



Community Advocacy & Legal Centre

APPEALING TO THE SOCIAL BENEFITS TRIBUNAL

PG 1 OF 8

Updated: June 2016

[How can I appeal a decision to the Social Benefits Tribunal?](#)
[What do all these names mean?](#)
[What happens after I file my appeal?](#)
[What if the SBT refuses to order Interim Assistance?](#)
[What happens next?](#)
[When will my case be heard?](#)
[Do I need a lawyer at the hearing?](#)
[Is there anything else I should do to get ready for a hearing?](#)
[How can I get evidence in before the SBT?](#)
[The Social Benefits Tribunal Hearing - Important things to know](#)
[Who will be there?](#)
[What is the hearing room like?](#)
[What Happens at a Hearing?](#)
[How do I present my case?](#)
[What do I have to prove? How do I prove my case?](#)
[What do I do with my witnesses?](#)
[The Respondent's Case](#)
[Summarizing Your Case](#)
[When will the decision be made?](#)
[What if I disagree with the decision?](#)

How can I appeal a decision to the Social Benefits Tribunal?

Before you can file an appeal, you must object to the decision by sending a “request for internal review” to the decision-maker. If you are still denied after the Internal Review is completed, you can appeal to the Social Benefits Tribunal.

To find out more about the appeal process, visit the “Appeal and Hearing Process” page of the [Social Benefits Tribunal](#) website (<http://www.sjto.gov.on.ca/sbt/>) or go to the CLEO legal education website (www.cleo.on.ca) and view a copy of their pamphlet, “[Appeals and Internal Reviews](#).” You can get a copy of the [Appeal Form](#) from the Social Benefits Tribunal or from the legal clinic. We have attached a copy of a blank appeal form to this document.

What do all these names mean?

Appellant: You are called the Appellant as you are the one filing the appeal.

Respondent: The Respondent will either be Ontario Works (OW) (if you are appealing an Ontario Works decision) or the Ministry of Community and Social Services (if you are appealing the decision of the Ontario Disability Support Program (ODSP) office).

www.communitylegalcentre.ca

158 George Street, Level 1
Belleville, ON K8N 3H2
Tele: (613) 966 8686

Toll Free: 1 877 966 8686
Fax: (613) 966 6251
TTY: (613) 966 8714

Your community legal clinic

Case Presenting Officer (CPO): The person who represents the Respondent is called the CPO. Sometimes there will be a CPO at the hearing and sometimes not. S/he is responsible for responding to your case and may ask you and/or your witness(es) questions.

Social Benefits Tribunal (SBT): The Tribunal is separate from Ontario Works (OW) or ODSP. Your Appeals Resolution Officer works for the SBT. The Tribunal member who hears your appeal also works for the SBT but is appointed by the government.

Appeals Resolution Officer (ARO): This is the person assigned to your appeal once it is filed with the SBT. You should contact this person if you need interim assistance, if your interim assistance has expired and needs to be renewed, or if you have problems with the scheduled hearing date.

Interim Assistance: This is financial support that you can request while you wait for the SBT to make a decision about your appeal. You can ask for it on the original Appeal Form. If you lose your appeal, you will have to pay this money back.

Tribunal Member: This is the person who hears your appeal and makes the final decision in your case.

What happens after I file my appeal?

Within a month of filing your appeal, you should receive a letter from the SBT saying they have received your appeal. The letter will include the name of your ARO and a telephone number where s/he can be reached.

If you don't get this letter, you should call the SBT to make sure they did get your Appeal Form.

If you requested interim assistance, you should receive an Order for Interim Assistance in the mail. You should call the office you are dealing with (OW or Ministry) to ask when you can expect to receive the money. They should have received their own copy of the Order from the SBT.

Take special note of how long the Interim Assistance Order is for. You will have to renew it at least two weeks before it expires if your hearing has not yet been held or there has been no decision in your appeal. Contact your ARO to renew it.

What if the SBT refuses to order Interim Assistance?

You can contact your ARO to ask to have the decision reviewed. Or you can contact the legal clinic.

[Back to Top](#)



Community Advocacy & Legal Centre

APPEALING TO THE SOCIAL BENEFITS TRIBUNAL

PG 3 OF 8

What if the Social Services Department or the Ministry won't pay me the Interim Assistance?

You should contact your ARO to ask for help, or your Member of Provincial Parliament's (MPP) constituency office or the legal clinic.

What happens next?

You should get a package of materials from the Respondent. It is usually called the "Submission to the Tribunal". This package will include the reason for the decision under appeal, supporting documents and, usually, the legal position of the Respondent.

When will my case be heard?

Several months after filing your appeal, you should get a Notice of Hearing. This is very important! It sets out the date, time and place of your appeal hearing. If the legal clinic is representing you, you should call immediately to make sure they have also received a copy.

Do I need a lawyer at the hearing?

You do not need to have a lawyer at your hearing. However, if your case is complicated or you do not feel you have the skills to represent yourself, representation by a lawyer is a good idea.

Please contact the legal clinic for help. If we can't help you, we can provide you with referrals to other places where you might be able to get help.

[Back to Top](#)

www.communitylegalcentre.ca

158 George Street, Level 1
Belleville, ON K8N 3H2
Toll Free: 1 877 966 8686
Tele: (613) 966 8686
Fax: (613) 966 6251
TTY: (613) 966 8714

Your community legal clinic

Is there anything else I should do to get ready for a hearing?

It is a good idea to get a copy of your file with the Respondent. To request a copy of your file from the Respondent, [click here](#) for an example of a letter you could send.

If you have trouble getting a copy of your file, you can complain to the [Information and Privacy Commissioner](#) (1-800-387-0073).

Depending on the type of legal problem, sometimes you will find information of interest in the file, particularly in the caseworker's notes.

How can I get evidence in before the SBT?

Any documents that you want to file as evidence before your hearing have to be sent to your ARO at the SBT and to the Respondent's office.

Medical evidence must be filed 30 days before the hearing. (The form is available [online](#) on the SBT website.) Other evidence must be submitted 20 days before the hearing. If you do not file evidence before these deadlines, the SBT may refuse to accept your documents at the hearing. If the SBT member refuses to accept late evidence, you should ask for an adjournment.

The Social Benefits Tribunal Hearing - Important things to know

You should make sure you arrive a little early for your hearing. If you are late, the SBT could dismiss your appeal. If you are sick or the weather has prevented you from attending, you should make sure you have called your ARO.

If you do not attend your hearing, it will be dismissed. If your appeal is dismissed because you did not show up for your hearing you may not be able to appeal a similar decision for two years. Be sure you get legal advice if this has happened, as you may be able to ask for a "reconsideration" if there was a good reason why you missed the hearing.

The hearing will probably last between 1 and 1 ½ hours.

[Back to Top](#)

www.communitylegalcentre.ca

158 George Street, Level 1
Belleville, ON K8N 3H2
Tele: (613) 966 8686

Toll Free: 1 877 966 8686
Fax: (613) 966 6251
TTY: (613) 966 8714

Your community legal clinic

Who will be there?

The SBT sends one Tribunal member to hear your case and make the decision. The Respondent may send a Case Presenting Officer (CPO) to your hearing to represent it.

You can also bring any witnesses who can give evidence to the SBT, but you must give 20 days notice. It is a good idea to tell any potential witnesses about the issues for the hearing and make sure that the witness will tell the SBT important facts that will be helpful for your appeal. At the beginning of the hearing, all witnesses will be asked to leave the hearing room until they are called in to give evidence.

The Tribunal member usually allows you to have a family member or friend at the hearing for support. If the Tribunal member lets you have a friend or family member stay with you throughout the hearing, that person is not permitted to speak or give evidence to the Tribunal member.

What is the hearing room like?

A hearing takes place in the room written on your Notice of Hearing. It should be in your local community. There is a table in the room and everyone sits at the table with the Tribunal member at the head of the table. It is not as formal as a courtroom and there is not a court reporter. It is a private hearing. Hearings are tape recorded.

Hearings are held in community service agencies or hotel meeting rooms. If you cannot afford to travel to your hearing, you can ask the SBT for financial assistance. If you are too ill to leave your home, hearings can be held over the phone or by video conference. However, we recommend attending the hearing in person whenever possible.

What Happens at a Hearing?

Introductions

At the beginning of the hearing, the Tribunal member will introduce him or herself and ask for the names of all the people at the hearing. The member will confirm the mailing address where the decision about your appeal should be sent.

Next, the Tribunal member may give you a brief description of the SBT's role and that it is separate from the OW or ODSP office. Usually, the SBT member will then make sure that s/he has all of the documents sent to the SBT by you and by the OW or ODSP office.

The Tribunal member will ask you to swear an oath to tell the truth or affirm.

[Back to Top](#)

Preliminary Matters

The Tribunal member will deal with any “preliminary matters.” For example, if you are asking for an adjournment, do this now.

If you have additional medical documents that you were unable to submit 30 days before the hearing or other documents that you were unable to submit 20 days before the hearing, you should tell the Tribunal member now.

How do I present my case?

After the preliminary matters are over, the Tribunal member will want to hear from you and your witnesses.

What do I have to prove? How do I prove my case?

You must prove that the decision of the Respondent affecting your benefits was wrong.

The main part of the hearing will involve you giving evidence about why you believe that the decision of the Respondent was wrong. You can refer to the documents you sent to the SBT and Respondent and explain how they show the decision was wrong. You can give testimony about what really happened.

Before the hearing it is a good idea to prepare a brief written outline of the things you want to talk about during your hearing. This will help you make sure you don't miss any important facts because you were nervous. Long written notes that you read out at the hearing is not a good idea. Also, the Tribunal member may not let you read your notes as evidence and your evidence may not be very convincing if simply read. It is best to keep your notes very short and in point form. You can check them off once you have covered them.

After you are finished giving your evidence, the Tribunal member may ask you some questions. If the CPO is at the hearing, s/he may ask you some questions. You should tell the Tribunal member if you do not understand the question being asked. Don't worry if it takes you a moment to think about the answer to a question. If you do not know the answer to a question, tell the Tribunal member that you do not know the answer.

[Back to Top](#)

What do I do with my witnesses?

If you have a friend or family member who can give evidence about why the Respondent's decision is wrong, s/he may be called as a witness. It is a good idea that your witness knows what the issues are for the hearing and make sure you know what evidence s/he is to provide to the Tribunal. It is a good idea to ask any potential witnesses what they would say at a hearing and decide if that evidence is really needed for your appeal.

The Respondent's Case

After you are finished presenting your case, the CPO will have a chance to tell the SBT why the Respondent's decision was correct. Usually the CPO will refer to the Submission filed with the SBT by the Respondent. The CPO can call witnesses, but this does not happen very often.

The Respondent may not send a CPO to the hearing. In that case, the Tribunal member will refer to the Respondent's Written Submission when s/he makes a decision about your appeal.

Summarizing Your Case

Before the hearing ends, you will have a chance to summarize your case and to briefly tell the Tribunal member why you think the Respondent's decision was wrong. It is helpful to have made up notes beforehand of your important points. Again, it is not a good idea to read out long written notes.

When you are done with your summary, the CPO (if there is one) will also have a chance to summarize why the Respondent's decision was correct.

When will the decision be made?

The Tribunal member does not give you a decision at your hearing. Instead, s/he has 60 days to write the decision which will be sent to you by mail.

[Back to Top](#)



Community Advocacy & Legal Centre

APPEALING TO THE SOCIAL BENEFITS TRIBUNAL

Pg 8 of 8

What if I disagree with the decision?

You can ask for a "reconsideration" or appeal your case to the Divisional Court. You should get legal advice for this step. Time limitations apply so make sure you contact the clinic quickly! All "reconsideration" or appeal papers have to be filed within 30 days.

[Back to Top](#)

*(This tip sheet was adapted from materials originally created by the Grey-Bruce and Mississauga Legal Clinics. It has been revised by CALC and updated to June 2016.)

www.communitylegalcentre.ca

158 George Street, Level 1 Toll Free: 1 877 966 8686
Belleville, ON K8N 3H2 Fax: (613) 966 6251
Tele: (613) 966 8686 TTY: (613) 966 8714

Your community legal clinic

Date: _____

BY FAX

Ontario Works / Ontario Disability Office
(insert full address)

Attention: Records Clerk

Dear Sir/Madam:

RE: ACCESS TO PERSONAL INFORMATION
YOUR NAME – YOUR DATE OF BIRTH OR YOUR FILE NUMBER

I am writing to request a copy of my file with your Department for the period from
_____ to _____.

I appreciate your time and assistance. Please do not hesitate to contact me if you have any questions.

Yours truly,

Your name
Your address and phone number



Social Justice Tribunals Ontario

Providing fair and accessible dispute resolution

Social Benefits Tribunal

Appeal Form

Questions?

Toronto:
(416) 326-0978

Outside Toronto:
1-800-753-3895

Fax:
(416) 326-5135

Mail to:
Registrar
Social Benefits Tribunal
1075 Bay Street, 7th floor
Toronto, ON
M5S 2B1

Please attach copies of the following to this form:

- the original **Notice of Decision**
- your **request for an internal review** and
- the **Internal review decision** (if you received one).

Disponible en français.

Office Use Only

File number _____

Date post-marked _____

Before you can appeal to the Tribunal, you must request an internal review by the office that made the original decision. No appeal may be filed more than one year after the final decision.

1. General Information

Mr Mrs Ms Miss

Last Name

First Name

Address

Apartment Telephone

City Postal Code

DD MM YYYY
 - -

When were you born?

Which office do you deal with?

Ontario Works office Ontario Disability office

Member / Case ID

Office name

Office address

Case worker's name

Case worker's telephone

If you did not request internal review, you may not appeal to the Tribunal.

2. Internal Review

What is the date of your original Notice of Decision? DD MM YYYY
 - -

When did you make your request for an internal review? DD MM YYYY
 - -

Did you receive an internal review decision?

Yes No

Important: If you do not attend your hearing and fail to provide a reasonable explanation for your absence, your appeal will be denied. In addition, you will not be allowed to appeal a subsequent decision on the same issue for two years.

The Social Benefits Tribunal does not have the authority to review all social assistance decisions. We will advise you in writing of the reasons if your appeal cannot be heard.

You must file your appeal within 30 days of the end of the internal review period. If you do not do so, you must explain why you were late filing. The Tribunal may extend the 30 day time limit for filing this appeal, up to 1 year, if it is satisfied that there is a reasonable explanation for the delay.

3. Your Reasons for Appealing

What are you appealing?

- Ontario Works
 Ontario Disability Support Program (disability, seniors or children with severe disabilities)

Why are you appealing? Check **all** the boxes that apply to you.

- I was refused assistance.
 My assistance has been cancelled.
- My assistance has been reduced.
 My assistance is on hold.
- I have an overpayment.
 They say I am not disabled.
- The amount of my assistance is wrong.

What is the effective date of the decision you are appealing?

DD MM YYYY

— —

You **must** explain **what** you disagree with in the original decision and **why**.

Use the space below and attach additional pages if necessary.

Will you need any of the following services at the hearing?

- Interpreter: Language Dialect
- Sign language interpreter Physical or other accommodation to participate in the hearing. Please specify.

Signature _____

DD MM YYYY

— —

The Social Benefits Tribunal collects the personal information requested on this form under the *Ontario Works Act, 1997* or the *Ontario Disability Support Program Act, 1997*. It will be used for the purpose of conducting the appeal and will be shared with the respondent. If you have any questions, please contact the FIPP representative at the Tribunal at 1-800-753-3895.

Print Form

Interim assistance is financial help you may be eligible to receive while waiting for your appeal to be concluded.

The Tribunal may order that you receive interim assistance if you will experience financial hardship as a result of the original decision made by your local office. To assess your request for interim assistance, the Tribunal requires detailed financial information.

You will be notified in writing of the Tribunal's decision regarding interim assistance.

Note: If you lose your appeal, your interim assistance shall be assessed as an overpayment.

4. Application for Interim Assistance

Describe your household. How many people, including yourself, have you applied on behalf of?

Adults

Children

Check the box beside those sentences that best describe your situation

- I am looking for work. I am in an employment assistance program.
- I am attending school Full-time Part-time
- High School College University Other.
- I am under 18 and cannot live at home.
- I am working, but earn less than the Ontario Works entitlement.

Are you receiving any money at all?

If you live with your spouse, is he/she receiving any money?

If you or your spouse are receiving money, please provide details of your household income below. Include the amount you receive, when you last received it and how often it and how often you receive this income.

| Type of Income | Amount | Date Last Received | Weekly, Monthly, or Other (Specify) |
|--|-----------------|---------------------|-------------------------------------|
| Example: Income A | \$100.00 | June 1, 2011 | Monthly |
| Earnings from a job | | | |
| Vacation pay | | | |
| Ontario Works (OW) | | | |
| Ontario Disability Support Program (ODSP) | | | |
| Workplace Safety & Insurance Benefits (WSIB) | | | |
| Employment Insurance | | | |
| Canada Pension Plan | | | |
| Disability insurance (other than CPP, WSIB) | | | |
| Support payments | | | |
| Trust fund income | | | |
| Ontario Student Assistance Plan (OSAP) | | | |
| Rental/boarder income | | | |
| Borrowed money | | | |
| Foreign Pension | | | |
| Self-employment earnings | | | |
| Other 1 - | | | |
| Other 2 - | | | |

Will you be receiving any money next month that you have not already listed?

What type?

Amount

Provide the details below of the assets you or any member of your household have.

| | |
|--|--|
| Bank accounts (personal and business) | |
| Stocks, bonds, GICs | |
| RSPs | |
| Land and property other than your home | |
| Other - | |

How much money do you pay each month for:

| | |
|----------------|--|
| Rent | |
| Mortgage | |
| Property taxes | |
| Room and board | |
| Heat | |
| Electricity | |
| Water | |
| Food | |
| Other - | |

Are you behind in any of your payments or unable to pay these expenses?

Yes

What expenses have you been late paying or unable to pay?

No

Have you received an eviction notice or notice your electricity or other service will be shut off?

Yes

Provide details:

No

Please provide any additional information that you feel the Tribunal should know regarding your financial circumstances.

Signature _____

DD

—

MM

—

YYYY

The Social Benefits Tribunal collects the personal information requested on this form under the *Ontario Works Act, 1997* or the *Ontario Disability Support Program Act, 1997*. It will be used for the purpose of conducting the appeal and will be shared with the respondent. If you have any questions, please contact the FIPP representative at the Tribunal at 1-800-753-3895.

Print Form