



INFORMAL REVIEW OF ADMINISTRATIVE/PROCEDURAL FINES

PURPOSE

To allow a Request to Review where an administrative/procedural fine has been assessed and there are no grounds for a request for review under the ORA Administrative Review Policy.

DEFINITION

This applies to any fine that is arbitrarily assessed based on a policy/procedural violation including but not limited to:

1. Outstanding invoices levied ten (10) percent finance charge after thirty (30) days if not paid,
2. Sanction Event Applications received after June 30th subject to a one hundred dollar (\$100.00) fine or,
3. Administrative, Participant and Other Rules listed under Violation of Sanction Rules.

SCOPE

Applies to fines levied by the ORA, its staff or Standing Committees.

FILING A REQUEST FOR REVIEW

Requirements – the applicant must:

1. Acknowledge that the infraction occurred and that it will not be repeated in the future,
2. Pay the fine in full,
3. Pay an additional \$100 review deposit, and
4. File a request in writing with the provincial office within twenty-one (21) days of receiving the written notice of fine.

THE REQUEST FOR REVIEW:

A concise summary of the facts

- Who the applicant is,
- Who the fining authority is,
- The written reason for the fine, and
- A brief but complete outline of the facts of the matter.
- Any mitigating factors that the applicant wishes the review panel to consider

RESPONSE

The fining authority will be sent a copy of the Request for Review and will then have two (2) weeks to respond in writing to the request. The response should contain:

1. Additional facts as needed,
2. What rule or policy was infringed and where and when it was published to the membership.
3. A summary of the communications, both verbal and written – between the fining authority and the applicant relating to this incident,
4. History of related previous fines involving the two (2) parties in the last three (3) years, and
5. Any aggravating factors that the fining authority wishes the review panel to consider.

REBUTTAL

The applicant has one (1) week to rebut the response once it is received.

PANEL SELECTION

1. A panel will be constituted to determine the matter. Each member of the panel must be free of conflict of interest – actual or perceived – in the matter. The panel will select a chair from amongst its members.
2. If the fine is less than \$500.00, the outcome will be determined by a panel of one (1).
3. For amounts of \$500.00 and greater, the outcome will be determined by a panel of three (3) members.

HEARING

Having reviewed the documents, the panel may be satisfied that it can proceed purely by way of documentary evidence. If it is not satisfied then it may extend the timelines so that questions it puts to one or both of the parties can be properly answered, or it may decide to convene a hearing to take verbal submissions. Such a hearing may be in person or by teleconference at the option of the panel and must be scheduled so that all parties have a reasonable chance to participate. Lack of participation means that the written submissions are used as is.

REVIEW DECISION

The review panel has one (1) week from the decision to proceed by way of documentary evidence or the conclusion of the verbal hearing to reach a decision and has another week to issue written reasons. The decision of the panel will only be based upon the evidence as provided by the appellant and respondent.

Written reasons will include:

1. Decision of the panel to deny or allow request,
2. Names of the panel members, and
3. Rationale for the decision made.

CONSIDERATIONS IN DETERMINING THE OUTCOME

Every case is different, and it is up to the best judgment of the panel to make the fine fit the infraction. The purpose of levying fines is not to raise money but to educate the members and ensure future compliance with the rules. The aim is to have people understand that the rules are serious and that the penalties levied to enforce them are fair and reasonable in the circumstances.

CRITERIA TO CONSIDER WHEN SETTING THE AMOUNT OF A FINE

1. Recognition by the applicant that the rules were broken and must not be broken again,
2. The pattern of communications between the parties on this issue,
3. Whether this is a first or repeated infraction,
4. Extenuating circumstances, and
5. Aggravating circumstances.

AMOUNT OF THE FINE

The maximum fine is meant to be levied only in the very worst cases. The facts of each case are scaled against that worst case and a proportion of the maximum is assessed.

1. For a first-time offender to write a cheque in any amount is an acknowledgement of wrong doing and doing this is a bigger deterrent than the amount of the cheque itself.
2. Repeat offenders are more deterred by the amount of the cheque.

DISPOSITION CONSIDERATION

The expectation is that different decisions will be broadly consistent with each other in the sense that equally serious infractions will receive comparable treatment and that more serious infractions will be punished more severely than less serious infractions.

If the decision is to lower the fine, then a refund will be made within two (2) weeks of the issuance of the written decision.

DETERMINATION OF DEPOSIT

The \$100 deposit may be kept or returned, in whole or in part, at the sole discretion of the panel and this decision may not be reviewed.

REVIEW OF DECISION

The review process of the fine may itself be reviewed under our Request for Review policy should sufficient grounds exist, otherwise the decision is final.

PUBLICATION

The outcome of the request and the written reasons for it may be published unless it contains confidential information which must be respected.