

MEDIATION AT THE NHRT

What is Mediation?

Mediation is a chance for the Applicant and the Respondent(s) (the “Parties”) to discuss their differences with the goal of restoring the peace between them. The amount of time it takes to schedule and complete mediation depends on the availability of the Applicant, the Respondent(s) and the mediator to complete the mediation.

Mediation is a voluntary and collaborative process. It is not generally about blaming anyone, but about helping the Parties find solutions they can both accept, incorporating Inuit society values. No one “wins” or “loses” at a mediation.

A member of the Tribunal and/or a Tribunal mediator will be there to coordinate the mediation and to assist both Parties throughout the process. Importantly, the mediator will not decide the outcome. Instead, it is the Parties who try to find an acceptable resolution for them.

The mediator is there to listen to both Parties and to help them find a path to reconciliation. The mediator’s role can include helping the Parties communicate, exploring possible solutions with them, and helping them to assess their options. However, the mediator will not provide legal advice to either Party.

A settlement or resolution is reached only if all Parties agree. If the Parties do not reach a settlement, their matter can be referred to a hearing and the Tribunal will determine the dispute.

The Advantages of Mediation

Mediation has many advantages, including:

- Mediation can integrate Inuit Qaujimajatuqangit principles, including respect, inclusiveness, and decision making through discussion and consensus. Where appropriate, the Tribunal may assign a Tribunal member with cultural knowledge to participate in the mediation.
- Mediation is a confidential and private process
- It aims at finding a solution, without the added cost, stress and risk of a public hearing
- Mediation is often a less formal setting, where parties can tell their story
- It can be a way for Parties to reconcile and repair damaged relationships
- Because the Parties (not the Tribunal) determine the outcome, a mediated agreement can be more satisfying than a Tribunal decision and more closely in line with the Parties’ needs and interests

Who can Attend Mediation?

Mediations are typically held over the phone or by video conference. The Applicant and the Respondent attend, and each may bring a representative, an elder or a support person to assist them.

Elders are welcome to play a role at the mediation, both in supporting the Parties and in supporting the mediation process. Parties who invite elders to attend the mediation with them should discuss the role they would like the elder to play.

The Tribunal mediator and/or a Tribunal member will be present and will facilitate the mediation.

What is the Mediation Process?

Before the Mediation: If all Parties agree to participate in mediation, the Tribunal will ask each Party to sign a [mediation agreement](#). Among other things, the mediation agreement ensures confidentiality and explains the role of the mediator.

Once the mediation agreement is signed, the mediator will contact the Parties separately to find an appropriate date for the mediation and to answer any questions they may have.

At the Mediation: Most mediations are conducted by telephone or videoconference. The mediator will begin the mediation by speaking separately with each of the Parties, beginning with the Applicant.

The Parties do not need to prepare a formal statement. Mediation is an informal process, which is meant to give the Parties a chance to tell their story in a way that is natural for them. The mediator will listen and may also have some questions. As part of these initial meetings, the mediator may try to get a better understanding of the outcomes each party is seeking and how best to facilitate the discussions.

Depending on the circumstances and the needs of the Parties, the mediator may then ask all the Parties to “meet” on the phone or by video. In some cases, however, it will be more appropriate for the mediator to continue to meet separately with each of the Parties.

If the Parties can agree on a resolution, the mediator may help them to prepare a written agreement. Before signing it, the Parties will have an opportunity to review the document and propose any changes they feel are appropriate. After the settlement is finalized, the Tribunal issues a decision closing the file.

How Can I Prepare for Mediation?

You may wish to spend some time thinking about your case: what do you want the other side to understand about your experience? What would you like to better understand about the other Party's experience? What do you feel you need to happen to achieve reconciliation?

Remember that mediation is about finding a mutually acceptable solution. It is helpful for Parties to come to mediation with an open mind, an interest in exploring possible solutions, and an understanding that the process is not about winning or losing.

Questions

If you have questions, please contact the staff at the Human Rights Tribunal (see contact page).