



## Rescheduling of Hearings and Adjournments

The Social Benefits Tribunal and the persons who appear before it share a common interest in ensuring that hearings proceed quickly and fairly. Loss of hearing time due to avoidable rescheduling of hearings is costly and inconvenient to the Tribunal and to the parties. The Tribunal strives to conduct hearings as efficiently as possible while maintaining a process that is accessible and fair.

### 1. Effective Date

1.1 This Practice Direction is effective July 1, 2005.

### 2. Legislation

2.1 Section 21 *Statutory Powers Procedure Act*

Section 65(3) O.Reg.222/98

Section 64(3) O.Reg.222/98

Section 76(3) O.Reg.134/98

### 3. General Principles

3.1 Hearings will take place on the date and time set unless the Tribunal agrees to change the date.

3.2 Parties are expected to begin preparing for the hearing as soon as the appeal is filed.

3.3 If a legal representative agrees to represent a client who already has a date for hearing, the legal representative must ensure that he or she is available to attend on that date. The convenience of a legal representative in these circumstances is not a sufficient reason for a hearing to be rescheduled.

**4. Hearing Rescheduled  
By Tribunal on its own  
motion**

- 3.4 A party must request a new date for hearing as soon as he or she knows that they will not be able to attend a hearing, or that they will not be prepared in time for a hearing.
- 3.5 Parties who attend the hearing to request a new date for hearing must be aware that such requests are granted only in exceptional circumstances.
- 3.6 If the party does not receive a response to a request for a new hearing date the party should not assume that the request has been granted.

- 4.1 From time to time the Tribunal must reschedule a hearing to accommodate changes in the hearing schedule, member illness or other circumstances.
- 4.2 Depending on the time available the Tribunal will notify parties that a hearing has been rescheduled either by telephone call or by “Notice of Postponement” and/or a new “Notice of Hearing”.

**5. 30 Days Notice of  
Hearing Date**

- 5.1 The Tribunal shall give parties at least 30 days notice of the hearing.
- 5.2 If an earlier hearing date becomes available the Tribunal will obtain the written consent of the parties to waive the 30-day notice requirement. An unrepresented Appellant who is unable to provide consent in writing may do so by telephone. In this case the Tribunal will confirm the Appellant’s consent in writing.

**6. How to Request a New  
Hearing Date**

- 6.1 A request for rescheduling must be in writing. The request must include detailed reasons why a new date is required. Where available the requester shall provide a daytime telephone number where he or she can be reached to discuss the request.

**7. Requests for a new hearing date with consent**

6.2 The party requesting a new hearing date must forward the request for rescheduling to the other party before forwarding it to the Tribunal. If the request for a new hearing date is on consent of the parties, then written consent must be provided to the Tribunal. If an unrepresented Appellant is unable to contact the other party to request consent he or she may contact the Client Service Representative for assistance.

6.3 The Tribunal will not consider a request that fails to comply with these requirements, except in the case of an emergency.

7.1 The Tribunal in most instances will reschedule hearings on consent of the parties.

7.2 The Tribunal may decline to reschedule and refer the request to the Presiding Member at the hearing if it is concerned that there are issues, which can only be properly dealt with by a Member in a hearing. For example, concerns of possible procedural abuse.

**8. How to Object to a Request for a new Hearing Date**

8.1 A party who does not agree with the request for a new hearing date shall set out his or her reasons for opposing the request in writing. The written response shall be sent to the Tribunal and to the requesting party.

8.2 An unrepresented Appellant who is unable to object to a request for a new hearing date in writing may do so by telephone by contacting the Client Service Representative.

8.3 Where the Tribunal is not satisfied that a party is aware that a request has been made to reschedule the hearing the Tribunal will require the requester to forward a copy of the request to the other party.

**9. Requests for Rescheduling in an Emergency**

8.4 If the Tribunal requires any additional information before it can make a decision it will contact the parties.

9.1 In the event of last minute emergencies or other compassionate grounds, such as hospitalization, incarceration or illness, requests to reschedule a hearing may be granted by the Tribunal at any time, with or without the consent of the other parties.

**10. Factors Considered Where a Party Requests a New Hearing Date**

10.1 The most important concern when deciding a request for a new hearing date is whether it is necessary to ensure a fair and timely hearing. In deciding whether to allow a request for a new hearing date the Tribunal may consider any relevant factors and questions, including:

- is the request on consent
- the reasons for the request
- the terms and conditions attached to any previous adjournments
- was the request made at the earliest opportunity
- did the party make all reasonable efforts to avoid the need for a new date
- is a new date necessary to ensure a fair hearing
- would anyone be prejudiced if the request was granted or denied
- the number of, and reasons for, any previous changes in hearing date
- when did the requesting party begin to prepare for the hearing, and/or when was counsel retained
- are the issues complex or simple, and is there any urgency in the circumstances of the case
- is there a serious personal emergency or compassionate factor.

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**11. The Tribunal Decision**

- 11.1 Depending on the time available the Tribunal will notify the parties in writing or by telephone of its decision regarding the request for rescheduling the hearing.
- 11.2 The Tribunal may not be able to assess and respond to a request that is received less than 10 days before the scheduled date for hearing. If the requesting party does not receive a response to a late request he or she should proceed as if the request has been denied.
- 11.3 Where the Tribunal denies the request for a new hearing date, and the party does not attend the hearing, the Tribunal may proceed in the party's absence.
- 11.4 If the Tribunal denies the request for a new hearing date, the requesting party may reapply for an adjournment of the proceedings at the outset of the hearing. The requesting party must however be prepared to proceed in the event that the Presiding Member refuses to adjourn the hearing.

**12. Adjournment Request at Hearing**

- 12.1 A party may request an adjournment at the hearing. In deciding whether to grant the adjournment request the presiding member will consider whether an adjournment is required to permit an adequate hearing to be held, and may consider any relevant factors including those set out in paragraph 10.1.
- 12.2 In the context of an appeal of a decision that a person is not a person with a disability made under the *Ontario Disability Support Program Act, 1997* the Tribunal shall not adjourn a hearing in order to permit an Appellant to obtain further medical reports.
- 12.3 If the presiding member grants the adjournment request, an adjournment decision will be issued setting out any terms and conditions attached to the adjournment.

- 12.4 If the presiding member denies the adjournment request, reasons for doing so will be provided in the decision released by the Tribunal on the merits of the appeal.
- 12.5 Where the adjournment request is denied the parties will be expected to proceed with the hearing.

