

Condominium Authority Tribunal Practice Direction: Active Adjudication

Effective: July 4, 2023

Practice directions help parties understand the rules. They provide guidance about what the Tribunal expects of the parties and what the parties can expect of the Tribunal.

1. Introduction

This Practice Direction describes how the Condominium Authority Tribunal (CAT) uses active adjudication to promote access to justice, and the fair, just, and expeditious resolution of disputes. Active adjudication means that the Tribunal Member is an engaged but impartial participant in the hearing process. Active adjudication can help to provide a fair hearing process for combinations of represented and self-represented parties.

The CAT is committed to providing fair, efficient, accessible, and cost-effective dispute resolution services to Ontario's condominium communities. The CAT uses an online dispute resolution system (CAT-ODR) to help people resolve their disputes conveniently, quickly, and affordably. These principles and rules underly the CAT's approach to adjudication.

2. Active Adjudication

The CAT uses active adjudication 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.

The Tribunal Member assigned to a case will consider what is required for each party to meaningfully participate in the Tribunal process so that their evidence and positions on each issue in the case can be fairly and efficiently heard. They may inquire into the parties' understanding of the legal process and provide information, where appropriate, to allow meaningful participation in the process.

Tribunal Members cannot provide legal advice to parties or advise what a party should do, but may inform parties about their procedural rights and the options available to

them. By inquiring into the parties' understanding and providing information, the CAT ensures parties are not unfairly disadvantaged by the online process or the proceedings.

The CAT will ensure legal and procedural rules are applied evenly to all parties, regardless of representation.

3. Specific Approaches

There are many things that a CAT adjudicator may do to ensure a fair, just and expeditious hearing. Some examples include:

1. Clarifying what remedy a party is seeking;
2. Ensuring that the parties understand the Tribunal process;
3. Defining and narrowing the issues to be decided;
4. Directing the order in which evidence will be presented;
5. Questioning parties and witnesses;
6. Deciding what procedures are appropriate in the circumstances;
7. Helping parties, representatives and witnesses understand the hearing process and CAT Rules;
8. Providing information (but not advice) about the laws that apply to the case;
9. Explaining key legal and procedural rules;
10. Providing information about relevant CAT cases;
11. Setting out the procedural options available;
12. Determining the most effective way for the parties to provide their evidence and arguments;
13. Providing direction to ensure that evidence and submissions are relevant to the issues in dispute.
14. Asking parties, representatives, and witnesses questions to clarify their understanding of the process and their evidence and submissions.