

Zoom Directives for Virtual Hearings at the Labour and Employment Board

I. GENERAL

In all matters where it is determined a hearing is required, the Labour and Employment Board (“Board”):

- a. may schedule one or more case management meetings before the Board proceeding;
- b. will conduct, in most cases, a pre-hearing conference by phone or via Zoom with the parties to set hearing dates, discuss the process and obtain the information necessary to ensure compliance with these directives, including the identification of all witnesses and documentary evidence, the latter of which is to be filed electronically, duly tabulated and sequentially paginated ten (10) calendar days before the hearing date. A staff member may be present during this conference;
- c. will, once initial documents are exchanged, encourage parties to attempt to resolve all issues;
- d. will encourage parties to consider proceeding by way of written submissions where possible;
- e. will encourage parties to use an Agreed Statement of Facts and a Joint Book of documents;
- f. may, approximately one week before the hearing, after all relevant documents are exchanged, require parties to enter into virtual mediation with a Board member not assigned to hear the matter on the merits.

II. VIRTUAL HEARING PROTOCOL

Zoom is the video conferencing program the Board uses to conduct online hearings, mediations, and informal settlement processes. If you have not used Zoom before, this document will help you prepare so you can participate fully in the Board proceeding. The Board reserves the right to adapt this Protocol as appropriate to promote the fairness and integrity of the Board proceeding.

Before the Proceeding

You must ensure that you are able to use Zoom to attend a Board proceeding. The following will provide parties with some assistance in preparing for the hearing:

1. Counsel or representatives shall ensure they and their witnesses have downloaded the most updated version of Zoom to the computer or device they will be using during the proceedings, and that they have taken appropriate steps to adequately test and familiarize themselves with the Zoom platform in advance of the Board proceeding.

2. All participants will require a computer with a functional video camera/webcam, headphones or alternatively microphone and speakers. You must ensure that you are able to see and hear the proceeding, and that you can be seen and heard by the other participants. If you don't have a computer or your computer does not have a video camera/webcam or microphone and you are unable to get one, you may use your mobile device (e.g. smart phone or tablet), however it is strongly recommended you use a computer.
3. A stable private internet access is required. Do not use public Wi-Fi to attend the proceeding.
4. Zoom must be installed on your computer or mobile device. You can download and install this program for free from Zoom's website (see Technical Considerations below).
5. Participants may join the audio portion of the Board proceeding using their computer, tablet or telephone (preferably a land line). In situations where a participant has limited bandwidth the Board recommends using a telephone to connect to the audio portion of the Board proceeding. Dial-in information will be circulated with the invitation/Notice of the Board proceeding.
6. You will need a private room where you can attend the proceeding. You must be alone when you participate in a Board proceeding unless an exception is granted by the Board, such as having witnesses present in the offices of their counsel/representative.
7. Make sure you have a means to communicate with the people in your party in case you have technical issues during the proceeding. This may mean that you keep the phone numbers of your party on hand. The Board will send you an invitation (meeting ID) and password to access the proceeding. For security purposes, do not share the meeting ID and password. If someone else wants to attend the proceeding, ask them to email the Board.

Joining the Proceeding

Ten minutes before a Board proceeding is scheduled to start:

1. Go to <https://zoom.us/join>.
2. Enter the meeting ID and click Join. You may have to wait a few minutes for the Board to start the online meeting. Once the online meeting starts, the Board will place you in an "online waiting room" until the proceeding is ready to start.

During the Proceeding

1. Participants cannot leave their computer during the proceeding, without the permission of the Board. Make sure you have everything you need, such as a glass of water or a phone in case you need to contact your party due to technical issues. Breaks will be scheduled as needed.

2. Remember that you must remain visible at all times. Please dress accordingly and attend the proceeding from an appropriate location with good lighting. You are not allowed to use a virtual background. Participants must be highly visible and appear against a neutral background, with head, shoulders and hands visible. Backlighting is not permitted, as it creates silhouettes.
3. You are to remain alone while you participate in the proceeding unless you have been granted an exemption.
4. The Board will conduct the proceeding and tell you when you will speak. Do not interrupt others and put yourself on mute when you are not speaking.
5. If you are not using your phone to call into the meeting, put your phone on silent.
6. The Board prohibits recording of proceedings. Do not record any part of the proceeding – this includes taking screen shots and recording conversations.

Technical Considerations

1. Make sure that the computer or mobile device that you are using to attend the proceeding has enough battery power or is plugged into a power source.
2. Prior to the proceeding, make sure your headphones or speakers and microphone work. Information on how to test your speakers and microphone can be found here:
<https://support.zoom.us/hc/en-us/articles/201362283-Testing-computer-or-deviceaudio>
3. Prior to the proceeding, make sure your video camera/webcam works. Instructions on how to test your video camera/webcam can be found here:
<https://support.zoom.us/hc/en-us/articles/201362313-How-Do-I-Test-My-Video->
4. If you have other technical questions or run into problems, go to Zoom’s help centre, which has useful information: <https://support.zoom.us/hc/en-us>.

Virtual Hearing Considerations

1. Counsel will be responsible to ensure that clients and witnesses have appropriate technology to allow for viewing of all participants and exhibits, that is compatible with Zoom, and that internet bandwidth is adequate.
2. The party calling a witness shall take reasonable steps to ensure that the witness is able to participate in the videoconference with one device and review exhibits on another.
3. Extra time may be expected and required to deal with technical issues as they arise.

4. Witnesses will be expected to show the contents of their desk or station and to affirm that all email, texting and other electronic communications systems are turned off, unless needed to testify at the hearing.
5. All submissions and documents will be exchanged electronically between the parties ten (10) days in advance of the hearing unless the Board orders otherwise. Participants will be asked to provide all documents ten (10) days prior to the hearing to the Board in PDF format appropriately tabulated and sequentially paginated.
6. Documents that are provided during the hearing will be submitted and exchanged by email and will be shared with all participants to be viewable on the screen during testimony.
7. The Board will administer affirmations by video unless the party leading the witness applies for, and is granted, an alternative method. Alternative methods must be proposed at least 48 hours prior to the hearing.
8. The proceeding shall not begin until the Board is satisfied that all necessary participants are adequately connected.
9. At the outset of the proceeding each participant shall identify any other persons present at the participant's location. Each participant has an ongoing obligation to alert the Board and other parties if any additional person joins.
10. Public access to video hearings will be available, either by video or audio as practicable, by making advance arrangements with the Board.
11. The Board may adjourn the proceeding at any time if it determines that the video format is not adequate or is prejudicial to any party or to the integrity of the proceeding.