

Frequently Asked Questions

Sears Canada Employee and Retiree Claims Procedure FAQ for Employees represented by Employee Representative Counsel

This FAQ sheet is intended to act as a supplement to materials provided by FTI Consulting Canada Inc. in its capacity as Monitor of the Sears Canada Entities¹ in the CCAA proceedings (the “**Monitor**”), specifically to Employees of the Sears Canada Entities through the Employee and Retiree Claims Procedure.

Where any information in this FAQ conflicts with information found in materials, correspondence, forms, or any other document provided by the Monitor or with the February 22, 2018 Employee and Retiree Claims Procedure Order, the materials provided by the Monitor and the Employee and Retiree Claims Procedure Order take precedence. Any capitalized words in this FAQ have the meanings attributed to them in the February 22, 2018 Employee and Retiree Claims Procedure Order.

A copy of the above mentioned documents can be found at <http://cfcanada.fticonsulting.com/searscanada/Employee.htm>.

¹ The Sears Canada Entities are Sears Canada Inc., 9370-2751 Québec Inc. (formerly Corbeil Electrique Inc.), 191020 Canada Inc. (formerly S.L.H. Transport Inc.), The Cut Inc., Sears Contact Services Inc., Initium Logistics Services Inc., Initium Commerce Labs Inc., Initium Trading And Sourcing Corp., Sears Floor Covering Centres Inc., 173470 Canada Inc., 2497089 Ontario Inc., 6988741 Canada Inc., 10011711 Canada Inc., 1592580 Ontario Limited, 955041 Alberta Ltd., 4201531 Canada Inc., 168886 Canada Inc., 3339611 Canada Inc. and SearsConnect.

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Overall Process

1. What is the Employee and Retiree Claims Procedure?

The Employee and Retiree Claims Procedure is a process approved by the Ontario Superior Court of Justice (the “**Court**”) for identifying, calculating and submitting claims of Employees and Retirees of the Sears Canada Entities. A claim, in this context, simply means something owed to you by one of the Sears Canada Entities and/or its Directors or Officers.

The Employee Claims Procedure involves two different processes for addressing all potential claims that you, as a former Sears Employee, may have.

The first process is related to claims in respect of the termination of your employment (these are referred to as “**Termination Claims**”). The Monitor will provide you with a Termination Claim Statement that will set out your claim amounts or will send you an email that contains instructions for you to access a web portal where your Termination Claim Statement will be set out. This claim is calculated based on your Personal Information which is also being provided to you.

The second process is for submitting any proofs of claim for claims that are not Termination Claims or Lifetime Discount Claims or Warranty Claims (each described below), or any claims against the Directors and/or Officers of the Sears Canada Entities (these are referred to as “**Other Employee Claims**”). What constitutes an Other Employee Claim is described more fully below.

All the necessary documents related to these two processes, will either be included in the Claims Package that was sent to all former Employees on record with a Termination Claim or made available on the Monitor’s website. If you did not receive a package and believe that you may have a claim, please contact Employee Representative Counsel at SearsCanadaEmployees@upfhlaw.ca or 1-844-855-8352 or contact the Monitor at SearsEmployeeClaimSite@fticonsulting.com or 1-855-649-8113.

2. Who decided what my Termination Claim would be?

Your Termination Claim has been calculated using the Court-approved Termination Claims Methodology. The Sears Canada Entities, in consultation with the Monitor, and working closely with Employee Representative Counsel, developed the Termination Claims Methodology for the types of claims and the calculation of such claims that former Employees may have against the Sears Canada Entities in relation to the termination of employment.

This approach was considered the best option for a streamlined process for dealing with all employment-related claims. This streamlined process uses a variety of formulas to calculate your termination and severance pay, and your claim is valued at the best/highest formula available to you under the Termination Claims Methodology.

3. Why don't I get to submit my own Termination Claim for what I am owed by Sears Canada?

An individualized assessment of each employee's claim is impractical and would have consumed an enormous amount of time and resources, to the detriment of employees, among others.

The Sears Canada Entities, the Monitor and Employee Representative Counsel determined that it would be appropriate to establish an agreed-upon process or methodology for the quantification of Employee Claims given the large number of employees, the complex nature of those claims, the challenge of submitting individual proofs of claim, and the potential need for individualized legal advice.

The methodology and formulas that were developed in the Employee Claims Procedure are fair and reasonable methods for determining your entitlement to termination and severance pay based on all relevant legal principles, including statutes, Sears policies and case law.

The only thing you need to do for your Termination Claim is review your Personal Information contained within your Termination Claims Package that is sent to you either in the mail or found on the web portal that you will access after receiving an email notification.

4. What do I need to do with the information in the Claims Package?

Review the documents within your Claims Package. Specifically, review the Personal Information on your Termination Claims Statement:

a. My Personal Information is correct – what do I do?

You do not need to do anything. If your Personal Information found on your Termination Claim Statement is correct, your Termination Claim amount is as stated on the Termination Claims Statement.

b. My Personal Information is incorrect – what do I do?

If you do not agree with the Personal Information contained in your Termination Claim Statement you must submit a Request for Correction to the Monitor **before 5:00 p.m. (Toronto time) on May 7, 2018.**

You may submit a Request for Correction by correcting your Personal Information directly on the Monitor's Claims Website (<https://employee.searsclaimsite.com>) after logging in using the username and password provided to you in an email or letter from the Monitor. If you have not received an email or letter from the Monitor with this information, please contact the Monitor by email at the following address:

SearsEmployeeClaimSite@fticonsulting.com

If you are unable to access the Monitor's Claim Website, you may request a hard copy of the Request for Correction form from the Monitor, complete it and mail or email your form to the Monitor at the following address:

FTI Consulting Canada Inc., Sears Canada Monitor
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 101
Toronto, Ontario M5K 1G8

Attention: Sears Canada Employee and Retiree Claims Process
Email: SearsEmployeeClaimSite@fticonsulting.com
Fax: 416-649-8101

Please ensure you follow the instructions contained in the Request for Correction form.

5. What if Sears owed me money for something unrelated to my Termination Claim?

If you believe that you have a claim against the Sears Canada Entities for amounts unrelated to your termination of employment, you may have an "Other Employee Claim." An Other Employee Claim means any right or claim against the Sears Canada Entities that is not a Termination Claim, Lifetime Discount Claim, Warranty Claim (see questions 22 and 23 below) or any right or claim against any Director and/or Officer of a Sears Canada Entity.

6. Proofs of Claim for "Other Employee Claims"

If you have a claim against the Sears Canada Entities for something that is not a Termination Claim, Lifetime Discount Claim, Warranty Claim, or Directors and Officers Claim (discussed below) you must complete and file a Proof of Claim Form so that it is **received by the Monitor on or before April 9, 2018 at 5:00pm.**

Some examples of claims that are not related to your Termination Claim may be: 1) a claim for damaged property; 2) a claim for outstanding expenses; or 3) if you commenced a court or tribunal claim against Sears before June 22, 2017, such as a human rights or Small Claims Court action, you will need to submit the amount as a claim on a Proof of Claim Form.

To access a Proof of Claim Form, visit the Monitor's website [here](#) and follow the Proof of Claim Instruction Letter which can be found [here](#).

Proofs of Claim must be delivered to the Monitor by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at the following address:

FTI Consulting Canada Inc., Sears Canada Monitor
TD Waterhouse Tower
79 Wellington Street West

Suite 2010, P.O. Box 101
Toronto, Ontario M5K 1G8

Attention: Sears Canada Employee and Retiree Claims Process

Fax No.: 416-649-8101

Email for Employee Claims: SearsEmployeeClaimSite@fticonsulting.com

Make sure to provide sufficient documentation with your Proof of Claim to support your claims.

7. What do I need to submit with my Proof of Claim?

You will need the following information:

- a) the full legal name of the Sears Canada Entity that you believe owes you a debt;²
- b) the full legal name of the person who you believe is owed the debt;

[On the Proof of Claim Form, the applicable Sears Canada Entity is the “Debtor” and you are the “Claimant”]

- c) whether the claim you are asserting has been acquired via assignment or other transfer from another party (see question 24);
- d) whether the claim was for something owing before June 22, 2017 (a “Pre-Filing Period” Claim) or after June 22, 2017 (a “Restructuring Period” Claim) (see question 25);
- e) how much you believe you are owed and what currency the claim is for;
- f) whether the claim is secured/how much of the claim is secured (see question 26);
- g) supporting documentation.

[It is important that you include copies of any and all relevant and available supporting documentation in order to establish your claim]

8. What are claims against Directors and Officers (“D&O Claims”)?

If you have a claim against any of the Directors and/or Officers of a Sears Canada Entity, you must complete and file a D&O Proof of Claim so that it is **received by the Monitor on or before April 9, 2018 at 5:00 pm**. To access a D&O Proof of Claim form visit the Monitor’s website [here](#). and follow the D&O Proof of Claim Instruction Letter [here](#).

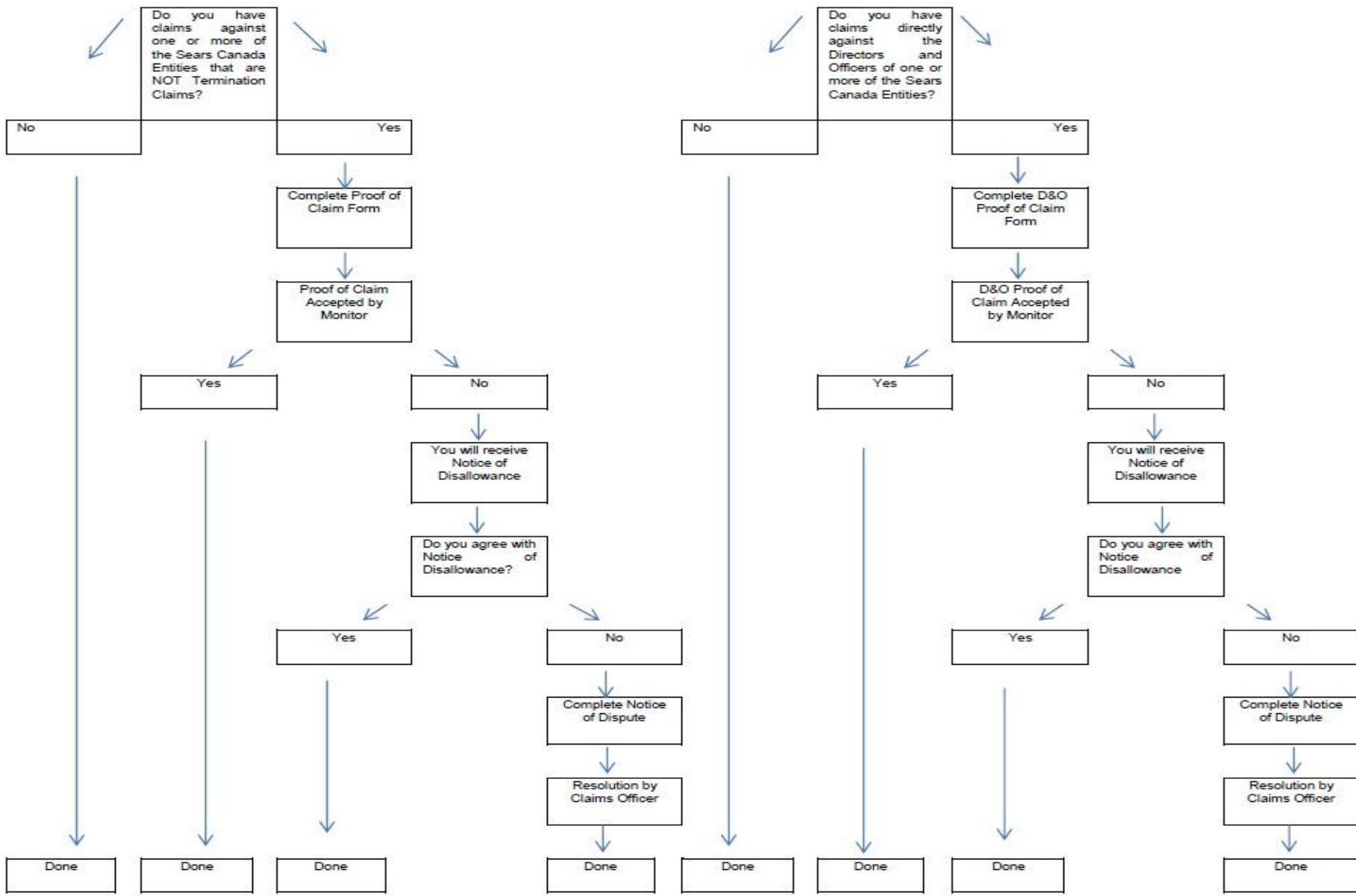
² See the legal names of the Sears Canada Entities on page 1 of this document in footnote 1.

Examples of claims against Directors and Officers include unpaid salary or base wages and unpaid vacation pay. If you have questions about whether something constitutes a claim under this category, contact us for further information.

If you are filing a D&O Claim, you will need to submit the same information as identified in question 7.

9. What is the process after I submit my Proof of Claim or D&O Claim?

See next page for flow chart.



Specific questions regarding the Termination Claim

10. I was terminated without cause (e.g. Sears did not terminate my employment because of my performance or other misconduct):

a. What is included in my Termination Claim?

Your Termination Claim includes all claims that you may have relating to the termination of your employment. This includes all claims for termination and severance pay and for damages for loss of employment related perks and benefits that you may have participated in during your notice period, including health and dental benefits, basic life insurance coverage, defined contribution pension plan contributions, associate discount, and associate assistance plan.

If you did not receive benefits and did not participate in the defined contribution pension plan, your Termination Claim will be based on your Average Hourly Rate or your base salary for the Severance Pay Period (see definition below), plus \$175 for the loss of the associate discount and access to the associate assistance plan.

b. How was my Termination Claim calculated?

For employees terminated without cause, the Termination Claim is based on the **greatest** of your entitlements under the following:

- a) Employment standards legislation;
- b) Pre-2016 Sears Severance Policy;
- c) Post-2016 Sears Severance Policy; or
- d) Common Law Severance Formula.

Generally speaking, your Termination Claim is calculated by first determining the greatest notice period during which you would have been eligible for notice and severance pay using one of the above methods and subtracting the amount of working notice you received (this is your “**Severance Pay Period**”). Your applicable wage or salary will be applied to your Severance Pay Period to arrive at the amount that would have been payable to you during the Severance Pay Period.

This amount is increased, where applicable, for lost health, dental, basic life insurance, defined contribution pension plan contributions, associate discount and/or associate assistance plan benefits you would have been entitled to during your notice period, based on your circumstances.

If you have a greater entitlement under your employment contract than you would have under one of the above methods, your Termination Claim will be the amount specified under your employment contract.

11. What is the Common Law Severance Formula?

The Common Law Severance Formula is one of the formulas used to calculate how much termination pay you may be owed by Sears. The Formula uses the following factors to calculate your Severance Pay Period:

- Your employment status (e.g. part-time or full-time);
- Your level of employment (e.g. associate or supervisory);
- Your length of service;
- Your age;
- Your wage rate or salary;
- The province or other jurisdiction in which you worked at the time of your termination.

These are the factors that are typically taken into account by the courts to determine the amount of notice to which an employee is entitled when assessed through the common law system. The following chart outlines the notice period that you are entitled to, based on the above factors:

Position	Base	Additional weeks per complete year of service	Additional weeks based on age	Minimum/Maximum
Part Time Associate	2 weeks	2 weeks / year	Add 4 weeks if over 55 at termination	Minimum: 2 weeks Maximum: 52 weeks
Full Time Associate	4 weeks	2 weeks / year	Add 2 weeks if 40-45 at termination Add 3 weeks if 46-50 at termination Add 4 weeks if 51-55 at termination Add 5 weeks if 56-60 at termination Add 8 weeks if over 60 at termination	Minimum: 4 weeks Maximum: 78 weeks
Supervisors	6 weeks	2.5 weeks / year	Add 2 weeks if 40-45 at termination Add 3 weeks if 46-50 at termination Add 4 weeks if 51-55 at termination	Minimum: 6 weeks Maximum: 78 weeks

			Add 5 weeks if 56-60 at termination Add 8 weeks if over 60 at termination	
Managers	8 weeks	3 weeks / year	Add 2 weeks if 40-45 at termination Add 3 weeks if 46-50 at termination Add 4 weeks if 51-55 at termination Add 5 weeks if 56-60 at termination Add 8 weeks if over 60 at termination	Minimum: 8 weeks Maximum: 78 weeks
Divisional Vice Presidents	10 weeks	4 weeks / year	Add 2 weeks if 40-45 at termination Add 5 weeks if 46-50 at termination Add 8 weeks if 51-55 at termination Add 10 weeks if over 56 at termination	Minimum: 10 weeks Maximum: 104 weeks

12. Can you provide examples of how the Common Law Severance Formula works?

Example 1:

A 44 year old manager with 15 years of service that is provided with 8 weeks of working notice would have the following Severance Pay Period from the Common Law Severance Formula:

8 weeks (provided to all managers)
+ 45 weeks (15 years' service x 3 weeks' per year)
+ 2 weeks (for being 44 years old)
= 55 weeks
- 8 weeks worked notice
= **47 weeks**

Example 2:

A 48 year old Full Time Associate with 12 years of service that is provided 8 weeks of working notice would have the following Severance Pay Period under the Common Law Severance Formula:

4 weeks (Full Time Associate)
+ 24 weeks (12 years' service x 2 weeks' per year for Full Time Associate)
+ 3 weeks (for 48 year old Full Time Associate)
= 31 weeks
- 8 weeks worked notice
= **23 weeks**

13. Why is working notice subtracted from my Severance Pay Period?

At common law as well as under employment standards legislation in Canada, employers who terminate an employee without cause have to provide a certain amount of notice to that employee or pay them in lieu of that notice. Under these laws, an employer does not have to provide termination pay if they have provided sufficient working notice. Based on the records of the Sears Canada Entities, nearly all employees were provided with some working notice.

14. Will I be entitled to a Termination Claim if I received working notice?

If your period of working notice met or exceeded your entitlement as calculated under the Termination Claims Methodology, you will not have any further Termination Claim. If your period of working notice was less than your entitlement as calculated under the Termination Claims Methodology, you will have a claim based on the difference between the period you worked and the entitlement under the Termination Claims Methodology (unless you have an employment contract with enhanced contractual entitlements).

15. I have an employment contract that specified what my severance pay/notice period would be. What will my claim be?

Your Termination Claim will be the greater of (i) your entitlement under your employment contract, and (ii) your entitlement using the method described above.

16. My employment with Sears stopped before June 22, 2017 (the "Filing Date") and I was receiving salary continuation payments, which ceased on the Filing Date. What will my claim be?

Your Termination Claim will be the amount of payments that remained to be paid to you by the Sears Canada Entities.

17. My Personal Statement said that I resigned but I did not resign. What do I do?

If you resigned prior to your termination date, your Termination Claim may be valued at \$0. However, if you wish to dispute your Termination Claim, then you may do so by submitting a Request for Correction form to the Monitor by **no later than 5:00 p.m. (Toronto time) on May 7, 2018**. Please see the instructions in question 4(b) above for more detail regarding how to submit this form.

18. My Personal Statement said that I was terminated for cause but I disagree with the reasons for my termination. What do I do?

If you were terminated for cause, your Termination Claim may be valued at \$0. However, if you wish to dispute your Termination Claim, then you may do so by submitting a Request for Correction form to the Monitor by **no later than 5:00 p.m. (Toronto time) on May 7, 2018**. Please see the instructions in question 4(b) above for more detail regarding how to submit this form.

19. What if I am an employee who is also part of the Sears Defined Benefit Pension Plan?

If you were enrolled in the defined benefit pension plan and/or supplemental plan, or if you were entitled to any other post-employment benefits, a separate package will be sent to you with further information.

20. What if I am an employee who is part of the Sears Defined Contribution Pension Plan?

Damages for the loss of contributions during your notice period is included in your Termination Claim Statement.

21. I disagree with how my Termination Claim has been calculated. What can I do?

As a former employee represented by Employee Representative Counsel, you are bound by the Termination Claims Methodology and will not be able to change the way your Termination Claim has been calculated (unless your claim has been valued at nil because you are alleged to have been fired for cause or to have resigned prior to your Termination Date. If that is the case, and you disagree with the Termination Claim Statement, please see questions 17 and 18).

If the Personal Information used to calculate your claim is incorrect you must complete the Employee Request for Correction Form. Completing this form may change the quantum of your Termination Claim.

22. By virtue of my age and length of service I was entitled to a lifetime discount when my employment was terminated. How will I be compensated?

If you were eligible for a lifetime associate discount based on satisfying age and service eligibility criteria, a claim in the amount of \$840 (referred to as a “**Lifetime Discount Claim**”) has been submitted on your behalf. The claim was based on the usage of the lifetime discount averaged across all eligible participants and assumed that the lifetime discount would be used for 7 years at that average rate. This is a separate claim and is not included in your Termination Claim amount. There is nothing for you to do at this time.

23. What if I have a customer warranty issued by a Sears Canada Entity?

Any claims with respect to customer warranties provided to you by a Sears Canada Entity will be deemed to be submitted on your behalf (referred to as “**Warranty Claims**”). There is nothing for you to do at this time.

Specific questions regarding the filing of a Proof of Claim

24. What is a notice of assignment?

Assignment refers to the legal transfer of one party’s rights (such as to a claim against the Sears Canada Entities) to a new party. There are certain requirements for a legal assignment to be effected. If you believe that your claim may have been acquired via assignment or other transfer from another party, please contact us.

25. I have an Other Employee Claim. What is the difference between a Pre-Filing Period Claim and a Restructuring Period Claim?

For Other Employee Claims, the main difference between a claim that is in respect of the period of time before June 22, 2017, when the Sears Canada Entities filed for CCAA protection (Pre-Filing Period), and the period of time after June 22, 2017 (the Restructuring Period) is that amounts owing by a Sears Canada Entity in respect of an Other Employee Claim in the Restructuring Period may be payable at 100% (or 100 cents on the dollar), whereas Pre-Filing debts are subject to compromise and will be paid out based on how much money is left in the estate and the priority of your claim.

26. How do I know if my claim is secured? What does this mean?

Claims are generally classified as secured, unsecured or priority claims. A secured claim essentially means that as a creditor of a Sears Canada Entity, you have a lien or security interest on a piece of that entity’s property. A Sears Canada Entity may have pledged an asset as collateral to you when they incurred the debt owing to you or you may have a secured claim against a Sears Canada Entity’s property through a court judgment or by operation of law.

It is very unlikely that any claims you may have as an employee of a Sears Canada Entity are secured claims. However, if you have questions, please contact us.

27. What interest rate should I charge?

You are entitled to charge interest for a debt owing in the Pre-Filing Period (not for the Restructuring Period) if you have a contract with or judgment against a Sears Canada Entity that specifies the interest to be charged. Interest on your debt may only be claimed up to and including June 21, 2017, being the day before the commencement of the Sears Canada Entities' CCAA proceedings on June 22, 2017.

Distribution

28. Will I receive the full amount of my claim(s)?

No. Any amount distributed to you in respect of your Termination Claim will be significantly less than the amount set out in your Termination Claim Statement, as funds available for distribution are expected to be significantly less than the amount the Sears Canada Entities owe to their creditors, including former employees.

As a result, creditors, including employees, with proven claims against the Sears Canada Entities will receive only a percentage of their claim.

Only once all of the Applicants' assets are monetized and the total value of all claims is determined, can the recoveries against the face value of proven claims be determined with certainty. According to the Monitor's Thirteenth Report dated February 18, 2018, the Monitor anticipates that the potential claim recoveries for general unsecured creditors will be in the range of 0% - 10% of the face value of claims, depending on the priority treatment of certain claims. For example, if an employee has a Termination Claim of \$1,000 and the recovery percentage is 5%, the employee would receive a cash distribution of \$50.

We know this is disheartening news for former employees. We are investigating all possible litigation with the aim of securing additional funds for distribution to employees.

29. When will I receive a distribution?

At this point, we do not know when a distribution will occur. It will likely take several months at least to complete all of the steps and court processes necessary to enable payments to be made.

Please continue to check our website, and the Monitor's website, for any updates.

Wage Earner Protection Program

30. I've heard about the Wage Earner Protection Program. How does that work?

The Wage Earner Protection Program (“**WEPP**”) is available to employees whose employment has been terminated and their employer has filed for bankruptcy or is the subject of a receivership. WEPP provides employees with payment of outstanding eligible wages and/or termination pay, up to a maximum amount equal to four times the maximum weekly insurable earnings in the *Employment Insurance Act*, subject to deductions under the WEPP Regulations. With the applicable deductions, the maximum you may receive is \$3,705.69.

[Click here](#) for more information on WEPP.

31. When can I apply for WEPP?

Under the legislation, the WEPP is only available to employees whose employer filed for bankruptcy under the *Bankruptcy and Insolvency Act*, or became subject to a receivership. Sears Canada has filed for protection under the *Companies’ Creditors Arrangement Act*, and therefore former Sears employees are not eligible for the WEPP at this time.

However, Employee Representative Counsel has been working, together with Sears Canada and the Monitor, to try to make the WEPP available to former Sears employees as soon as possible.

On December 15, 2017, Employee Representative Counsel attended a meeting with ministries from the Federal Government regarding WEPP. The Monitor, counsel to the Monitor, and counsel to Sears were also in attendance. The purpose of the meeting was to try to identify ways to provide employees access to the WEPP.

We continue to work with the Monitor, Sears and with government representatives to explore ways to make this program available to former Sears employees.

We will post a further news item if and when former employees of Sears Canada become eligible.

Hardship Fund

32. Can I still apply for the Hardship Fund?

Yes!

If you were terminated on or after June 22, 2017, or if you were in receipt of salary continuance from Sears and that stopped on June 22, 2017, you fall under the definition of Former Employee and you are eligible to apply for the Fund.

We would encourage all Former Employees experiencing any sort of financial hardship to consider applying to the Fund.

If you have applied in the past and been denied, and your circumstances have changed, you might also wish to consider applying again.

Please make sure to be as detailed as possible in your application to outline the circumstances of your hardship. If you are claiming hardship due to medical expenses please include the approximate monthly cost of your medical expenses for yourself and your family. The more details you can provide in your application, the better.

The application form can be found on our website [here](#) (for English) and [here](#) (for French) or on the Monitor's website [here](#). Please note from the instructions that Application Forms are to be sent directly to the Monitor at searscanada@fticonsulting.com.