



NOTICE TO THE COMMUNITY – IN-PERSON HEARINGS - NOVEMBER 21, 2022

BACKGROUND

In April 2020, the Board successfully introduced electronic hearings in response to the pandemic and the closing of its offices. The Board was able to rely on its electronic filing system and electronic votes as well as modernizing a number of its processes and policies in order to continue to provide its services without further interruption.

While the Board has been able to operate virtually throughout the pandemic with success, after broad consultations with its community, the Board considers that a return to in-person hearings is now important for a number of reasons including access to justice, the particular context and mandate of a labour relations board, the relationships it fosters, and its institutional needs. At the same time, the Board will continue to modernize its services and maintain the digital improvements it has adopted over the last two and a half years.

The start of the pandemic forced the Board to rapidly shut down its in-person operations. Now, the Board can re-introduce in-person hearings and mediations in a gradual manner to provide the community and Board staff with a transition period. The Board will monitor and assess the transition, and may change these procedures at a later time.

The Board will still maintain video hearings and mediations for some types of proceedings.

A. Video Hearings/Mediations

Video hearings or mediation will continue to be the presumptive method of proceeding in:

- Case Management Hearings (including construction certification/termination applications)
- Pre-Consultation Conferences
- Regional Certification/Termination Meetings
- First day of hearing and/or mediation in related employer and/or sale of a business applications under either the *Labour Relations Act, 1995* or *Employment Standards Act, 2000*
- First day of summons hearings
- Matters where the workplace is located 200 road km or more from the Board
- Matters as directed by the Board, such as legal argument or preliminary objections
- All matters filed before the relevant dates set out below.



B. In-Person Hearings/Mediations

The return to in-person hearings and mediations will proceed as follows:

- 1. As of February 1, 2023**, the parties to any matter (whether newly-filed or existing) may jointly request that the matter proceed in person. These requests will be accommodated by the Board wherever possible.
- 2. As of March 1, 2023**, all new matters filed under the *Labour Relations Act, 1995* will be scheduled for in-person hearings and mediations.
- 3. As of April 3, 2023**, all new matters filed under any Act will be scheduled for in-person hearings and mediations.

C. Requests to Change Mode of Hearing/Mediation as of March 1, 2023

As of March 1, 2023, the Board will consider requests to change the mode of hearing both from in-person to video and vice versa.

The Board will continue to accommodate joint requests that a matter proceed in person wherever possible. Other requests will need to present a clear and compelling rationale for the mode of hearing to be changed. Parties should be aware that the Board may not grant a request based on the consent of the parties alone, if in the Board's view other reasons do not militate in favour of a change of mode of hearing, although agreement of the parties will be given significant weight particularly in the early days of transitioning back to in-person hearings.

Generally, the Registrar will determine the mode of hearing including requests to change the mode of hearing. Requests should be made in writing, no later than 15 days prior to the date of the hearing or, if the hearing is scheduled on less than 15 days' notice, as early as possible, to the attention of the Registrar. Requests should briefly address the basis for the request including the following factors, where applicable:

- The availability and access to technology required for video hearings
- Accommodation required, including under the *Human Rights Code*
- Distance from Board's offices
- Consent or objection of parties
- Unforeseen events such as COVID-19-related isolation, illness
- Whether witness testimony will be required and on which issues
- Nature and/or complexity of the proceeding
- Public interest anticipated
- Any other relevant considerations

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The Board retains the discretion to change the mode of any hearing.

Requests to have the mode of mediation changed should be directed to the mediator assigned to the file.

D. Guidelines for In-Person Hearings and Mediations:

Participants at in-person hearings and mediations will be required to comply with all COVID-19-related precautions in place at the Board's offices which will be subject to change in accordance with public health measures. Mask wearing and use of hand-sanitizers is strongly encouraged at this time. Persons who are not speaking in a hearing are urged to wear masks. Individuals involved in a hearing who have symptoms of illness are required, prior to attending the Board's premises, to confer as early as possible with the other parties to address the issue and notify the Board at the same time in order for appropriate measures to be taken. These measures may include changing the mode of hearing. Contact information upon arrival at hearings and mediations will be required.

Parties must advise the Registrar in advance if it is anticipated that a significant number of members of the public will be attending an in-person or video hearing so that arrangements may be made for access that will ensure uninterrupted and safe hearings. This may include changing the mode of hearing.

E. Documents at Hearings:

The Board will issue a further Notice to Community regarding the use of documents (including electronic documents) at in-person hearings.