



**British Columbia
Human Rights
Tribunal**

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BC HUMAN RIGHTS TRIBUNAL

GUIDE FOR SELF-REPRESENTED PEOPLE

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The Reason for this Guide

Every day, our Tribunal gets complaints from people who have problems about their human rights.

These cases involve people going through difficult situations.

Many people have trouble reading and writing.
There are a lot of things to read in a Tribunal case.
It is hard for people who have trouble reading to defend their rights.

That is why we wrote this guide.
It is to help people understand how our Tribunal works.

We cannot explain everything in this guide.
We tried to make the information simple and clear.
The most important information is here.
If you want more information, you can ask at the Tribunal.

We hope that this guide will help you.

What is a Tribunal?

Tribunals handle cases based on rules of law.

Using mediation, tribunals sometimes can settle conflicts or problems between people who cannot agree with each other.

Tribunals also hold hearings and make decisions.

Decisions at a tribunal are made by a decision-maker. At the British Columbia Human Rights Tribunal, a decision-maker is called a “Member”.

What is an Administrative Tribunal?

Administrative tribunals are a special type of tribunal.

They were created to solve problems fairly between people or between people and their government.

There are many administrative tribunals in Canada, but they all do different jobs.

Each administrative tribunal specializes in its own area. For example: human rights, employment insurance and landlord and tenant matters.

At some tribunals, the cases are very short. They take a few months to finish. Other tribunals handle cases that are more complicated. These cases can take longer.

The law says that all tribunals must be independent from the government. An administrative tribunal and its decision-makers must be neutral. They cannot take sides. They cannot have an interest or bias in a case or towards any of the people in the case.

Administrative tribunals can settle different types of problems. Some tribunals settle conflicts between the government and individual people.

Administrative tribunals have rules on how to give information to the decision-maker. These are called rules of evidence.

They also have rules of practice and procedure. Rules of

practice and procedure are about what you do if you want the tribunal to hear your case.

Usually, an administrative tribunal makes its own rules about evidence and procedure.

The Office of the Tribunal

The office of the Tribunal makes sure the Tribunal works properly. It is called the Registry.

This is the place where you hand in papers for your file. It is also where you find out how to do things and what papers or “forms” to use.

There are administrative tribunals that act in a certain place. The British Columbia Human Rights Tribunal acts only in British Columbia. It has an office in Vancouver, but the Members go to other places in British Columbia to hold hearings and settlement meetings.

The Registry sends letters and official papers to the parties.

The **Notice of Hearing** is a paper sent to the people in a case.

This paper tells them the place, date and time of the hearing.

The Registrar is one of the employees of the office and signs the Notice of Hearing to make it legal.

At the Human Rights Tribunal, the Case Managers help the Registrar by looking after the files.

When you make a complaint, a case manager will be assigned to look after your file.

The Complaint and the Complainant

If you want the BC Human Rights Tribunal to make a decision about your problem, you have to give them a complaint form.

It is the way to start a file at the Tribunal. It is the basis of the whole case.

The office of the Tribunal provides forms for the complaint. You can also get a form from the Tribunal's website on the internet by using a computer. Forms are put in all Government Agents offices in British Columbia and you can ask for help there.

Usually, you have to use the form.

The Tribunal rules say that the complaint must have certain information in it. For example, you have to write your name and address and the name and address of the "respondent" on the form. The respondent is the person or company or organization you want to complain about. The organization can be the government.

You must fill out the complaint form completely. You must give the Tribunal enough information so that the Registry can see that your problem is something it can make a decision about.

The *Human Rights Code* is a law that gives the Human Rights Tribunal the power to make orders.

The Tribunal can only make orders about the kinds of problems allowed by the *Human Rights Code*.

The Response to the Complaint

The “response” is the respondent’s answer to the complaint.

The response is also made on a written form.

The word “respondent” means the same as “defendant” and it is the person or company or organization the complaint is about.

The office of the Tribunal can give the respondent a response form. You can also get a form from any Government Agents offices in British Columbia and you can ask for help there.

Usually you have to use the form.

The names of the parties and the file number must be written on the response form.

On the form the respondent explains what he thinks about the things the complainant says.

The respondent must say if he agrees with the things the complainant says or if he does not. This is his side of the story.

The Settlement Meeting

Some cases do not need a hearing. The parties agree to meet together with a Tribunal “mediator” and talk about the problem.

If they have a meeting before the respondent gives their answer or response to the complaint to the Tribunal, it is called an “Early Settlement Meeting”.

The mediator is trained to help the parties decide how to solve the problem.

If they agree about what should happen, they sign a paper that explains what each party will do.

When that happens, the Tribunal closes the file.

Making Applications Before the Hearing

You can make applications to the Tribunal during the proceedings.

An application must be related to the complaint.

You must use a special form to make an application. You can get the form from the Tribunal or on the Tribunal's website at www.bchrt.bc.ca. Usually both sides send information to the Tribunal in writing.

A Member will make a decision for every application. Usually that decision will be in writing.

Some applications are made at the beginning of the proceedings and before the hearing.

They are used to get ready for the case.

The Tribunal's rules tell you how to make these applications.

The **proceedings** are the time between the beginning and the end of a case before a tribunal.

It is the period between handing in the complaint form and the final decision.

These applications are also called "preliminary" applications. They can challenge the whole case. Sometimes they can stop the complaint and dismiss it before a hearing.

For example, a respondent might say that:

- the Tribunal does not have the right to decide the case
- the complaint does not have enough information in it
- the complaint was made too late.
- the hearing date should be changed.
- the Tribunal should dismiss the case before the hearing.
- the complainant picked the wrong administrative tribunal

Applications About the Hearing

These applications can be about:

- changing where the hearing will be
- changing the decision-maker
- making a party give information or papers to the other party
- making witnesses leave the hearing room
- making the public leave the hearing room (closed hearing)
- not letting the media publish the name of a party or what was said in the hearing

Application for an Adjournment

You can make an application for an adjournment if you want to change the date of the hearing.

Usually the application for an adjournment must be made in writing before the hearing date.

The application must be sent to the other party and given to the Tribunal.

Any party can make an application for an adjournment.

If the other party agrees to change the date for the hearing, it will be easier to change it.

But this is not always enough for the Member to say yes.

The reasons for asking for an adjournment of the case are also important.

For example, if a hearing is for 3 days with 15 witnesses that was already adjourned twice, it will be more difficult to adjourn that than a one day hearing without witnesses.

Advocates and Representatives

Who goes to the Tribunal?

You can go to the Tribunal on your own. You do not have to have another person act for you.

But if you have someone else to help you, they can go to the Tribunal with you.

An advocate is not a lawyer but may have legal training about some types of legal problems.

An advocate may give a party advice and help them to get their case ready for a hearing or a settlement meeting.

A representative could be a friend or relative who speaks for a party. Sometimes a union employee is a representative.

The Lawyer and Clients

A lawyer is a specialist who knows the law.

She gives her clients legal advice and speaks for them at the Tribunal.

A lawyer prepares documents for the client.

She and the client figure out the best way to present the case.

A lawyer must be professional and respect the client's secrecy. All the information and papers you give to a lawyer are kept secret in preparing for the hearing.

A lawyer can only share this information or give it to the Tribunal if the client agrees to it.

The lawyer talks to her client so that she understands the situation.

The lawyer must know what sort of evidence there is. She has to decide if there is enough evidence.

She then tells her client what his choices are, depending on the law and the evidence.

Even though the lawyer is the expert, it is still up to the client to decide what they want to do.

The Hearing

The Member can sign an **Order to Attend Hearing**. An Order to Attend Hearing is a paper ordering a person to go to the Tribunal to testify. This paper tells you the place, date and time of the hearing. At some tribunals, it is also called a **summons** or a **subpoena**.

The **hearing** is when the decision-maker and parties meet in the hearing room.

The parties give their evidence, question witnesses and make their arguments.

The hearing is when the parties give their evidence to the Member.

This is when they tell what happened and defend their ideas.

They give their opinion.

They try to show the Tribunal that they are right.

The hearing must be public. Anyone can go and watch it.

You can go to the Tribunal and watch a hearing before your own hearing happens.

At the hearing, the parties have the right to present evidence.

They have the right to examine and cross-examine the witnesses.

They have the right to discuss and defend their ideas.

The hearing is divided into steps.

At the beginning, the Member makes sure everyone is there.

Then the Member explains how things will work during the hearing.

Often, the parties summarize their case for the Member before they give their evidence and call their witnesses.

The parties might make applications asking to make witnesses or the public leave the hearing room for part of the hearing.

The next step of the hearing is for the complainant. Usually he gives his own evidence first and then he asks his other witnesses to give their evidence.

Once the complainant is finished, the respondent gives his own evidence and then asks his other witnesses to give their evidence.

Once all the witnesses have finished, the complainant and the respondent tell the Member what they think the Member should do with the case.

After the hearing is finished, the Member will make a decision.

At the Hearing

At the hearing, the lawyer can speak for her client.

The lawyer questions the witnesses who have been called to give evidence.

Once the evidence is finished, the lawyer tries to convince the decision maker that her client is right.

She explains what she thinks all the evidence means.

She says what she thinks about how good it is.

She tells the Member what evidence she thinks should be believed and what evidence not be believed.

The lawyer tries to show what is wrong with what the other party said.

The lawyer also explains what laws she thinks apply to the case.

The lawyer can refer to other decisions the Tribunal made in the past to defend her opinion. This is called “jurisprudence”.

At the Tribunal, people who do not have a lawyer can be helped by another person.

This person can be an advocate, a friend or a family member.

The person helping can also be a union employee.

A person can also decide to go to the Tribunal alone. (The Tribunal has booklets and information sheets to help you if you want to represent yourself)

The booklets and information are available on the Tribunal's website at www.bchrt.bc.ca.

The Member

The Member is the decision-maker who runs the hearing at the Tribunal.

The decision-maker is trained as a lawyer. He or she knows a lot about the law and what the Tribunal does.

Before a hearing, the Member reads the file of the case that will be heard. She reads the papers that everyone sent to the Tribunal. This gives her a good idea about the case and what the conflict is about. She prepares for the case and can look at the law in the case.

During the hearing, the Member makes all the decisions and listens to the evidence given by the **parties**. This is an important job because the Member makes a decision based on the evidence.

The **parties** are the people in a case who have a conflict. The complainant and the respondent are parties. A complainant is the person or party making the complaint. A respondent is the person, company or organization they believe discriminated against them. The decision-maker, lawyers and witnesses are not parties.

The Member decides what papers or other evidence can be used at the hearing.

If someone does not have a lawyer or representative, the Member may ask the witnesses questions.

The Member decides what is important from the evidence

that the parties give to him at the hearing.

When the parties finish giving their evidence and try to convince the Member she or he can do several things:

She can go away to think about his decision.

She can also go away and check the law.

She takes the time she needs to think about everything. The time she takes is called “reserving” the decision. Usually this is what happens. The decision will be given in writing.

Sometimes, she can make her decision at the hearing. This is called making an “oral decision”. If she does this, she will also give a decision in writing later.

The Decision

The office of the Tribunal sends the written decision to the parties.

The decision is public. It is also put on the Tribunal's website on the internet.

Sometimes information about the decision is reported on television or in the newspapers.

If you do not Agree with the Decision

Even if the final decision has been made by the Tribunal, you can still make some applications to the British Columbia Supreme Court if you do not agree with the decision.

This is called a “Judicial Review”. It is not the same as an appeal.

You can ask the Supreme Court to cancel a decision or to let you start the hearing over.

This application is only for special cases.

You must make your application to the Supreme Court within 60 days from the date of the decision.

You will need special papers called a “Petition” and an “Affidavit”.

You can get examples of these papers from the office of the Tribunal.

For a judicial review, you need to show the Supreme Court that the Member:

- made a mistake about the law
- made a decision that was not reasonable after listening to the evidence
- was not fair