



## PRACTICE DIRECTION

### IN-PERSON HEARINGS

All in-person hearings are cancelled until **December 31, 2020**, due to ongoing COVID-19-related restrictions at work sites of the Administrative Tribunals Support Service Canada (“ATSSC work sites”).

Any matters currently scheduled for hearing between the date of this notice and December 31, 2020, will proceed by way of virtual hearing (file hearing or videoconference [and/or teleconference] or a combination of both).

The Tribunal will reschedule all other matters that were scheduled to be heard after March 13, 2020, and have been adjourned due to the cancellation of in-person hearings. Those cases will proceed by way of virtual hearing (file hearing or videoconference [and/or teleconference] or a combination of both), unless otherwise determined by the Tribunal.

Any pending matters for which a hearing date has yet to be assigned will also proceed by way of virtual hearing, for as long as this Practice Direction remains in effect.

The Tribunal will confer with the parties in order to determine the optimal procedure for virtual hearings. The Tribunal retains the discretion in all circumstances to order the manner in which a virtual hearing will be conducted.

However, the Tribunal may, in its discretion, order that a matter be heard by way of in-person hearing, either on its own motion or if a party demonstrates that there are special circumstances which justify an in-person hearing. Any request by a party for an in-person hearing must be made to the Tribunal by way of motion demonstrating that special circumstances exist.

For example, special circumstances may arise if a party demonstrates that irreparable harm will be caused to the party, the merits of its case, or its ability to present that case, unless an in-person hearing is held. The agreement or consent of the parties that an in-person hearing is preferable or optimal does not constitute special circumstances. The Tribunal expects that special circumstances will be rare and exceptional. If the Tribunal determines that special circumstances exist, the in-person hearing will be scheduled by the Chairperson of the Tribunal, to be held on or after November 2, 2020, subject to the easing of the COVID-19 restrictions at ATSSC work sites.

If the Tribunal decides to hold an in-person hearing, it may, in its discretion, impose such conditions as may be required to ensure public health and safety, including that of the litigants, their counsel, witnesses, ATSSC Secretariat employees, and Tribunal members. Such measures will be determined in the exercise of the Tribunal’s sole discretion and may include, but are not limited to:



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- Limiting in-person attendance to those persons whose physical presence is deemed to be essential, in the sole discretion of the Tribunal
- Ordering in-person attendees to comply with all health and safety measures or other restrictions put in place at ATSSC work sites at all times
- Requiring nonessential attendees to participate by way of videoconference or teleconference

This Practice Direction is issued having regard to ongoing COVID-19 restrictions, including current public health guidance and the Tribunal's operational capacity. It will be reviewed periodically, as circumstances warrant, in the ongoing process of gradually resuming the Tribunal's ability to hold in-person hearings.

**July 21, 2020**

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