

The hearing

Once the file is complete, the Tribunal schedules a hearing date. If you have a serious reason that prevents you from being present on this date, you can ask the Tribunal to change it.

The process before the Tribunal

- The plaintiff and the defendant present their cases one after the other before a panel of 3 members of the Tribunal (1 judge and 2 assessors);
- First, the plaintiff presents his arguments and evidence. He questions his witness(es), if he has any;
- Then, the defendant has the opportunity to be heard. It is his turn to present his arguments, evidence and witness(es).

Each party:

- Has the opportunity to sufficiently explain its point of view, present its evidence and have its witness(es) heard;
- May be represented by a lawyer, but this is not mandatory.

The decision of the Tribunal

The Tribunal may rule in favour of the plaintiff. The Tribunal can, for example:

- Order the defendant to reimburse the financial losses incurred by the plaintiff;
- Order the defendant to pay a sum of money to the plaintiff to compensate him for the inconveniences and psychological damage suffered;
- Order the defendant to hire the plaintiff, or to sign a lease or other contract with the plaintiff.

The Tribunal may also decide to reject the application if it finds that:

- The evidence was insufficient or incomplete;
- There was no discrimination, harassment, exploitation, etc.

The Tribunal always explains its decision.

Appeal

If you believe that the Tribunal made mistakes in its decision, you have 30 days to ask the Québec Court of Appeal for permission to go before it and submit your arguments.

What about witnesses?

Whether you are plaintiff or defendant, to call witnesses to the hearing, you must:

- Indicate in your brief that you will have someone, or several people, testifying on your behalf;
- Call these people to act as witness(es) using a subpoena (a summons to testify) delivered by a bailiff;
- Make sure that they receive the subpoena at least 10 days before the date on which they will be required to testify.

After the Commission: the Tribunal

You have filed a complaint (plaintiff) or have been the subject of a complaint (defendant) before the *Commission des droits de la personne et des droits de la jeunesse* (Commission).

The Commission has conducted an investigation and has come to a decision. You are informed of this decision in a letter. If the letter you have received from the Commission indicates that your file may be brought before the Tribunal, the Commission can either:

- Take charge of your file and bring it before the Tribunal;

OR

- Withdraw itself from your file. If certain conditions are met, you can pursue the process on your own before the Tribunal. You can choose to represent yourself or to be represented by a lawyer.

You want to bring your application before the Tribunal

Plaintiff

You have 90 days from the date on which you receive the letter from the Commission to apply to the Tribunal. Your application to the Tribunal is, in some respects, the continuation of your complaint. This application must contain two documents:

- An application to institute proceedings (*filed no later than 90 days after receiving the letter from the Commission*);

AND

- A brief (*filed no later than 15 days after the application to institute proceedings*).

You can communicate with the Commission in order to receive a copy of your file.

Find answers to your questions

Do you have further questions about the Tribunal?

Consult our website at:

www.tribunaux.qc.ca/mjq_en/TDP/index-tdp.html

Are you searching for general legal information about human rights?

- Commission des droits de la personne et des droits de la jeunesse

www.cdpcj.qc.ca/en/home.asp

- Éducaloi – Le carrefour d'accès au droit

www.educaloi.qc.ca/en/



TRIBUNAL DES DROITS
DE LA PERSONNE

This document, prepared by the Human Rights Tribunal, is intended as a tool to meet practical needs. It has no legal value. This text is intended to be gender-neutral.

The Human Rights Tribunal

How to assert your rights



TRIBUNAL DES DROITS
DE LA PERSONNE

About the Tribunal

The Human Rights Tribunal of Québec (Tribunal) was created under the Québec *Charter of Human Rights and Freedoms* (the Charter), which contains a number of important rights. The Tribunal renders decisions with respect to three general categories of rights:

- **Discrimination and discriminatory harassment**

The Charter prohibits discrimination or harassment against a person or a group on the basis of certain characteristics, namely, race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, handicap or the use of any means to palliate a handicap.

- **Exploitation of aged or handicapped persons**

The Charter provides specific protection to aged or handicapped persons against any form of exploitation, whether financial, psychological, moral, sexual, material, etc.

- **Affirmative action programs**

The Charter foresees the establishment of programs with the goal of remedying the situation of persons or groups who have historically been discriminated against in the employment, education or health sectors.

THE MAIN STAGES OF A FILE

Application to institute proceedings filed by the plaintiff

(no later than 90 days after receiving the Commission's letter)

Plaintiff's brief

(15 days after the application to the Tribunal)

Defendant's brief

(not mandatory – 30 days after receiving the plaintiff's brief)

Hearing

The Tribunal hears cases in all of the judicial districts of Québec.

Decision of the Tribunal

Appeal with leave (permission)

30 days after the Tribunal's decision

Mandatory →

Not mandatory - - →

The application to institute proceedings

What is it?

The application to institute proceedings is a short document that explains the facts, the acts committed against you by the person or organization named in your complaint, and the solutions that you are seeking. This document must also contain:

- Your name and address;
- The names and addresses of the parties that you are suing (e.g. defendant);

AND

- The date on which you filed your complaint with the Commission;
- The date on which you received the letter of the Commission.

What do I need to attach to it?

You must attach to your application a copy of the letter in which the Commission informs you of the possibility to appear before the Tribunal.

How and to whom do I send it?

You must file your application at the office (known as the *greffe*) of the Court of Québec in the judicial district where the defendant lives or has its principal business establishment (e.g. head office). Your application will be heard in the courthouse of that district.

You will then need to “serve” the application upon each of the parties sued. “Service” is the act of officially transmitting them a copy of your proceedings.

It is important to keep the document that proves that each person sued in the application has received it.

The plaintiff's brief

Once you have filed your application to institute proceedings, you have 15 days to file a second document to the office of the Court of Québec. This document is called the “brief”.

What is it?

This document is more detailed than the first, explaining to the Tribunal the main aspects of your file and why you think you are right. The brief must contain:

- The facts (what happened);
- The questions of law at issue (the questions that the Tribunal must answer);
- Your arguments (why you believe that you were discriminated against, harassed, etc.);
- A list of the evidence that you intend to bring to the hearing (documents, forms, written testimony, photos, videos, letters, e-mail correspondence, etc.);
- The solutions that you are seeking (sum of money, reinstatement in your former job, etc.);
- Expert reports, if necessary (e.g. medical expertise, social science expertise on the workforce, etc.);
- The number of witnesses and the estimated time needed to hear each of their testimonies;
- The laws, court decisions and/or legal texts that support your position. You can find some of the Tribunal's decisions at: <http://www.jugements.qc.ca/traductions/index.php>.

How and to whom do I send the brief?

Unlike the application, you do not need to serve your brief to the other parties. The Tribunal will do it for you.

Someone filed a lawsuit against you before the Tribunal

Defendant

You have received the plaintiff's application to institute proceedings and the plaintiff's brief. It is up to you to decide whether or not to file your own brief to explain to the Tribunal the main elements of the file from your perspective. You can choose to represent yourself or to be represented by a lawyer.

The defendant's brief

If you decide that you want to file your own brief, you must do so within 30 days of receiving the plaintiff's brief. You must file your brief at the office of the Court of Québec in the same judicial district. It must contain the same particulars as the plaintiff's brief. The Tribunal will send your brief to the other parties.

Your documents

Whether you are plaintiff or defendant:

- All documents must be written on one side of a 8.5 x 11 inches (standard) paper and have a backing;
- Remember to number each of the paragraphs in your documents;
- Remember to sign each of the documents that you are filing (application to institute proceedings, brief, etc.);
- You must produce 5 copies (1 original and 4 photocopies) of each of your documents. You must also produce a number of additional copies of your documents that corresponds to the number of parties involved in your file.

In order to assist you, the Tribunal has provided sample documents on its website: www.tribunaux.qc.ca/mjq_en/TDP/index-tdp.html