

# Employment and Assistance Appeal Tribunal British Columbia

## Hearing Script for Panel Chair

It is very important that the parties to an 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 always 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 might say. Familiarize yourself with this so that you can personalize the introduction. \*\*\*Please note that the text shown in *italics* inside the yellow boxes is meant to be spoken and regular text is intended for information, direction and to provide clarity.

Seeking information about the appellant's personal pronouns will allow us to draft a decision that is respectful to each individual appellant and will help to make those with diverse gender identities feel welcome when appearing before the Tribunal.

Providing a land acknowledgement at the start of each hearing helps to show the Tribunal's commitment to reconciliation and is an important cultural practice for many Indigenous individuals. See the Tribunal's **Land Acknowledgement Policy** for further information.

### Starting the hearing:

- *Hello everyone. We will start the hearing of this appeal.*
- *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?*
- *What are your preferred pronouns? Mine are he/she/they/other.*
- *Before we begin, I'd like to take a moment to acknowledge the land I/we are on today. I am grateful to live and work on the traditional/unceded traditional lands of the (name of Indigenous nation on whose lands you live/work/meet).*

For teleconferences and video-conferences see: **Teleconference Tips** and **Video-Conference 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 will either confirm or rescind the ministry's decision. Confirm means that we find the ministry's reconsideration decision reasonable, your appeal was unsuccessful. Rescind means that we find the ministry's reconsideration decision unreasonable and your appeal was successful.*

**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.

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.

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

- I'd like to confirm that (name of ministry representative) is not the individual that made the reconsideration decision. Rather, they are here as a representative of the ministry to explain the decision.
- Our decision is to be based on the information before the ministry at reconsideration. The parties may also present new evidence if it is reasonably required to determine the issue the appeal is about. If new evidence 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, while we've scheduled this amount of time, we can always use less or more time if we need to so please don't worry about the clock.
- Are there any other procedural questions or issues that we should address before we begin or any questions generally?

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.

### **Appellant's submissions:**

- At this point then, I'd like to ask if (appellant's name) intends to call any witnesses.
- If no witnesses: If there are no witnesses, (appellant's name) you may tell us why you think the Ministry's reconsideration decision was unreasonable and refer to any evidence that supports your position.
- If witnesses: Okay, we will hear from (witness name) first. (appellant name), you will have an opportunity to provide evidence and submissions after we hear from your witness(es).

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

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

**[The appellant may then give additional evidence 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 determine admissibility of the evidence when it is presented or wait until deliberations following the hearing]**

**Ministry Submissions:**

- *Thank you (appellant's name), (ministry' representative's name), please explain the Ministry's reconsideration decision.*

**[The ministry representative will then address the panel]**

**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.

- *Before we end the hearing, 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 over. The panel will meet to make a decision. You will receive the written decision in approximately three weeks. Thank you [insert names] for attending.*

The panel will meet to deliberate and come to a decision which the panel chair will draft in point form on the decision 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 15 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
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### **Video-conference Tips**

- Begin at the scheduled time, however, if all parties are not present, advise the others you plan to wait for 15 minutes.
- 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 video-conference. If background noise is a problem, ask everyone to mute themselves when not 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 we will not have a record of anything shown to the panel.
- Ask participants if they can hear clearly.
- Upon stating the hearing has concluded, advise the teleconference parties to leave the video-conference using the red leave button on the screen
- If a participant's connection keeps freezing, you may suggest that the participant turn off their camera as bandwidth can be an issue for some attending video-conferences. The participant will still be able to speak/listen to the hearing.