

It is very important that the parties to the appeal are made to feel comfortable. Appearing before a panel can be stressful and intimidating and the atmosphere created may influence the appellant's perception of the fairness of the decision. The atmosphere, while informal, should be respectful and professional.

At the start of a hearing, the panel chair will tell the parties what the hearing is about and how the hearing will proceed. The following is an example of what a panel chair would say. Familiarize yourself with this so that you can personalize the introduction. Please note that the text shown in *italics* is meant to be spoken – regular text is intended for information, direction and to provide clarity.

- *Hello everyone. I'd like to get this hearing started.*
- *My name is (name). I am Panel chair for this appeal. The other panel members are (name) and (name).*
- *I want to inform you that we are independent of the Ministry; we are not public servants; we are members of the community.*
- *I would at this time ask the parties or their representatives to identify themselves.*
- *How would you like to be addressed? Mr. / Ms. / or is everyone comfortable using first names?*

For teleconferences see: **Teleconference Tips**

Following the introductions, the panel chair will make a brief statement concerning the matter under appeal and provide a basic overview of the process that will be followed, for example:

- *This hearing is about an appeal filed by (name of appellant) regarding a reconsideration decision by the ministry dated [.....] which determined (state the outcome of the reconsideration decision).*
- *Our role as an impartial/independent panel is to decide if the ministry's reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation. We cannot make a new decision; we either confirm or rescind the ministry's decision.*

NOTE: It is important to note that the "decision being appealed" is the reconsideration decision, not the original decision. The reconsideration decision may vary from the original as the appellant may provide additional evidence at reconsideration which may result in a different analysis and/or a different decision. The panel only has the jurisdiction to review the reasonableness of the reconsideration decision.

- *This hearing is intended to be informal. If you have any questions about the procedures, ask them at any time.*

[Section 5(2)(b)(ii) of the Tribunal Practices and Procedures states that the Appellant has the right to present evidence and make arguments first, followed by the Ministry.]

- *We will hear first from the appellant's witnesses (if any), then the appellant and then we will hear from the ministry.*
- *Witnesses (if any) must leave the room until called unless the witness is either an expert witness or attending for support. If this is the case, the witness who will also provide support may remain after providing testimony, but may not speak again to the issue under review.*
- *Each party will get a chance to question the other party and any witnesses once the other party has finished.*
- *Our decision is to be based on the information before the ministry at reconsideration. This may include additional evidence presented today that is "in support of" that information. If additional information is presented, the panel will determine if it is admissible and include our findings in the written decision.*
- *We will always ask the other party if they object to the admission of the evidence presented.*

- *I want to confirm we have the same appeal record.*
- *Please refer to the page number at the bottom right of the pages so we can locate the page quickly.*
- *If you have a concern about the conduct of this appeal you may make a complaint by writing to the Tribunal Chair. Be sure to include your name, address and the particulars of your complaint, as well as the Tribunal appeal number and the date of the appeal.*
- *We will allow X hours for this hearing, and will allot X of that time to each of you. However, we can amend this if we think there is a good reason to do so.*
- *Are there any other procedural questions or issues that we should address before we begin?*
- *At this point then, I'd like to ask if (appellant's name) intends to call any witnesses.*

[Appellant responds; witness (if any) provides testimony]

- *(appellant's name), do you have any additional evidence for the panel?*

[The appellant will then give the additional documentation to the panel (if any)]
[The panel will then address the ministry representative]

- *Does the ministry have any objections to the panel admitting the additional evidence?*

[The panel notes the ministry's response.]

- The panel may reserve its determination of the admissibility of the evidence until deliberations and asks that the ministry address the substantive content of the additional evidence in their presentation to the panel.

[The panel may determine admissibility of the evidence when it is presented or wait until deliberations following the hearing]

[The appellant will then address the panel]

- Please tell us why you think the ministry's decision is unreasonable and refer to any evidence that supports your position.

Ensure each party presents their evidence and arguments without interruption and in the manner that they consider most appropriate. The parties may wish to provide some form of opening statement, but this is not required.

In concluding the hearing:

Prior to concluding the hearing, ask the parties if they have any comments in addition to what has already been presented or any additional questions of the other party.

- *Prior to the hearing concluding, do you have any comments in addition to what you have already made or any additional questions?*

Inform the parties that the hearing is now concluded and state when they will receive the decision.

- *The hearing is now concluded. The panel will now meet to make a decision. You will receive the written decision in approximately three weeks. Thank you [insert names] for attending.*

The panel will now meet to deliberate and come to a decision which the panel chair will draft in point form on the decision writing template provided for this purpose.

Teleconference Tips

- Begin at the scheduled time, however, if all parties are not present, advise the others you plan to wait for (5 minutes).
- After asking the parties to introduce themselves, confirm if either party has someone in attendance with them. Remember the hearings are closed to the public.
- Do your best to minimize external noise and ask others to do the same as sound is often amplified during a teleconference.
- Avoid using cellular and cordless phones because of static
- Ask all participants to identify themselves before speaking.
- Address people by name when you speak to them.

- Direct questions to a specific person.
- If documents are introduced as evidence during a teleconference the panel chair should ask the party to speak to the contents of the documents, as it is not possible to share the contents in any other way.
- Ask participants if they can hear clearly.
- Upon stating the hearing has concluded, advise the teleconference parties to hang up.
- Be sure to complete your Roll Call prior to engaging in any discussion of the appeal with the panel.

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