

Guide: Participating in a Condominium Authority Tribunal Hearing

Contents

1. Stage 3 - Hearings before the Condominium Authority Tribunal	1
2. Burden of Proof & the Balance of Probabilities	2
3. Evidence	2
3.1 What is evidence?	2
3.2 Identifying Evidence	2
3.3 Additional Notes about Evidence	3
4. Witnesses	3
4.1 What is a witness?	3
4.2 Identifying Witnesses	3
4.3 Witness Participation	3
4.4 Additional Notes about Witnesses	4
5. Language	4
6. Accommodation	4

1. Stage 3 - Hearings before the Condominium Authority Tribunal

A hearing in Stage 3 – Tribunal Decision is a legal proceeding. It is an opportunity for each party to present its position, including evidence and legal arguments, to the Tribunal Member hearing the case. Members are impartial decision-makers with experience, knowledge and training in condominium law and issues. Members have the authority under the *Condominium Act, 1998* to issue legally binding orders.

A hearing before the Tribunal is less formal than at a court. The Member will decide how the hearing will be conducted and will communicate the process and timelines to the parties.

Members will determine the best process to ensure that parties can participate fully in the hearing process, that the Member understands the evidence and arguments, and that the hearing proceeds in a fair and expeditious way. You can review the [Tribunal's Practice Direction on Active Adjudication](#) for more information.

There are no private discussions between the Member and the parties during the hearing.

Everything that happens during the hearing forms part of the Tribunal's record of the proceeding, including any messages, documents, witness testimony, and recordings of teleconferences / videoconferences. The record may be provided to members of the public on request in accordance with the [CAO's Access and Privacy Policy](#) unless it is subject to a confidentiality order. Parties can request a confidentiality order in accordance with the CAT's Rules of Practice and the Policy.

Once the hearing has finished, the Member will rule on the issues in dispute and will issue their decision. The decision will be uploaded to online dispute resolution system and will be published on the CAO's website and on CanLII.

2. Burden of Proof & the Balance of Probabilities

Applicants must prove their claims on a balance of probabilities. If the Applicant cannot prove their claims, the Tribunal will not make an order in their favour and the case may be dismissed.

Each party will have an opportunity to present their evidence and arguments in support of their position.

The Tribunal Member will decide the issues at the end of the hearing, considering the law, the evidence, and the arguments of the parties. If there is disagreement about what happened, the Member must decide which version of events is more likely to be true.

3. Evidence

3.1 What is evidence?

Evidence is information that parties provide to the Member to prove a fact in dispute. The parties will have an opportunity to make arguments (also called submissions) explaining the significance of the evidence and explain why the Member should make the decision in their favour.

Evidence can be a document, image, video or audio recording, oral testimony from a witness, or other thing that helps to prove your case. Parties should come to the hearing ready to present their evidence and must follow the Member's directions about how to provide it.

After the parties have presented the evidence, all parties will have an opportunity to review it. The Member conducting the hearing must base their decision only on the evidence and arguments provided during the hearing. Parties should present all of their evidence and make all of their arguments during the hearing, because there will not be another opportunity to do so.

3.2 Identifying Evidence

At the start of the hearing, the Member will ask you to indicate what evidence you wish to present and to explain how it is relevant to the issues in dispute. The Member will not allow the parties to provide evidence that is not relevant to the issues to be decided.

Depending on the nature of the issues in dispute, relevant evidence could include things such as:

- Letters, emails, or text messages
- Photos, videos, or audio recordings
- Invoices, receipts, quotes, or other financial records
- Copies of contracts or other agreements
- Minutes from condominium owner or board meetings
- Witness statements

If a party is asking the Tribunal to order another party to pay or reimburse them money, they should be prepared to identify the amount and to explain why that amount is appropriate. This may include providing invoices, bills, or receipts.

3.3 Additional Notes about Evidence

- Parties should provide all their evidence as early as possible once prompted by the Member. Parties may not be allowed to provide late evidence.
- Evidence is typically used to prove facts that are in dispute. If all parties agree that something happened, you may not need to provide evidence proving that it happened.
- The Member can refuse to allow evidence that is not relevant to the issues in dispute, is unduly repetitious, or is privileged (e.g., if it is subject to solicitor-client privilege).
- If your evidence includes sensitive personal information, you should advise the Member conducting the hearing before you provide it. The Member will provide directions about how to do so.
- Parties must follow Member directions regarding evidence. If party uploads evidence without the Member's approval, the Tribunal may delete it.

4. Witnesses

4.1 What is a witness?

Witnesses are people who can provide evidence about an issue or fact that is relevant to the dispute. A witness may have been present at a relevant event and may be able to provide information about what they saw or heard. A witness may know about an important document or other piece of evidence and may be able to explain how it was developed, how it has been applied in the past or how it relates to the events or issues in dispute.

Witnesses provide their evidence in the form of oral or written **testimony**. In most instances, the testimony will be provided as a written statement. Witnesses will be asked to affirm that their testimony is truthful before they provide it. After a witness provides their testimony, the other parties may be given an opportunity to ask them questions, as permitted by the Member. This is called **cross-examination**.

Generally, witnesses should focus on giving information about issues and facts rather than offering opinions and should have first-hand knowledge of the matters they will testify about.

Parties can also call a witness who has special experience, education, training, or skills that qualifies them to give an informed opinion about some matter that is relevant to the dispute.

4.2 Identifying Witnesses

At the beginning of the hearing, the Member will ask you to identify any potential witnesses, and to explain how the information or evidence they can provide is relevant to the issues in dispute. Like other forms of evidence, all witness testimony must be relevant to the issues in dispute.

4.3 Witness Participation

Parties are responsible for ensuring that their witnesses participate in the hearing as directed by the Member. Parties should confirm if the witnesses they would like to provide evidence are willing to participate voluntarily. The party can ask the Tribunal to issue a summons requiring them to give evidence if they are not willing to participate voluntarily. The party requesting the summons must personally deliver it to the witness and pay them a \$50 attendance fee, as set out in the Tribunal's Rules of Practice.

4.4 Additional Notes about Witnesses

- Parties should identify all their proposed witnesses as early as possible once prompted by the Member. The Tribunal may refuse to hear from witnesses who are identified late.
- Like other types of evidence, you may not need to have a witness testify about things that are not in dispute.
- The Member can refuse to hear from a witness if their testimony is not relevant to the issues in dispute, is unduly repetitious, or is privileged (e.g., if it is subject to solicitor-client privilege).
- The Member will determine how and when to hear from a witness.
- Parties must follow Member directions regarding witnesses.

5. Language

The Tribunal is committed to offering and providing services in both English and French based on the needs of the parties. All users or members of the public may communicate and receive services in English or French from the Tribunal.

If you require services in French, you can:

- Let the Member assigned to the case know.
- Contact Tribunal staff by sending an email to CATinfo@condoauthorityontario.ca

6. Accommodation

The Tribunal is committed to providing accommodation for needs in accordance with the principles of the Human Rights Code, recognizing every person has a right to equal treatment without discrimination. Accommodations may be provided upon request or offered by the Tribunal.

If you require an accommodation to participate in a Tribunal hearing, you can:

- Let the Member assigned to the case know.
- Request an accommodation in accordance with the [CAO's Accommodation's Policy](#)