

How to Prepare for a Telephone Hearing

Telephone hearings are a common way for tribunals to resolve matters. If the hearing is going to take place by telephone conference call, the tribunal will set the time, date, and place or contact information for the hearing and notify the parties. If a party who has been notified does not participate, the adjudicator may proceed with the hearing and make a decision without hearing from that party.

A telephone hearing follows the same procedure as in-person hearings. Telephone hearings are different from telephone conferences that an adjudicator may set up in the early stages of the process to try to resolve the dispute without a hearing.

The tribunal you are dealing with will establish the procedure for a telephone hearing. You should always read the self-help information on the tribunal's website or call the tribunal's office to ask for information about the process.

The presentation

In general, your first task is to present the relevant facts – that is, the evidence that supports your case. The second task is to make submissions about the evidence – that is, tell the adjudicator what conclusions you want them to draw from the evidence that you presented. The third task is to describe how the law supports your case. The final task is to explain how all of this should result in the adjudicator making a decision in your favour. The usual steps in a tribunal hearing are:

- Preliminary matters
- Opening statements
- Submission of evidence
- Closing argument

Preliminary matters

The people at the hearing will start by introducing themselves. Some adjudicators are addressed as “Madam/Mister Adjudicator”, “Mister/Madam Chair”, and some are addressed as “Honourable Member”. It is a good idea to ask the adjudicator how he or she would like to be addressed during the hearing. Everyone else at the hearing is addressed as Mr., Ms., or Mrs., including the other parties and witnesses (even if you know the witnesses and normally address them by their first name). The adjudicator may summarize the issues to be decided at the hearing. He or she will generally review the rules and procedures to be followed at the hearing.

Opening statements

The party who started the administrative hearing process usually makes their opening statement first, followed by the other party. The purpose of the opening statement is to:

- Describe your case very briefly
- Tell the adjudicator what remedy, decision, or outcome you are seeking
- Outline the main points of your case
- Tell the adjudicator what evidence you will be submitting (you do not actually submit your evidence at this point)

Submission of evidence

Evidence is an actual physical object, such as a document, that you bring to the tribunal hearing to prove your case. Evidence can also be what you (or your witnesses) have to say about the facts of your case. It is all the information that the adjudicator needs to understand the facts that support your case.

The party who filed the complaint or appeal usually goes first. This is the most important part of your case because you will be demonstrating to the adjudicator that you have evidence that supports your claim. After you have been “sworn in” (that is, you swear or affirm to tell the truth), you will tell the adjudicator about your case, including the facts of your case and the evidence that supports those facts. For example, if you were in a dispute with your landlord for late payment of rent, you would tell the adjudicator the date on which you gave the landlord the rent cheque, and bring proof of the cancelled cheque to the hearing.

Using witnesses at telephone hearings

As with in-person hearings, you can call witnesses to give evidence that supports your case. A witness in a telephone hearing cannot usually join the conference call until it is time for them to give evidence. The adjudicator will try to ensure that witnesses do not hear each other’s evidence ahead of time. In some cases, a witness will be asked to go to a government agent’s office. The agent will be present during the witness’s testimony to verify that no one else is in the room while the witness is giving evidence over the telephone.

Introducing documents

You may have documents that support your case. For example, you may want the adjudicator to see contracts, invoices, cancelled cheques, photographs or other important, relevant documents. You must submit your documents to the adjudicator and to the other parties well before the hearing.

When you want to put a document into evidence so you can talk about it to the adjudicator, you should describe the document you are referring to and ask the adjudicator to mark it as an exhibit. For example, if you are referring to your tenancy agreement, say something like this: “I have a tenancy agreement between Mr. Smith, the landlord, and me, dated March 1, 2003. It is behind Tab #1 in the binder of documents I submitted. I would like the tenancy agreement marked as Exhibit A.”

Closing arguments

Your closing argument is very important because it sums up your case and explains why the case should be decided in your favour. To the extent possible, you should prepare your final submission in advance, and it should include the following points:

- A summary of your evidence and how it supports your case
- A review of the other party’s evidence and how it does not support his or her case
- An explanation of the law (i.e., legislation and other tribunal decisions) and how it applies to your case
- The decision you would like the adjudicator to make

Note: You CANNOT submit new evidence in your closing argument. In other words, all your evidence must be submitted when you are making your initial presentation.

After the hearing

The adjudicator may make a decision by giving an oral decision at the end of the hearing and tell you how the matter has been decided. Alternatively, the adjudicator may tell you that he or she will make a decision later and the tribunal registry will mail a written decision to you.

What if I don’t agree with the decision?

If you don’t agree with the adjudicator’s decision in your case, you can sometimes have the decision reviewed. Some tribunals have their own internal review process, followed by an appeal to an independent tribunal.

Some tribunals’ decisions may be appealed to the courts by a process called “judicial review”. However, the fact that you do not agree with the adjudicator’s decision is not a reason that entitles you to a review by the court. You must show that the adjudicator’s process was flawed or that the adjudicator made an error of law, jurisdiction, or fairness.