Process

31.16 A requesting Party wishing to make written submissions on the proposed dismissal of a Review request shall file same with the TLAB and serve all Parties within 10 Days of receiving notice under Rule 31.15.

31.17 Upon receiving written submissions, or, if no written submissions are received pursuant to Rule 31.16, the Chair may dismiss the Review request or make any other order.

31.18 Where the Chair dismisses all or part of a Review request, or is advised that the Review request is withdrawn, any fee paid shall not be refunded.

TLAB shall give Notice of Review

31.19 Where a Review request has not been dismissed under Rule 31.17, the TLAB shall give a Notice of Review to all Parties.

Response to Review

31.20 If a Party needs to respond the responding Party shall serve a response on all Parties and File same with the TLAB no later than 20 Days from the Date the Notice of Review is issued, unless the TLAB directs otherwise.

Contents of Response to Review

31.21 A responding Party's response shall be in writing and be accompanied by an Affidavit which contains a concise summary of the facts and reasons relied upon in opposition to the Review, with specific reference to any relevant evidence. The response shall also contain:

- a) a statement that explains how the relevant grounds listed in Rule 31.25 do not apply;
- b) a concise written argument containing numbered paragraphs that includes applicable law and authorities;
- c) copies of the referenced case law and authorities; and
- d) a statement as to the requested remedy.

Reply to Response to Review

31.22 If the requesting Party needs to reply to any new issues, facts or Documents raised in a responding Party's response that Party shall serve on all Parties a reply and File same with the TLAB no later than 14 Days from the Date the Notice of Review is issued, unless the TLAB directs otherwise.

Contents of a Reply to Response to Review

31.23 A requesting Party's reply shall be in writing and be accompanied by an affidavit and shall:

- a) only address new issues, facts and Documents raised in the responding Party's response; and
- b) list and attach the Documents used in the Hearing relating to those matters addressed in the reply, and include any case law and authorities in support of the reply.

Chair may seek Further Submissions or Direct an Oral Hearing

31.24 The Chair may seek further written submissions or direct an oral Hearing before a different TLAB Member to review the Final Decision or final order.

Grounds for Review

31.25 In considering whether to grant any remedy or make any other order the TLAB shall consider whether the reasons and evidence provided by the requesting Party are compelling and demonstrate the TLAB:

- a) acted outside of its jurisdiction;
- b) violated the rules of natural justice or procedural fairness;
- c) made an error of law or fact which would likely have resulted in a different Final Decision or final order;
- d) was deprived of new evidence which was not available at the time of the Hearing but which would likely have resulted in a different Final Decision or final order; or
- e) heard false or misleading evidence from a Person, which was only discovered after the Hearing, but which likely resulted in the Final Decision or final order which is the subject of the Review.

Remedies

31.26 Where it is demonstrated that one or more grounds in Rule 31.25 is established the TLAB may confirm, vary, suspend or cancel the Final Decision or final order, or order a new Hearing.

No Further Review Permitted

31.27 A Review decision may not be further reviewed by the TLAB.

