

RULES OF PROCEDURE OF
THE NUNAVUT HUMAN RIGHTS TRIBUNAL

Purpose of the Rules

1. The purpose of these Rules is to help Applicants and Respondents obtain just, fair and timely decisions and orders from the Tribunal.
2. Human Rights Officers are available between the hours of 9 a.m. and 5 p.m., Monday to Friday, to help Applicants and Respondents use these Rules:

The Nunavut Human Rights Tribunal
P.O . Box 15
Coral Harbour NU X0C 0C0
Phone: Toll Free 1-866-413-6478 or 1-867-925-8447
Telecopier: 1-888-220-1011
nunavuthumanrights@gov.nu.ca

3. These Rules must be followed unless the Tribunal orders or directs otherwise.
4. If a party fails to follow these Rules, the Tribunal may make any order or decision it considers appropriate in the circumstances including an order for the payment of costs.
5. Where these Rules are in conflict with the *Nunavut Human Rights Act* (the “Act”) or the *Regulations*, the *Act* or the *Regulations*, as the case may be, will prevail.

Inuit Culture and Values

6. Where applicable, these Rules shall be interpreted in a manner that recognizes and makes special provision for Inuit culture and values that underlie the Inuit way of life.

Definitions

7. For the purpose of these Rules:
 - (a) “Accommodation” refers to the adapting of facilities, services and procedures to meet the needs of individuals and groups of individuals;
 - (b) “Applicant” means any person (s) who completes a Notification that is received by the Tribunal.
 - (c) “Executive Director” means the manager of operations for the Tribunal.
 - (d) “Human Rights Officer” means any employee of the Tribunal.
 - (e) “Mediation” includes any problem solving process other than a hearing, including discussions and negotiations, between an Applicant and Respondent that the Tribunal deems acceptable.

- (f) “Notice” means mailing by registered mail to the last known address of the Party unless personal service is affected by a party or the Tribunal.
- (g) “Notification” means a written record made by or on behalf of an Applicant under s. 21 of the *Act*.
- (h) “Party” means an Applicant or a Respondent or any other person described in s. 28 of the *Act*.
- (i) “Pre-hearing Conference” means a pre-arranged discussion between the Tribunal and the parties, usually conducted by telephone.
- (j) “Preliminary Application” means any application for relief of any kind made before the commencement of a hearing under Part 5 of the *Act*.
- (k) “Record” means documents that the parties to a hearing agree to present to the Tribunal prior to a Hearing.
- (l) “Reply” or “Reply to a Notification” means a written record in response to a Notification that is received by the Tribunal.
- (m) “Respondent” means any person(s) named in a Notification who is alleged to have contravened the *Act*.
- (n) “Tribunal” means one or more members of the Human Rights Tribunal appointed under s. 16 of the *Act*.

Notifications and Replies

- 8. An Applicant may complete a Notification and a Respondent may complete a Reply, personally or with the help of another person, including a Human Rights Officer, in writing or orally.
- 9. Notifications and Replies may have up to twenty (20) additional pages of supporting documents or records attached to them.
- 10. Where an Applicant or Respondent is given help under Rule 8, the Notification or Reply must contain the following information:
 - (a) a signed and witnessed consent of the Applicant or Respondent; and,
 - (b) the name, address, telephone number and such other contact information as the Tribunal may require of the person giving assistance.
- 11. The English language, the French language, or Inuit language may be used to complete a Notification or a Reply and may be used in any other communications with the Tribunal.
- 12. A Notification must be filed with the Tribunal within two (2) years of the last alleged contravention of the *Act*.
- 13. If a Notification alleges that a contravention of the Act has occurred more than two years before the filing of the Notification, the Tribunal will draw the Respondent’s attention to such allegations and, if the Respondent does not consent to the filing of the Notification, the Tribunal will fix a date for the

- Applicant to make application to extend the time for filing the Notification, upon Notice to both parties.
14. The Tribunal shall effect service of a Notification on the Respondents personally.
 15. A Reply must be filed with the Tribunal within sixty (60) days of service of a Notification upon a Respondent.
 16. With the permission of all parties, the Executive Director may extend the time for the filing of any documents with the Tribunal. If a party objects to such an extension, the Tribunal will fix a date for the party requesting the extension to apply to the Tribunal for an extension, on Notice to the other party.
 17. A Human Rights Officer or the Tribunal may require any party to clarify or fully complete the contents of a Notification within a reasonable period of time.
 18. The Tribunal will acknowledge in writing the receipt of Notifications and Replies and will provide Respondents with a copy of an Applicant's fully completed Notification and Applicants with a copy of a Respondent's fully completed Reply.
 19. With the permission of all parties, the Executive Director may allow an Applicant or a Respondent to amend a Notification or Reply. If a party objects to such amendments, the party requesting the amendment must apply to the Tribunal for permission to amend, on Notice to the other parties.

Privacy

20. The contents of records maintained by the Director will not be disclosed to the public without an order or direction from the Tribunal.

Communications with the Tribunal

21. Applicants and Respondents are required to advise the Tribunal of any change in contact information including mailing address, telephone number, facsimile number and Email address, immediately.
22. If an Applicant or Respondent fails to respond to communications from the Tribunal within a reasonable period of time, the Tribunal may give Notice of any further proceedings at the last known address of the Party.
23. If an Applicant or a Respondent fails to respond to any Notice given by the Tribunal which requires a Party to follow a procedural direction within a period of time directed by the Tribunal, the Tribunal may:

- (a) in the case of an Applicant, dismiss the complaint in accordance with s. 24(3)(a) of the *Act*; or,
- (b) in the case of a Respondent, fix a date for hearing without further notice to the Respondent.

Special Remedies

- 24. An Applicant shall give notice to the Tribunal of any application to a Judge made under Sections 39 and 40 of the *Act* and shall file with the Tribunal a copy of any judgment, reasons for judgment or Order resulting from such application.

Decisions of the Tribunal

- 25. The Tribunal will file and serve upon the Parties to a Notification a copy of written reasons for all decision made under Part 4 or Part 5 of the *Act*.

Settlement Proceedings

- 26. The Tribunal may attempt to effect a settlement of the allegations contained in a Notification by using whatever resources and means, including mediation, it deems acceptable.
- 27. The parties to a complaint may seek the assistance of such persons as they wish to have present to help them effect a settlement subject to the discretion of the Tribunal to exclude persons whose presence during settlement proceedings are neither necessary or appropriate.
- 28. Parties who participate in settlement proceedings (and any other persons who participate in settlement proceedings) are deemed to have agreed as follows:
 - (a) that the proceedings are private and confidential as between the parties and any other participants and may not be disclosed to any person who is not a party to the settlement proceedings nor be used in any other proceedings of any kind, including a court proceeding, arising from or related to a Notification;
 - (b) that, subject to the law of privilege, they shall disclose and produce, each to the other, all relevant information, documents and materials, that may reasonably be expected to be important to achieving a mutually satisfactory outcome of the settlement proceedings.
- 29. An order resulting from settlement proceedings may be filed and enforced in the same manner as an order resulting from a hearing.

Withdrawal of a Notification

30. An Applicant may withdraw all or part of a Notification with the consent of the Respondent by completing and filing the form prescribed by the Tribunal at any time prior to a hearing.
31. The filing of a withdrawal shall result in the immediate removal of the Notification, in whole or in part, from the Tribunal's active file list.
32. The filing of a withdrawal shall have the effect of a final determination of the Notification or part thereof, unless the parties agree otherwise in writing.

Pre-hearing Conferences

33. The Tribunal may require the Parties to attend a pre-hearing conference for the purpose of facilitating the just, fair and timely resolution of the Notification.
34. The Executive Director shall coordinate with the Parties the scheduling of pre-hearing conferences and the Parties are responsible for communicating in a timely and effective manner with the Director in all matters relating to the preparation and scheduling of pre-hearings.
35. The Executive Director may coordinate the scheduling of pre-hearing conferences and give Notice of a Pre-Hearing by registered mail, telecopier, email or by telephone and may reschedule or postpone pre-hearings as required.
36. The Tribunal may use a pre-hearing conference to:
 - (a) discuss the contents of the Notification and Reply and the possibility of simplifying or settling all or part of the allegations;
 - (b) answer any procedural questions that the parties may have.
 - (c) discuss, agree upon or direct the procedures to be used before and during the hearing, including:
 - the disclosure and production of documents
 - the exchange of witness summaries
 - the form and manner of giving any notices to the Parties
 - the attendance of witnesses
 - the need for and type of recording of evidence
 - any preliminary applications
 - the date, time and location of the hearing
 - the need to accommodate any party or witness
 - the need for any additional pre-hearing conferences
37. The Tribunal may hold pre-hearing conferences via telephone, teleconference, video-conference or in such other manner as the Tribunal may direct.

38. If a party fails to attend a pre-hearing conference after having received Notice of a Pre-hearing Conference, the Tribunal may proceed in the absence of the non-attending party and may make decisions or orders in relation to the hearing.
39. A pre-hearing conference may be adjourned by the Tribunal on its own motion or upon application of a Party.
40. Unless the Tribunal decides not to deal with a Notification for any reason, the first pre-hearing conference shall take place within ninety (90) days of the receipt of a Respondent's Reply.
41. Pre-hearing conferences, including those at which Preliminary Applications are heard, may, in the discretion of the Tribunal or in response to a request made by a party, be electronically recorded.

Preliminary Applications

42. A party may make application to the Tribunal before a hearing under Part 5 has been scheduled, in the following manner:
 - (a) by completing a Preliminary Application form and delivering it to the Executive Director;
 - (b) the Executive Director shall serve a copy of the Preliminary Application on the parties and make arrangements with the Tribunal and with the parties for the preliminary application to be heard;
 - (c) where the Executive Director is unable to make arrangements with the parties for a Preliminary Application to be heard within a reasonable period of time, the Tribunal may serve a Notice upon the parties requiring their attendance to dispose of the Preliminary Application;
 - (d) where a party fails to attend a prearranged Preliminary Application, the Tribunal may proceed in the party's absence and make such orders or give such directions as it deems appropriate.

Part 5 Hearings

43. The Tribunal may employ oral hearings or such other hearing processes and procedures including written submissions, video or telephone conferencing, as agreed upon by the parties or as directed by the Tribunal.
44. The Tribunal may post public notice of hearings in such manner as it deems appropriate.

45. Where a party fails to attend a hearing for which Notice was given, the Tribunal may proceed with the hearing in the absence of the party and make decisions and orders based on the evidence adduced at the hearing.
46. Hearings may be attended by the public unless the Tribunal, on its own initiative, or upon application by a party, decides that members of the public are to be excluded for all or part of a hearing.
47. Hearings may be electronically recorded. Recordings of hearings on CD may be obtained by the parties to a hearing from the Tribunal on request.
48. The Tribunal at or before the hearing may decide how the hearing will be conducted and, without limiting the generality of the foregoing, may require the Parties to file and exchange written briefs and legal authorities prior to the hearing, summon any person as a witness, require any person to produce documents, records or things and administer oaths and affirmations.
49. The Tribunal may give such directions and orders to the Parties and to members of the public who are in attendance at hearings as it deems necessary to facilitate the orderly conduct of proceedings.
50. Unless the Tribunal decides not to deal with a Notification for any reason, a Hearing shall take place within one hundred and eighty (180) days of the first pre-hearing conference or concluded settlement proceeding, whichever is first, or as otherwise agreed to by the parties.

Decisions and Orders of the Tribunal

51. A decision or order of the Tribunal is effective the date on which it is made unless otherwise specified by the Tribunal.
52. The Tribunal may issue decisions and orders signed in counterparts by the Members of the Tribunal.
53. A Human Rights Officer or the Executive Director of the Tribunal may, under their signatures, certify that copies of original documents issued by the Tribunal are true copies and such copies may be filed and used in proceedings before the Tribunal as if they were the original documents.
54. Technical or typographical errors in a written decision or order of the Tribunal may be amended by the Tribunal on its own motion or upon application of a party.

Service of Documents

55. Unless specifically provided otherwise in these Rules or as agreed to between the parties, any notice required to be given or any document required to be served by the Tribunal or a party may be served personally, by registered mail, by Email or by telecopier.
56. Notwithstanding Rule 46, on the direction of the Tribunal a Human Rights Officer or the Executive Director may, to expedite proceedings, give oral notice of proceedings to a party via telephone.
57. A party who is required by the Tribunal to give proof of service must do so under oath.

Amendments to the Rules

58. The Tribunal may amend these Rules from time to time. Current copies are obtainable from the Office of the Director of Human Rights.