



Human Rights Adjudication Panel
Tribunal d'arbitrage des droits de la personne

Rules of Practice and Procedure

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IN THE MATTER OF the Human Rights Act,
S.N.W.T.2002, C. 18 as amended; AND IN THE
MATTER OF section 52 (1);

RULES OF PRACTICE AND PROCEDURE BEFORE THE ADJUDICATION PANEL

General

1. The purpose of these Rules is to assist the parties in a complaint in obtaining just, fair and timely decisions from an Adjudicator.

Definitions

2. Definitions:
 - a. “accommodation” means adapting or adjusting facilities and services to meet the needs of a party;
 - b. “Appeal” means an appeal of a decision made by the Director of Human Rights to dismiss a complaint under section 45 of the Act;
 - c. “complaint” means a complaint filed or initiated under section 29 of the Act;
 - d. “hearing” means the process where the parties to a complaint may present evidence or submissions in an Appeal or Referral;
 - e. “mediation” means a process conducted by an Adjudicator with the consent of the parties that is intended to resolve all or part of the matters and issues raised by an Appeal or Referral;

- f. “motion” means a request or application for a direction or decision from an Adjudicator;
- g. “party” means any person who has filed a complaint under section 29(1), any person named in a complaint as having contravened the Act and any person named in sections 53(1)(2) and (3) of the Act;
- h. “Office Administrator” means the person designated by the Chair to operate the office of the Human Rights Adjudication Panel;
- i. “proceeding” includes any pre-hearing conference, motion or hearing presided over by an Adjudicator;
- j. “pre-hearing conference” means a scheduled meeting between the parties and an Adjudicator in person or by telephone;
- k. “Referral” means the referral of a complaint made by the Director of Human Rights under section 46 of the Act.

Obligations of the Parties

- 3. The parties to a proceeding before the Panel have the responsibility to treat each other, Panel members and Panel staff with courtesy and respect.
- 4. The parties and Adjudicators apply these Rules openly and flexibly, and an Adjudicator may modify or vary these Rules to govern the practice and procedure of hearings and pre-hearing conferences.

Service and Filing of Documents

- 5. Documents may be served on a party in any of the following ways:
 - a. by personal service;
 - b. by registered mail or courier to the party’s last known address;
 - c. by facsimile transmission or e-mail where the facsimile number or e-mail address is stated to be the address for service on any document filed and served on a party or by agreement of the parties.
- 6. An Adjudicator may require a party to prove service, to ensure every party receives notice and the opportunity to respond in a proceeding.

Pre-hearing Conferences

7. On receipt of an Appeal or Referral, the Office Administrator will contact the parties to determine their availability for a pre-hearing conference.
8. If a party fails to respond to the Office Administrator within a reasonable period of time, the Office Administrator may issue a Notice of Pre-hearing Conference fixing a date and time for a pre-hearing conference.
9. Parties shall be prepared to discuss all matters relating to an Appeal or Referral at a pre-hearing conference, including:
 - a. issues to be decided;
 - b. content of the record, if any;
 - c. timelines for exchange of documents and written argument;
 - d. witnesses expected to give evidence;
 - e. remedies sought, including any remedy as to costs;
 - f. hearing date, time and place;
 - g. translation or accommodation needs; and
 - h. mediation and settlement options.
10. The Adjudicator will invite the parties, and any other participants identified beforehand, to engage in a restorative approach to freely express how they feel the events giving rise to the complaint have impacted them.
11. The Adjudicator who holds the pre-hearing conference may not be the same Adjudicator who presides over the hearing of an Appeal or Referral.
12. If requested by the parties, the pre-hearing conference Adjudicator may offer the parties a non-binding opinion on the merits of the case before it proceeds to hearing, in the interests of encouraging settlement.
13. If settlement cannot be reached, the Adjudicator who holds the pre-hearing conference will schedule the hearing of the Appeal or Referral no later than six months from the date of the pre-hearing conference.
14. Pre-hearing conferences are not recorded.

15. If a party fails to attend the pre-hearing conference, the Adjudicator may, without further notice to that party, make directions including setting the hearing date, time and place.
16. Following the pre-hearing conference, the Adjudicator will send the parties a memorandum summarizing the discussion and any orders or directions made.

Attendance of Witnesses

17. An Adjudicator may issue a Notice to a Witness to Attend a Hearing upon the request of any party.
18. Each party will bear the costs of its own witnesses subject to any order for costs made by an Adjudicator at a hearing.

Adjudicator led Mediation

19. The parties may request mediation by entering into a Mediation Agreement.

Motions Before Hearing

20. Any party may bring a motion by notifying the Office Administrator and the other parties with reasonable notice.
21. If the motion is complex, it should be presented in writing with a clear statement of the reasons for the motion and the relief requested.
22. Any party given notice will be given a reasonable opportunity to respond, which may include an opportunity to respond in writing.
23. The party making a motion may obtain a date and time for the hearing of the motion from the Office Administrator.

Withdrawal of Complaint

24. The complainant may withdraw part or all the complaint any time by completing a Withdrawal of Complaint.
25. The Commission, where the Commissioner initiated the complaint, may withdraw part or all of the complaint at any time by completing a Withdrawal of Complaint.
26. The withdrawal of a complaint will have the effect of a final determination of the complaint unless an Adjudicator rules otherwise.

Hearings

27. The Adjudicator presiding at a hearing will decide the practice and procedure for the conduct of the hearing.
 28. The rules of evidence in civil actions and proceedings are not binding on an Adjudicator, and the Adjudicator may use practices and procedures that are alternative to traditional adjudicative or adversarial processes, consistent with a restorative approach.
 29. Hearings may occur by way of:
 - a. written and oral argument;
 - b. teleconference;
 - c. videoconference;
 - d. the calling and examining of witnesses, in-person; or
 - e. any combination of the above.
 30. Hearings will be open to the public unless an Adjudicator decides otherwise after hearing from the parties.
 31. The Panel may publish the names of the parties to a hearing, the alleged grounds for discrimination at issue and reason for the hearing, prior to a hearing.
 32. The Adjudicator will determine the mode, location, date, and time of hearings.
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Dismissal of Complaint

33. An Adjudicator may dismiss a complaint or appeal where the complainant or appellant:
 - a. fails to attend a pre-hearing conference or hearing;
 - b. fails to comply with a direction made at a pre-hearing conference; or
 - c. fails to make himself or herself available for a pre-hearing conference or hearing when requested by the Office Administrator or an Adjudicator.

Interveners

34. Any person who is not a party to an Appeal or Referral may apply to an Adjudicator to call evidence and examine witnesses during a proceeding before an Adjudicator.
35. An applicant under Rule 33 must demonstrate a substantial and direct interest in the subject matter of the proceeding as required under section 7(1) of the Public Inquiries Act, S.N.W.T., 1988, c. 14, as amended.

Orders and Decisions

36. Directions, orders and the reasons for decisions made by an Adjudicator in relation to motions and evidence on an Appeal or Referral will be in writing and be served upon the parties.
37. An Adjudicator may order costs against a party if the Adjudicator is satisfied that:
 - a. the complaint is frivolous or vexatious;
 - b. the investigation or adjudication of the complaint has been frivolously or vexatiously prolonged by the conduct of a party; or
 - c. there are extraordinary reasons for making such an order.
38. An Order made by an Adjudicator may be filed with the Clerk of the Supreme Court and be enforced as a judgment of that Court.

Decisions and Orders Made Public

39. Decisions and orders of an Adjudicator will be published on the Panel's website and may otherwise be made available to the public unless an Adjudicator decides otherwise as a result of a motion by a party.

Communications with Adjudicators

40. Except during hearings, pre-hearing conferences and mediations, all communications with Adjudicators will be by telephone, fax, regular mail and e-mail addressed to the Office Administrator at:

Human Rights Adjudication Panel
PO Box 382
Yellowknife, NT X1A 2N3

Location: 5003 49th Street - 1st Floor of the Arthur Laing Building

Phone: 1-867-920-3188
Toll Free: 1-888-920-3188
Fax: 1-867-920-2511
Email: hrap_admin@hrap-nt.ca