



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

Frequently Asked Questions (FAQ's)

How do I contact the Human Rights Adjudication Panel ?

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5003 – 49th Street, Yellowknife, NT

What is the Human Rights Adjudication Panel & when does the it get involved ?

The Panel is a group of legally trained people called Adjudicators. They have the skills and authority to hear and decide certain things related to human rights complaints made under the NWT Human Rights Act.

The Panel members are appointed by the Commissioner of the Northwest Territories on the recommendation of the Legislative Assembly. Adjudicators must be fair and neutral when they hear and decide cases. They give no legal advice, show no bias, and do not favor one Party over another.

The Panel becomes involved in human rights complaints only after a Notice of Appeal of a Director's decision has been filed in the offices of the Panel or after the Director of Human Rights has referred a complaint to the Chair of the Panel for a Hearing.

What happens when a matter goes to the Panel ?

First, the Chair assigns the matter to an Adjudicator.

Next, the Panel's Office Administrator will ask the parties when they can be available to have a telephone conference with the assigned Adjudicator. The purpose of the telephone conference is to give all of the parties the opportunity to discuss their human rights complaint with an Adjudicator as well as how and when a Hearing will take place.

This very important first step is called a "Pre-Hearing Conference".

Who may participate in an Appeal or a Referral ?

The Human Rights Act says that the parties to an **Appeal** are the person who complained (the “Complainant”), the person(s) or organization whose conduct is the subject of the complaint (the “Respondent”) and the Director of Human Rights.

The Act says that the parties to a **Referral** are the Complainant and Respondent. The Human Rights Commission may also choose to be a party to a Referred Hearing on notice to the other parties.

Finally, the Adjudicator may decide, on the Application of other persons or organizations who have an interest in the proceedings, that they can participate in the proceedings.

Can a Complaint be “settled” ?

Yes. Adjudicators are trained in law and in “Mediation” skills. When Adjudicators act as Mediators, they help the parties to have a discussion about ways of settling their differences in a fair and mutually agreeable way. Both parties must be agreeable to the mediation process before an Adjudicator will help. Usually, that agreement will be put into writing so that the rules of the mediation proceedings are understood. For further information, see our website under Mediation Information or contact the Panel’s Office Administrator.

Is the decision of an Adjudicator final ?

No. A party who is dissatisfied with the decision of an Adjudicator may file an Appeal of that decision in the Supreme Court of the Northwest Territories. The Clerk of the Supreme Court will direct parties to the necessary forms to be completed and filed to appeal the decision of an Adjudicator.

Who pays the costs and expenses of the parties ?

The Panel does not fund witness costs and expenses. Each party is responsible for funding (if necessary) the attendance of its own witnesses.

The NWT Human Rights Act allows Adjudicators to give directions and orders for costs after hearing the evidence and arguments of the parties. Such orders will only be made after hearing from all of the parties. If such directions and orders are made, they will be put into the Adjudicator’s written decision.

Parties may, of course, seek financial support from any organization, either governmental or non-governmental, as they see fit.

What are the general procedures for a Pre-Hearing Conference ?

More information on what to expect at / from a Pre-Hearing Conference and Hearing can be found throughout the Frequently Asked Questions and in the Rules of Practice and Procedure, both of which can be found on the website: www.hrap.nt.ca.

Following receipt of a Notice of Appeal or a Referral to Hearing, the Panel's Office Administrator will contact the parties to arrange a Pre-Hearing Conference.

A party may also request a Pre-Hearing Conference by calling the Panel's Office Administrator. If an Adjudicator agrees that it is necessary to have a Pre-Hearing Conference, the Panel's Office Administrator will take steps to schedule one.

The Panel's Office Administrator will try to accommodate the schedules of all of the parties and the presiding Adjudicator. Usually scheduling arrangements are made by email or telephone if necessary and a formal Notice of Pre-Hearing Conference will be sent to the parties.

If a party fails to show up at a Pre-Hearing Conference, the Adjudicator may make procedural decisions in that party's absence.

Most Pre-Hearings take place by the use of telephone conferencing ("teleconference"). The cost of teleconferencing is borne by the Panel. There are no long distance charges to parties who participate in Pre-Hearing Conferences.

Parties will receive information from the Panel's Office Administrator setting out the date, time, telephone number and access code for participants to connect to the teleconference.

Parties are expected to be on-time to avoid missing important procedural advice and direction from the Adjudicator.

When all of the parties are connected, they will be asked by the Adjudicator to provide their names. The Adjudicator will then proceed to ask questions about the Human Rights Complaint and the parties may ask questions of the Adjudicator, too.

Pre-Hearing Conferences are intended to be informal and all participants are expected to engage in the discussion. To avoid confusion, of course, the Adjudicator will lead the discussion and call on each of the participants in turn.

In most cases, Pre-Hearing Conferences are not electronically recorded, unless needed as an accommodation for one of the parties and in the rare exception of when a Pre-Hearing Conference is arranged to allow a party to make an Application that requires the calling of evidence and argument. For example, if a party requires the disclosure of documents from a party who refuses to deliver them, an Application or Motion may be heard by teleconference.

At the conclusion of Pre-Hearing Conferences, the Adjudicator will issue to all of the parties a written summary of what took place, called a Memorandum.

How do I prepare for Pre-Hearing Conference ?

If desirable, contact a lawyer of your choice, advocate or support person to give advice and/or representation during the conference.

Review all of the paperwork provided by the Panel and any writings or papers filed with the Director of Human Rights.

Consider what evidence will be necessary, including documentary and witness evidence, if the matter is set for a Hearing.

Consider how much time will be needed to prepare for a Hearing.

Consider the option of avoiding a Hearing and engaging in Mediation.

Arrive on time and be prepared to listen and participate in the discussion.

How should I speak/talk to others during a proceeding ?

The main requirement for speaking during proceedings and for talking to other participants is that all communications must be respectful. The Adjudicator will intervene if a party or witness uses abusive, argumentative or disrespectful language.

Usually the Adjudicator will be referred to as Mr., Mrs. or Ms. Likewise the parties and their witnesses are usually referred to in that manner. Using first names, e.g. John, Mary, etc., is also acceptable when addressing the parties and their witnesses so long as nobody objects. If in doubt, ask how the Adjudicator, a party or a witness prefers to be addressed.

When a party wishes to speak to the Adjudicator or when questioning witnesses, it is customary to stand up. Standing is especially helpful when a party wishes to "object" to a question or procedure used by the other party because it quickly draws the Adjudicator's attention to the objection before the question is answered or the procedure is completed.

However there is no fixed rule about sitting and standing and parties may request the opportunity to stay seated (or the Adjudicator may suggest that approach from the beginning).

How do I make an Application or Motion ?

Before an Appeal or a Referral Hearing takes place, a party may wish to make an Application or Motion to an Adjudicator. Typical Pre-Hearing Applications include:

- A request to have a Hearing take place outside of Yellowknife
- A request to have a witness give evidence by way of affidavit, teleconference or videoconference
- A request to obtain disclosure and production of documents and records

To make a Pre-Hearing Application a party can send a written request through the Panel's Office Administrator or during a Pre-Hearing Conference.

Any party making an Application must give notice to all other parties.

The Panel's Office Administrator will then attempt to coordinate a date upon which the Application can be made before an Adjudicator. Once the date is provided and the Adjudicator has decided whether to hear the Application by way of teleconference or by way of oral hearing, the Panel's Office Administrator will fill in the date and time and mode of Hearing and forward copies to the parties.

Generally, the procedure related to Hearings applies to telephone applications with obvious modifications.

What is the purpose of having a Hearing ?

The purpose is to allow all parties the equal opportunity to have a decision made in an open and procedurally fair manner guided by Human Rights laws and jurisprudence (judge-made-law) that apply in the Northwest Territories.

What is the Hearing Structure ?

Hearings before Adjudicators are intended to be less formal than in a courtroom and are always electronically recorded. To make sure that everyone is heard, Adjudicators usually employ the following Hearing structure:

1. The Complainant, who has to prove that discrimination has occurred, or the Appellant, who has to prove that the appeal has merit, begins her or his case first by producing witnesses to give sworn evidence.
2. Witnesses will be asked to take an oath to tell the truth or to solemnly affirm that they will tell the truth. The failure to tell the truth while under oath or affirmation is a criminal offence.
3. The Complainant or Appellant may then ask her or his witnesses questions. Their responses to those questions will become evidence at the Hearing. Witnesses may also introduce documents and other objects that may be marked by the Adjudicator as Exhibits in the Hearing. What witnesses say under oath/affirmation and the Exhibits entered during a Hearing are the "evidence" that the Adjudicator will consider in giving his or her decision.
4. The Respondent will then have the opportunity to ask questions of the Complainant's/Appellant's witnesses. This "cross-examination" is an important part of the hearing process. Cross-examination allows the other party to challenge what the witness had to say.
5. The Adjudicator may also ask questions of the witnesses and both of the parties will be given an opportunity to re-question ("re-examine") their witnesses after the Adjudicator is done.
6. After hearing from the Complainant's/Appellant's witnesses, the Respondent will have the opportunity to call witnesses to give evidence, also. The same opportunity to cross-examine will be given to the Complainant and the Adjudicator may also ask further questions.
7. During the proceedings the Adjudicator may be called upon by either party to make rulings about the evidence that is presented. A party may "object" to evidence for many reasons including irrelevancy, e.g. that the evidence does not have anything to do with the questions to be decided at the Hearing. The Adjudicator will decide on such matters as they come up. Both parties will have the opportunity to speak to the Adjudicator about such objections.
8. Exhibits that are to be considered as evidence at a Hearing may be agreed upon in advance by the parties or parties may ask the Adjudicator to mark documents and things as Exhibit during the Hearing. If a party objects to something being marked as an Exhibit, the Adjudicator will decide whether to do so or not after hearing from both parties.
9. Once all of the evidence of both parties has been heard by the Adjudicator, each will have the opportunity to summarize that evidence for the Adjudicator and argue for the remedy that they are seeking.
10. At the conclusion of the arguments of the parties, the Adjudicator will adjourn the Hearing and retire to write his or her decision. The written decision will be forwarded to all of the parties.
When in doubt, ask the Adjudicator.

Once the Hearing process is underway, the presiding Adjudicator can answer procedural questions that are raised during the proceedings.

How do I prepare for a Hearing ?

Preparation for a Hearing or Application should include:

- Obtaining and serving any witness attendance forms if necessary
- Preparing and delivering to the other parties and the Human Rights Adjudication Panel any written argument, will-say statements of witnesses, agreed-upon documentary Exhibits and copies of legal cases to be used during the Hearing
- Making sufficient copies of documents to be introduced by witnesses, if necessary
- Making a list of questions to be asked of witnesses at the Hearing
- Making notes of what to say to the Adjudicator after the evidence of all of the witnesses and all of the exhibits have been entered
- Organizing all documents, other written materials, note pads and writing instruments to be used at the Hearing.

What if a Party is disabled ?

Upon application by a party, the Panel will accommodate disabilities of all kinds to facilitate a fair Hearing. In addition, translation services are available. Parties must advise the Panel's Office Administrator of their needs as soon as possible, or to the Adjudicator at the first Pre-Hearing Conference.

What is the Dress Code and Timeliness for Hearings ?

Dress Code

There is no "dress code" for Hearings. Informal attire is acceptable.

Timeliness

Every party has the obligation to appear at the time fixed for the proceedings to begin. If a party fails to do so without good and sufficient reason, he or she runs the risk of the Hearing taking place without their participation.

Are there breaks/adjournments during Hearings ?

Adjudicators will let the parties know when to expect breaks during Hearings. Usually, there will be a mid-morning break, a lunch break and a mid-afternoon break although the circumstances of each case may be different.

If a party or a witness needs a break for any reason, she or he may ask the Adjudicator to adjourn for a reasonable amount of time.

The parties will have the opportunity to speak to the Adjudicator about adjournments of any significant length, e.g. to another day, or to extend the time for hearing evidence, e.g. to an evening of the same day, before a decision is made to do so.

What other resources are available ?

Copies of the NWT Human Rights Act are available to all parties free-of-charge by contacting the Panel's Office Administrator or the Office of the Director of Human Rights. The Act is also available on the Human Rights Adjudication Panel website: www.hrap.nt.ca

Specific information about "Hearing Procedures" can be found in the Rules of Practice and Procedure which are also on this website.

Parties are encouraged to ask the Adjudicator questions regarding procedure during a Pre-Hearing Conference or parties may ask the Panel's Office Administrator beforehand.