

DRAFT ADDITION TO PUBLIC GUIDE

REVIEW REQUESTS (Rule 31) and LEAVE TO APPEAL APPLICATIONS.

The right to request a review of a final Decision and Order of a TLAB Member (Review Request) is offered as an administrative right and only upon compliance with the provisions of Rule 31 of the TLAB *Rules of Practice and Procedure*.

A Review Request is a formal proceeding; it is **time limited** and is to be approached and treated as a serious matter. It is only available to be requested by a Party to the Members final decision.

A Review Request is to be founded upon the stated and identified grounds found in the Rule. It is not an opportunity to simply re-argue a Decision and Order to which exception is taken. As well, the TLAB has procedures and remedies as specified in the Rule. Regard is to be had to Rule 31 in considering whether to pursue the remedy of a Review Request. Strick compliance with the procedural and substantive requirements of Rule 31 is mandatory.

TLAB final decisions may also be subject to applications for 'Leave to Appeal' to the Divisional Court, on a question of law. This is a statutory right, to seek leave to appeal a decision of the TLAB. It is a two-step process whereby a single judge of the Court will examine the matter for issues of law, and determine whether any aspect should be allowed to proceed to a Hearing before a three member panel of the Divisional Court. It, too, is **time limited** and subject to the *Rules of Court* known as the *Rules of Civil Procedure*.

It is the responsibility of the Party to determine whether it is desirable to pursue one or both routes, as the issues in dispute and remedies available may overlap. Since both are time limited on an application basis, the decision to pursue or not can have significant consequences.

The attitudinal approach of the courts, generally, is to expect that a Party is to exhaust all available, effective remedies before consideration by the court. In practical terms, this often involves delaying judicial consideration on a requested Leave to Appeal application pending the result of any administrative (TLAB) Review Request.

A Party wishing to pursue a remedy following a TLAB Decision and Order is advised to seek legal counsel on these rights at the very earliest opportunity.