

Information Bulletin

Scheduling of Hearings and Mediations, Rescheduling Requests, and Requests for Adjournments

The Tribunal has developed the following approach to scheduling, requests for rescheduling and requests for adjournments. The procedure outlined in this document is for information only. It is not a rule within the meaning of the Tribunal's Rules of Procedure or a formal Tribunal Policy. The Tribunal may vary the approach to scheduling a case where appropriate.

Introduction

The Human Rights Tribunal of Ontario is committed to a process that is:

- fair, just and expeditious;
- appropriate to the nature of the particular case, and the facts and issues in dispute;
- responsive to the realities and needs of its stakeholders and the parties that appear before the Tribunal;
- able to achieve the Tribunal's performance measures - that 95% of the applications coming before the Tribunal will be resolved within 1 year from the date the completed application is filed.

The Tribunal recognizes that these values may sometimes conflict and the Tribunal is required to balance various competing interests.

Scheduling Mediation and Hearings

The Tribunal attempts to schedule mediations within 6 months of a completed application having been accepted for processing. The Tribunal attempts to schedule hearings so that they will be completed within one year of the completed application having been accepted for processing. The Tribunal recognizes that some particularly complex hearings may require longer to complete.

Scheduling Mediation

Once the Tribunal receives a completed response(s) it will review the Application and Response(s). Where both parties have indicated a willingness to participate in mediation, the Tribunal will generally issue a **Notice of Mediation**, setting a mediation date.

If the Applicant or a Respondent does not indicate a willingness to participate in mediation, the Tribunal will determine whether, nonetheless, mediation appears

to offer an opportunity for a fair, just and expeditious resolution. If so, the Tribunal will contact the parties and discuss the possibility of engaging in mediation. The decision to mediate remains voluntary.

The Tribunal typically schedules the mediation for a day 4-5 months after a completed application is filed. The Notice of Mediation will indicate the date, location and time of the mediation. The Notice of Mediation also advises parties on the procedure for rescheduling a mediation if they are unavailable on the date set by the Tribunal.

Rescheduling Mediation

The Tribunal will reschedule a mediation where a party or their representative is unavailable for a valid reason such as: being out of the province or country, a previously arranged appointment that cannot be changed, a previously scheduled court/tribunal appearance. Mediations will not be rescheduled merely because the scheduled date is inconvenient for the parties or their representative.

If a party is unavailable, they must contact the Tribunal Registrar, by phone, fax or email, within five (5) days of receiving the Notice of Mediation and provide five (5) alternative dates for the mediation. The five alternative dates must fall between 8 and 12 weeks after the date of the Notice of Mediation. The Tribunal will contact the other parties with the proposed alternative dates. If, after a reasonable number of attempts, the parties are unable to agree on an alternative date the Tribunal may set the date for mediation without agreement of the parties.

Except in extraordinary circumstances, the mediation must be held within 14 weeks of the Notice of Mediation.

The Tribunal will consider parties' requests to hold the mediation earlier than the date set out in the Notice of Mediation. Where the parties seek an earlier date, they must communicate with one another, agree on proposed dates and contact the Registrar. The Tribunal will do its best to accommodate these requests.

Scheduling Hearings

Where parties decline mediation or mediation does not result in the settlement of all issues in dispute, the Tribunal will review the Application, Response and the case management checklist completed at mediation (if any), and determine the number of days required for the hearing of the case. The Tribunal will issue a **Confirmation of Hearing** setting the dates for the hearing, as well as the location and start time. The hearing will typically begin 4-5 months after the mediation date or, where no mediation was held, 4-5 months after the time for filing a Reply expired.

The Tribunal may also schedule case management conferences and summary hearings to address discrete issues or preliminary or procedural matters.

Rescheduling Hearings

The Tribunal deals with requests to reschedule hearing dates in a similar way to requests to reschedule mediations (see above), although the timeframes for scheduling the hearing are different. Hearings will not be rescheduled merely because the date is inconvenient for the parties or their representative.

If a party is unavailable for some or all the hearing dates scheduled, they must contact the Tribunal Registrar within five (5) days of receiving the Confirmation of Hearing and provide five (5) alternative dates on which they are available coming within 16-22 weeks from the date of the Confirmation of Hearing. Where the Tribunal has scheduled a number of consecutive hearing and the party is unavailable for some or all of those days, the party must provide five (5) alternative sets of consecutive hearing days coming within 16-22 weeks from the date of the Confirmation of Hearing. The Tribunal will contact the other parties and attempt to obtain a mutually agreeable dates. If, after a reasonable number of attempts, the parties are unable to agree on dates, the Tribunal may set the dates for the hearing without agreement of the parties.

Except in extraordinary circumstances, the hearing must be scheduled so that it is completed within 22 weeks of the date of the Confirmation of Hearing.

Requests for Adjournments

Requests for adjournment, particularly last minute requests for adjournments are a significant impediment to fair and timely access to justice.

The Tribunal's approach to scheduling and rescheduling mediations and hearings is designed to give the parties a fair opportunity to find suitable dates. Therefore, the Tribunal discourages adjournment requests, and will only grant adjournments in extraordinary circumstances such as illness of a party, witness or representative.

The Tribunal will not automatically grant adjournments even when all parties consent. Consent of all parties will be a factor which the Tribunal will consider where a request to adjourn a mediation or hearing is made, but it is not the only, or even the main factor.

Where a party seeks to adjourn a previously scheduled mediation or hearing, they must contact the Registrar as soon as the need arises. If practical, they should contact the other parties to seek their consent, and to discuss alternative dates for the rescheduling of the mediation or hearing. Alternative dates for

mediation must fall within five (5) months of the date of the Notice of Application. Alternative dates for a hearing must fall within five (5) months of the date of the Confirmation of Hearing.

The party making the request should contact the Registrar and provide the reason for the request and the alternative agreed upon dates. Where the request is on short notice, the party must contact the Registrar by telephone or email.

The Tribunal typically will not adjourn a hearing date because the parties wish to “engage in settlement discussions” or are “close to a deal.” The Tribunal encourages mediation and settlements, and will assist the parties in this regard. Where parties believe they may be able to resolve a matter shortly before the scheduled hearing, they should advise the Registrar and the Tribunal will make a mediator and mediation room available. However, the Tribunal discourages the cancellation or adjournment of hearing dates so that the parties can explore settlement.

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