

Practice Direction on Case Management Hearing

This Practice Direction supports Rule 9 of the LTB Rules of Procedure and provides guidance about what the LTB expects of parties and in turn what the parties can expect of the LTB. It assists in understanding the Rule.

Purpose

The Landlord and Tenant Board ("LTB") Rules of Procedure provide that the LTB may conduct a Case Management Hearing ("CMH") for any application. The CMH has two purposes. First, it provides an opportunity for parties to explore settlement of the issues in dispute, usually with an LTB Hearing Officer, who is trained in dispute resolution. Second, if parties are unable to resolve all the issues in dispute, the LTB will make directions to facilitate a fair, just and expeditious merits hearing, or in appropriate circumstances, make orders finally determining matters agreed to by the parties or not in dispute.

Attendance Required

Parties or their representatives must attend the CMH on the date set out in the Notice of CMH. If you choose to have your representative attend on your behalf, your representative must have authority to participate in all aspects of the CMH and be able to contact you during the CMH in order to obtain instructions with respect to any offers of settlement.

If the applicant fails to attend the CMH, unless there are exceptional circumstances, the application may be dismissed as abandoned. The applicant may also be ordered to pay costs to the respondent and/or Board costs.

If the respondent fails to attend the CMH, unless there are exceptional circumstances, the respondent may be deemed to have accepted all of the facts and allegations in the application, the hearing may immediately proceed to a merits hearing without further notice to the respondent, and the LTB may decide the application based on the materials before it.

What to Bring to the Case Management Hearing

Bring all arguably relevant information about the issues in dispute to the CMH. Your witnesses do not need to attend the CMH.

You must also come prepared to schedule a date for the hearing on the merits in the event the application is not resolved at the CMH.

Notice of Case Management Hearing

The LTB will usually provide the parties with the Notice of the CMH at least 10 days before the day of the CMH.

If you wish to have legal representation at the CMH, contact your lawyer or a legal clinic as soon as you receive the Notice of CMH.

A CMH may be held in person, by video, telephone or in writing. The form of hearing will be identified on the Notice of CMH. If the CMH is to be conducted by video or by telephone, the Notice will include the time and the video conference link or the teleconference number. If the CMH is to be conducted by videoconference, the Notice of CMH will include a telephone number which can be used by a party who is unable to participate by video.

If you require some form of accommodation in order to participate in the CMH you should immediately advise the LTB and alternate arrangements will be made.

What to Expect at a Case Management Hearing

A CMH may be conducted by a Member or Hearing Officer of the LTB, although it will usually be conducted by a Hearing Officer.

Settlement Discussions

Parties are encouraged to come to the CMH prepared to consider settlement.

Where a settlement is reached, the LTB will generally issue an order incorporating the terms of settlement and disposing of the application (Consent Order). Sometimes, the parties may instead arrive at a mediated agreement.

Where parties reach an agreement on some, but not all issues, the Hearing Officer or LTB Member will issue an order based upon the agreement reached during the CMH.

All discussions about settlement are confidential. However, Orders issued will incorporate any terms of settlement, and agreed statements of facts by parties are admissible at Hearings.

Case Management

Where the parties are unable to settle all issues, the LTB will proceed with case management. The following issues may be addressed as part of case management:

- facts and evidence that may be agreed upon;
- the dates by which any steps in the proceeding are to be taken or begun;

- the clarification and simplification of issues in dispute;
- disclosure and production of materials arguably relevant to the issues in dispute;
- the number and identity of witnesses each party intends to call, and discussion of whether all proposed witnesses are necessary; and
- the amount of time necessary to complete the hearing.

At this stage of the CMH, the LTB Member or Hearing Officer will issue any orders necessary for the fair, just and expeditious conduct or resolution of the issues in dispute. This includes issuing orders for disclosure of arguably relevant documents or materials, identifying the issues in dispute, requiring payment of money into the LTB and setting out procedural matters that the parties may agree on.

If a party has not already done so, this is an opportunity to identify *Human Rights Code*, French Language Service or American Sign Language/Quebec Sign Language needs.

Rescheduling Requests

Requests to reschedule the CMH in advance of the assigned hearing date will be denied unless there are exceptional circumstances.

Adjournment Requests

A party may request an adjournment at the beginning of the CMH.

An adjournment will only be granted where it is necessary for an adequate hearing. Where the LTB is satisfied that the party has received sufficient notice of the CMH and has been provided with an adequate opportunity to prepare for the CMH, an adjournment is not usually granted unless there are exceptional circumstances.

Where a party asks the LTB to adjourn a CMH, the LTB will consider the relevant circumstances, including the reason for the adjournment and position of the parties, the nature of the issues raised in the application and any prejudice that may result from granting or denying the request. The LTB will also consider the need for a fair, just and expeditious resolution of the issues in dispute.

If an adjournment request is granted, the LTB will make any order, or give any direction, it considers appropriate for the fair, just and expeditious hearing of the issues in dispute. This includes denying any further adjournment requests unless there are exceptional circumstances, requiring payment of money into the LTB, and ordering costs.

Rather than scheduling a new CMH, the LTB may instead direct the parties to attend a hearing on the merits of the case in order to resolve all the issues in dispute.

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