

MINISTRY REPRESENTATIVE AT TRIBUNAL – SUPPORTING EVIDENCE (February 2012)

This Quick Reference Guide is intended to provide guidance to Ministry Representatives at Tribunal. Evidence introduced at the hearing by either the MSD representative or the appellant must be in support of the information and records that were before the minister when the decision being appealed was made (the reconsideration decision). Neither the appellant nor the ministry representative may submit new evidence to the appeal panel.

Overview

Section 22(4) of the EAA states that only:

- a. the information and records that were before the minister when the decision being appealed was made, **and**
- b. oral or written testimony in support of the information and records referred to in paragraph (a).

Evidence introduced at the hearing by either the MSD representative or the appellant must be in support of the information and records that were before the minister when the decision being appealed was made (i.e. the reconsideration decision). Neither the appellant nor the ministry representative may submit new evidence to the appeal panel.

Evidence presented at Tribunal must be relevant and appropriate.

Authority of the panel chair

The authority resides with the panel chair to determine what supports and what does not support the information and records that were before the minister when the decision being appealed was made (i.e. the reconsideration decision). The panel chair will rule on whether or not new evidence may be admitted.

Examples of Supporting Evidence

- Oral or written testimony (from MSD, the client or other witnesses). Written testimony is anything that a person could present as oral testimony but is reduced to words or numbers.
- Expert testimony, notes (from doctors, other professionals, or other persons involved with the matter under review).
- Signed statements (including letters).
- Receipts or invoices and any other document/record that is relevant to the matter under review.

Objecting to Appellant's Evidence Submissions

If an MSD representative believes that the evidence the appellant wishes to present is not in support of the information and records that were before the minister when the decision being appealed was made (i.e. the reconsideration decision), they should make an objection to the panel.

See Quick Reference Guide: *Ministry Representative at Tribunal – Objections*

Requesting an Adjournment to

If the appeal panel admits the evidence over an objection (i.e. makes a ruling that the evidence is in support of the information and records that were before the minister

Review Evidence	<p>when the decision being appealed was made), the MSD representative should consider whether to ask for an adjournment to review the evidence.</p> <p>As a guideline, if this evidence has never been seen by the MSD representative it would be prudent to ask the appeal panel for a brief adjournment of 10-20 minutes.</p> <p>If the MSD representative concludes that the evidence is not going to have a crucial impact on the decision, no further adjournment should be requested.</p> <p>If the evidence is significant and a submission will be needed in response, the MSD representative should request a longer adjournment (for example an hour if they can address the evidence in submissions, or a few days if they believe MSD should produce evidence in response).</p> <p>See Quick Reference Guide: <i>Ministry Representative at Tribunal – Adjournments</i></p>
Evidence Admitted Over an Objection	<p>The MSD representative should inform the Appeals section of all instances of an appeal panel admitting evidence over an objection.</p>

OLR → Decisions, Reconsideration and Appeal → Appeal

Policy:

Staff:

https://gww.hsd.gov.bc.ca/intranet/meia/online_resource/decisions_reconsideration_and_appeal/appeal/current/policy.html

Public: http://www.gov.bc.ca/meia/online_resource/decisions_reconsideration_and_appeal/appeal/policy.html

Procedures:

Staff:

https://gww.hsd.gov.bc.ca/intranet/meia/online_resource/decisions_reconsideration_and_appeal/appeal/current/procedures.html

Public: http://www.gov.bc.ca/meia/online_resource/decisions_reconsideration_and_appeal/appeal/procedures.html