

MINISTRY REPRESENTATIVE AT TRIBUNAL – ROLES (February 2012)

This Quick Reference Guide is intended for Ministry Representatives at Tribunal. It provides guidance on preparing for the hearing, making submissions, and asking and responding to questions.

Overview

An MSD representative attends the hearing to present the ministry's position and submissions. The MSD representative presents the facts and evidence in the case and explains how the ministry's reconsideration decision was a reasonable application of the legislation.

The MSD representative must always be mindful that the appeal panel is the decision-maker in the appeal process. All conduct towards the panel and the panel chair should reflect this understanding.

The MSD representative does not defend the appellant's or their own interests at the hearing. **DO NOT** make any personal commentaries or provide advice to appellants during the hearing.

Preparing for the Hearing

- The MSD representative must review MSD's entire case and be familiar with the facts and evidence, the relevant legislation, and MSD's position before the Tribunal hearing.
- The MSD representative should have all submissions prepared before the hearing and address all submissions to the panel. (In most cases the reconsideration decision will suffice as the ministry's submission; where it may not or if you need clarification you may seek the assistance of the Appeals Section.)
- The MSD representative must ensure they have, in their possession, the **COMPLETE** appeal package as sent to the ministry by the Tribunal. **This is the package that will be used by the Tribunal during the hearing.**
- If the MSD representative cannot attend the hearing, inform the supervisor immediately so that alternate arrangements can be made.

Making Submissions

All submissions to the panel start with: "it is the ministry's opinion..." or "the ministry decided that...".

Examples of what **NOT** to say:

"If I had made the reconsideration decision, I would have approved you."

"I had nothing to do with this reconsideration decision."

"I believe that this was the right decision." / "I disagree with this decision."

"What you should have done in your application was..."

All evidence submitted by the ministry representative or the appellant must support 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

	<p>representative may submit new evidence to the appeal panel.</p> <p>See the Quick Reference Guides: Ministry Representative at Tribunal – Supporting Evidence; Ministry Representative at Tribunal – Objections; Ministry Representative at Tribunal – Adjournments</p>
<p>Asking and Responding to Questions</p>	<p>A party has the right to question their own witnesses and cross-examine other presenting witnesses (subject to directions, as established by the panel chair). The appeal panel has the right to ask questions of all witnesses and parties (or their representative) while they are making submissions.</p> <p>If a panel member asks a witness (either the ministry's or the appellant's) a question that seems inappropriate or irrelevant, <u>consider</u> objecting to the question. Remember that the rules of evidence are greatly relaxed in Tribunal hearings.</p> <p>DO NOT ask a panel member to explain the purpose/intent of his/her question. State "Madam/Mister Chair, in my submission the question is not relevant to the issues this panel must decide".</p> <p>See Quick Reference Guide: Ministry Representative at Tribunal – Objections</p> <p>If the other party or a panel member asks a witness a question that is unclear, or combines two or more questions together, ask for clarification or request each component question to be asked separately.</p>
<p>Legal Opinions</p>	<p>The Tribunal or appellant normally has no right to see any legal opinions MSD obtains. The Appeals Section of the Legislation and Litigation Branch must be consulted prior to the sharing of any legal opinion.</p> <p>An MSD representative should not disclose that it has legal advice on an issue. DO NOT state "our legal counsel advised us that _____."</p>
<p>Ministry Observers</p>	<p><u>Only</u> the designated MSD representative makes submissions to the panel on behalf of the ministry. Ministry observers are permitted to attend hearings for training purposes only with the consent of the appellant and are not to make any statements during hearings.</p>

OLR → Decisions, Reconsideration and Appeal → Appeal

Policy:

Staff:

https://www.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://www.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