



Early Resolution Program

The Early Resolution Program provides parties to an appeal before the Social Benefits Tribunal with an early opportunity to try to resolve the appeal through participation in a variety of alternative dispute resolution processes, referred to as “Early Resolution Opportunities”, before the formal Tribunal hearing process begins.

The Early Resolution Program will allow the Tribunal to identify and implement early opportunities to resolve cases in an efficient, effective and fair manner, prior to the formal adjudicative hearing of the appeal. In this way, the Tribunal can provide more timely and focused hearings, reduce the costs associated with the full hearing process, and, address any case backlog issues. Participating in an Early Resolution Opportunity session can also assist with narrowing and clarifying the issue(s) on the appeal and allowing the parties an opportunity to exchange and share information, in addition to fully resolving the issue(s).

1. Effective Date

1.1 This Practice Direction is effective November 28, 2005.

2. Legislation

2.1 Sections 4.8, 5.1, 5.2, 5.3 and 25.1 of the *Statutory Powers Procedure Act*.

2.2 The Social Benefits Tribunal is authorized to provide alternative dispute resolution mechanisms, described under this Early Resolution Program as “Early Resolution Opportunities”, on the consent of the parties.

2.3 If a party objects to participating in an Early Resolution Opportunity, or if the appeal is not resolved through the Early Resolution Opportunity, the appeal will be heard through the Social Benefits Tribunal adjudicative hearing process.

3. General Principles

- 3.1 An “Early Resolution Opportunity” refers to a dispute resolution session held to try to resolve an appeal filed with the Tribunal, before the commencement of the formal Tribunal hearing, and includes: in-person or telephone pre-hearing conferences, in-person or telephone settlement discussions, negotiations, conciliations, and mediations.
- 3.2 An Early Resolution Opportunity session is a private and confidential process. This means that any and all information, evidence, material or documentation raised or produced during the session cannot be referred to, discussed or relied upon directly or indirectly by any party that participated in the session.
- 3.3 Only the parties to an appeal hearing before the Tribunal can participate in an Early Resolution Opportunity session.
- 3.4 A party may choose to participate in an Early Resolution Opportunity session with a legal or non-legal representative. If a representative agrees to represent a party who has a date scheduled for the Early Resolution Opportunity session, the representative must ensure that he or she is available to participate on that date.
- 3.5 Once a date has been scheduled for an Early Resolution Opportunity session, the session will not be rescheduled under any circumstances. This includes the situation where a party fails to attend at the scheduled Early Resolution Opportunity session, or where a party requests that the session be rescheduled to accommodate his or her legal or non-legal representative.

4. Early Resolution Opportunity is Voluntary

- 4.1 An Early Resolution Opportunity session will be held where all parties to the appeal before the Tribunal agree to participate in the session.

5. Notice of Early Resolution Opportunity Session

- 5.1 A “Notice of Early Resolution Opportunity Resolution Opportunity Session” will be sent to the parties to the appeal Session following the filing of the appeal at the Tribunal.
- 5.2 The “Notice of Early Resolution Opportunity will contain:
- a description of the type of Early Resolution Opportunity session to be held;
 - the time, date and purpose of the Early Resolution Opportunity session, including a statement that the parties may attend the Early Resolution Opportunity session with a legal and/or non-legal representative;
 - a statement that if a party objects to participating in the Early Resolution Opportunity session, the party must contact his or her Client Service Representative by calling 1-800 753-3895 or 416 326 0978;
 - a statement that where a party objects to participating in an Early Resolution Opportunity session, or a party has agreed to participate in an Early Resolution Opportunity session but fails to attend at the scheduled date of the session, the Tribunal will not reschedule the session and the appeal will proceed to a hearing;
 - confirmation that the Early Resolution Opportunity session is private and confidential;
 - notice that the Third Party Neutral designated to facilitate the Early Resolution Opportunity session will be one of the following persons: the General Manager of the Tribunal, a member of the Tribunal Legal Unit or a Tribunal Board Member;
 - confirmation that the Third Party Neutral designated to facilitate the resolution of the appeal through the Early Resolution Opportunity session is not compellable as a witness in a Tribunal proceeding and/or in any other civil proceeding, including the notes or records kept by the Third Party Neutral; and,

6. Factors Considered Regarding Participation

- a statement that if a Tribunal hearing date in respect of the appeal has already been scheduled, that the hearing date will remain in place unless the appeal is resolved through the Early Resolution Opportunity session.

6.1 In deciding to participate in an Early Resolution

- Opportunity session, a party may consider the following factors:
- the nature of the appeal and whether it is suitable to hear the matter by way of an Early Resolution Opportunity;
- the nature and complexity of the evidence to be presented at the hearing;
- the need for an interpreter;
- the cost and efficiency of conducting an Early Resolution Opportunity prior to the formal hearing;
- whether the conduct of an Early Resolution Opportunity is likely to cause significant prejudice to a party(ies); and,
- any special circumstances, such as the poor health of a party.

7. Written Submissions

7.1 Parties involved in an Early Resolution Opportunity session may send written submissions to the Tribunal and to any other party(ies) participating in the session setting out a description of the issue(s) on the appeal and the position and interests of the party.

7.2 A written submission described in subparagraph 7.1 above must be sent to the Tribunal and to any other party(ies) on the appeal at least 5 days before the scheduled date for the Early Resolution Opportunity session.

8. How to Object to a Resolution Opportunity

8.1 Where a party objects to participating in an Early Resolution Opportunity, the objecting party must notify the Tribunal of the objection by contacting their Client Service Representative at 1-800-753-3895 within 10 days of receipt of the Notice of Early Resolution Opportunity session.

9. Objection to Early Resolution Opportunity or Failure to Attend Early Resolution Opportunity

9.1 Where a party to the appeal objects to participating in an Early Resolution Opportunity session, or a party fails to attend at a scheduled Early Resolution Opportunity session, the Tribunal will not proceed with the session and the appeal will continue on to a hearing before the Tribunal.

10. Possible Outcomes

10.1 In addition to resolving the issue(s) on the appeal on a full and final basis, participation in an Early Resolution Opportunity can enable parties to:

- share and exchange information;
- consider which issue(s) will be dealt with at the hearing and whether this issue(s) can be clarified, narrowed, or simplified;
- determine issues regarding jurisdiction;
- decide whether any facts or evidence may be agreed upon by the parties for the purposes of the hearing;
- discuss the nature of the evidence, the proposed number of witnesses, and the estimated duration of the hearing; and,
- consider any other matter that may assist in the just and most expeditious disposition of the appeal.