

PRACTICE DIRECTION – PRE-HEARINGS

INTRODUCTION

In an effort to increase the efficiency of the discipline process, promote procedural fairness and access to justice, the parties may make an application or the Chair of the Discipline (or Appeals) Tribunal may direct the parties to participate in a Pre-Hearing Conference (Pre-Hearing). The relevant Chair can also order a Pre-Hearing Conference.

AUTHORITY

Rule 7 – Rules of Practice

Sec. 5.3 - Statutory Powers and Procedures Act

PURPOSE

A Pre-Hearing Conference is a meeting held in advance of a contested hearing before one member, appointed by the Chair of the respective Tribunal . Once a pre-hearing has been directed, full participation is mandatory.

All discussions at a Pre-Hearing Conference are conducted on a without prejudice basis, meaning that nothing said will be disclosed to the Panel at the Hearing unless an agreement with respect to any of the issues or procedural directions result from the discussions. All Pre-Hearings are closed to the public.

The purpose of the Pre-Hearing is to reach a settlement of the matter, identify and narrow issues, seek agreement on certain facts or evidence, determine the amount of time required for a contested hearing, foster dialogue, facilitate the exchange of information and explore the advisability of other forms of resolution.

A Pre-Hearing is conducted via teleconference, video conference or in person as directed by the Pre-Hearing Conference Chair.

The member of the Tribunal who conducts a Pre-Hearing will, wherever possible, preside over any subsequent Pre-Hearings in the same matter.

The member of the Tribunal who conducted the Pre-Hearing Conference shall not be a member of the panel at a contested hearing.

At the end of the Pre-Hearing, an Order will be issued reflecting what has been accomplished.

The Order may address the following:

- The names of the parties and legal representatives who attended;
- Confirmation of the date, time and location of the hearing after canvassing availability with the parties;
- Disclosure of documents and timing of the delivery of any additional disclosure;

Should a settlement be reached, the parties shall then serve the proposed disposition, along with any written submissions to the Chair of the Discipline Tribunal , for consideration under Rule 1.07 of the Rules of Practice. The Chair will assign a 3-person Panel, who will review the settlement along with any written submissions. The Panel will either approve the settlement or schedule a full Hearing in order for a new Panel to consider the matter.