



Ontario

Tribunals Ontario

Licence Appeal Tribunal

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Information Sheet - Calling Evidence

(Disponible en français)

Introduction

This information sheet describes what it means to call evidence at a Licence Appeal Tribunal hearing. This will help you prepare your case for the hearing.

What is evidence?

Evidence is information from witnesses or documents or things, that the Tribunal accepts as evidence.

Example one: A homeowner in a new home warranty appeal alleges that a window leaks. The homeowner's evidence might be the statement of a person who saw the window leak (a witness). The homeowner might also have a picture of the window leaking (a document) or a small piece of damaged windowsill (a thing).

Example two: A motor vehicle owner making a claim under the *Motor Vehicle Dealers Act, 2002* Compensation Fund alleges that his car broke down because of a malfunction. He may testify (a witness) about the location, date, time and circumstances of the breakdown. He may also give the Tribunal a copy of the bill (a document) for towing his car, which shows the date and identifies the towed car.

Who is a witness?

A witness is someone with personal knowledge about the events that the Tribunal is considering in the appeal. An appellant may be a witness and testify at the hearing. The Tribunal will ask witnesses to make an affirmation or swear an oath to tell the truth.

Who is an expert witness?

An expert witness is a witness who is qualified to provide professional, scientific or technical information and opinion, based on special knowledge through education, training or experience about the matters on which they will testify.

An expert witness is expected to have the knowledge to properly assess complex technical problems and to recommend solutions that reflect an understanding of the facts. The expert must provide a statement of qualifications in support of their expertise in a particular field or area.

What is an expert report?

The Tribunal's Rules of Practice (Rules) require that the parties exchange certain information about expert evidence. This information is usually set out in written reports or witness statements.

What is a document, for the purposes of evidence?

A document can be a piece of paper that has typed, printed or handwritten information. In the Tribunal's Rules, the word "document" includes information recorded or stored by any means – this would include evidence that is stored on a computer device or other electronic media. A document may be an invoice, estimate, letter, notice, photograph, video, advertisement, report, agreement, contract, etc. If you submit documents stored electronically, the Tribunal and all the parties must be able to access those documents. In some instances, if you wish to file an electronically stored document as evidence, the Tribunal member hearing the appeal may require that you provide printed copies.

Do I need to call a witness to "prove" a document?

The parties can agree that the Tribunal will receive a document as an exhibit without calling a witness to prove the document. If the other party does not consent, you need to have a witness "prove" the document. To prove a document, the witness must testify and give details about when the witness prepared, received, sent, obtained or found the document. Business records prepared by someone who is not a witness may be admitted as evidence, if you send a notice to the other party before the hearing and comply with Section 35 of the [Evidence Act](#).

Do I have to give the Tribunal the original document?

Sometimes you have to give the original to the Tribunal to ensure the document has not been changed or that everything on the photocopy shows up properly. You can usually use a copy, but a witness must testify that the copy given to the Tribunal is a true copy (without any alterations, additions or deletions) of the original.

What is a thing, for the purposes of evidence?

For example, in a new home warranty appeal, the Tribunal has received small pieces of tile, granite and other parts of a house as evidence to show what was wrong or how something should look.

When can photographs and videos be useful evidence?

Photographs and videos can be valuable pieces of evidence, especially if they include a scale or measuring device to show size or distance. Details of the date and time of the photograph, light sources, etc., are also helpful. When using photos as evidence, the person who took the photograph or video should testify and confirm that the photograph or video is what they actually saw and that it has not been altered.

Important Points

- Documents and things that you want the Tribunal to receive as an exhibit must be disclosed to the other party(ies) 10 days before the hearing.
- Expert reports and witness statements must be disclosed in accordance with the Rules of Practice.
- The parties can agree that the Tribunal will receive documents as exhibits without the need to call a witness to prove the document.
- Details of the date and time of a photograph or video, light sources, etc., may increase their value as evidence.

Other Sources of Useful Information

The Tribunal's website at tribunalsontario.ca/lat has Information Sheets, Rules of Practice, Practice Directions, FAQs and other useful information.

This information sheet is intended to provide general information to Appellants and other parties. It does not constitute legal advice. If you wish to obtain legal advice, you should consult a person licensed by the [Law Society of Upper Canada](http://www.lsuc.on.ca) (www.lsuc.on.ca).