



Ontario

Tribunals Ontario

Licence Appeal Tribunal

15 Grosvenor Street, Ground Floor, Toronto ON M7A 2G6
Tel.: 416-326-1356, 1-888-444-0240
tribunalsontario.ca/lat

Information Sheet – Motor Vehicle Impoundments

Introduction

This information sheet discusses Motor Vehicle Impoundments appeals that can be heard by the Licence Appeal Tribunal (the Tribunal). It will help you learn more about Motor Vehicle Impoundment appeals so that you can file an appeal and prepare for a hearing. The Tribunal makes independent adjudicative decisions based on the facts and law, and it is not related to the Ministry of Transportation or the police.

My vehicle has been impounded. Can I appeal the impoundment to the Licence Appeal Tribunal?

This Information Sheet is only about one kind of impoundment order – if the police impounded your vehicle for 45, 90 or 180 days because it was being driven by someone whose driver's licence was suspended for a [Criminal Code](#) conviction.

If you are going to appeal an impoundment of this type, the Tribunal must receive your appeal, and the filing fee, within 15 days of the date the vehicle was impounded. This is stated in [Regulation 631/98](#). If the appeal is received outside the 15 day period, you will also need to send a [Notice of Motion](#) to extend the time allowed to file an appeal. This Notice is available on the [Tribunal's website](#).

What must I show to win my appeal?

You can appeal the impoundment on one or more of the following grounds:

- (1) The vehicle was stolen at the time of the impoundment;
- (2) The driver's licence was not under a [Criminal Code](#) suspension;
- (3) You showed due diligence (that is, you did everything you reasonably could have done) to find out if the driver of the vehicle had a driver's licence that was not under suspension;
- (4) Loss of the vehicle will cause exceptional hardship (which is defined in [regulations](#)).

It is your responsibility to present evidence to the Tribunal that will prove one or more of the four grounds on "a balance of probabilities." This means that the Tribunal member needs to be satisfied that it is more likely than not that the facts you presented are true and that you have proven your case. Evidence may be provided to the Tribunal in documents sent with your appeal or before the hearing, or through your oral testimony as a witness at the Tribunal hearing. For more information about evidence, see the Tribunal's [Information Sheet – Calling Evidence](#).

What evidence is relevant if I am trying to prove that my vehicle was stolen?

For this ground of appeal, here are some examples of what the Tribunal may consider as evidence:

- any report to the police or any police charges against a person for taking your vehicle without your consent;
- if the driver is a friend or relative who had a suspended licence, what you did to stop or discourage that person from driving your vehicle;
- other information about why the person who took your vehicle knew or should have known that they were taking it without your consent.

What evidence is relevant if I am trying to prove that the driver's licence of the driver was not under suspension?

For this ground of appeal, the Tribunal will usually want to see documentary evidence such as Ministry of Transportation records that the driver of the impounded vehicle had a valid driver's licence.

If you had good reasons to believe that the person's driver's licence was not under suspension, but later learned you were wrong about this, your ground of appeal may be "due diligence," which is covered in the next section.

What evidence is relevant if I am trying to prove that I showed due diligence to find out if the driver of the vehicle had a driver's licence that was not under suspension?

For this ground of appeal, the Tribunal may consider evidence about whether you did everything that you reasonably could have done to find out if the driver had a valid driver's licence that was not suspended. Here are some examples of what this evidence may include:

- whether there any reasons why you should have trusted or not have trusted the driver;
- what you did to make sure that the driver's licence was valid before permitting the person to drive your vehicle.

What evidence is relevant if I am trying to prove that the impoundment of my vehicle will cause exceptional hardship?

The [Highway Traffic Act](#) and [Ontario Regulation 631/98](#) have detailed sections that define exceptional hardship, and this legally limits what the Tribunal can consider. To fully understand these limitations, you should read the Act and the Regulation.

The Tribunal can only consider the exceptional hardship ground if this is the first time that your vehicle was impounded because it was being driven by someone with a [Criminal Code](#) conviction. This is true even if you did not appeal that previous impoundment.

Also, the legal definition of exceptional hardship means that inconvenience cannot be considered by the Tribunal.

For the exceptional hardship ground, you must first prove that you do not have an alternative to the impounded vehicle, and that you have looked at every reasonable option to carry on your daily activities without the impounded vehicle. This may include evidence such as:

- what you have done to find other ways to travel around without your impounded vehicle, or to find ways to live without any vehicle;
- if there are other vehicles that you or others living with you can use, such as vehicles you can borrow or rent when you need to;
- if public transportation is available for you to go where you need to go.

What evidence, other than the availability of alternatives to my vehicle, is relevant if I am trying to prove that the impoundment of my vehicle will result in exceptional hardship?

If you can prove that there is no available alternative to the impounded vehicle, then the Tribunal may consider how or why the impoundment has resulted in exceptional hardship. One reason would be that the impoundment will result in a threat to the health and safety of a person normally transported in the vehicle (one example of this is that important medical treatments have been missed), or that the impoundment will create a threat to the health and safety of the environment or property of the community.

Another reason would be that someone normally transported by the impounded vehicle (but not the suspended driver) will suffer an “immediate, significant and lasting” loss. This loss could be a financial or economic loss, the loss of employment, education or training, or the loss of an opportunity for employment, education or training. If there is just inconvenience caused by the impoundment, that cannot be considered by the Tribunal.

Where can I find more information about appealing the impoundment of my vehicle?

The Tribunal’s previous decisions may help you understand how appeals of impoundments are decided by the Tribunal. These decisions are available on-line at [CanLII](#) and on the [Tribunal's website](#).

Important Points

- Motor Vehicle Impoundments that the Tribunal has jurisdiction to hear are 45 days, 90 days, or 180 days in length.
- At least one of the four grounds of appeal must be proven for the appeal to succeed.
- The [Highway Traffic Act](#) and [Ontario Regulation 631/98](#) have detailed sections that define exceptional hardship, and that limit what the Tribunal can consider.
- An appeal of a motor vehicle impoundment must be received by the Tribunal, with the filing fee, no more than 15 days after the vehicle was impounded.
- Some impoundments of commercial vehicles or trailers, 15, 30 or 60 days in length, can be appealed to the Tribunal on the grounds stated in [section 50.3\(1\) of the Highway Traffic Act](#).

Other Sources of Useful Information

- Tribunal's Information Sheets
- Tribunal's Rules of Practice
- Frequently asked questions (FAQs) and other information at tribunalsontario.ca/lat

This information sheet is intended to provide general information to Appellants and other parties. It is not legal advice. To get legal advice, please consult a person licensed by the Law Society of Upper Canada (www.lsuc.on.ca).

Disponible en français

This Information Sheet may be found online at tribunalsontario.ca/lat