

THE HEARING

Once the file is complete, the Tribunal schedules a trial date.

If you have a serious reason that prevents you from being present on this date, you can file an *Application for Postponement of a Hearing* (s. 122 of the Charter and s. 49 of the Regulation). An application for postponement form is available on the Tribunal's website.

The process before the Tribunal

- The hearing takes place 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, it is the defendant's turn to present his arguments, evidence and witness(es).

Each party:

- Has the opportunity to explain their point of view, present their evidence and have their witness(es) heard;
- Cross-examine the other party's witness(es);
- May be represented by a lawyer. This is not mandatory.

THE DECISION OF THE TRIBUNAL

The Tribunal may rule in favour of the plaintiff (s. 49 of the Charter). 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 in compensation for the inconveniences and psychological damage suffered;
- Order the defendant to hire the plaintiff or to sign a lease or contract with him.

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

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

The Tribunal can also condemn the plaintiff or the defendant to the costs or decide that each party pay their own costs (s. 126 of the Charter).

WHAT ABOUT WITNESSES?



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

- Call these people to act as witnesses using a subpoena (a summons to testify) delivered by a bailiff;
- Make sure that the witnesses receive the subpoena at least 10 days before the date on which they are required to testify (s. 39 of the Regulation).

AFTER THE COMMISSION: THE TRIBUNAL

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

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

- Take charge of the plaintiff's file and bring it before the Tribunal (s. 111 of the Charter);

OR

- Withdraw itself from the file. The plaintiff can then pursue the process before the Tribunal. In such a case, the plaintiff can represent himself or be represented by a lawyer (s. 84 of the Charter).

YOU WANT TO BRING YOUR APPLICATION BEFORE THE TRIBUNAL

Plaintiff

You have 90 days from the date you received the letter and the resolution from the Commission to apply to the Tribunal (s. 84 of the Charter). Your application is, in some respect, the continuation of your complaint.

This application must contain two procedures:

- An Application to Institute Proceedings (filed no later than 90 days after you received the letter from the Commission);

AND

- A Factum (filed no later than 15 days after you filed the Application to Institute Proceedings).

YOU CAN CONTACT THE COMMISSION IN ORDER TO RECEIVE A COPY OF YOUR FILE.

The Human Rights Tribunal

HOW TO ASSERT YOUR RIGHTS

TDP

Do you have further questions about the Tribunal?

Consult our website at:
<https://tribunaldesdroitsdelapersonne.ca>

Procedural forms are available on the Tribunal's website.

Are you searching for general information about Human Rights?

- Commission des droits de la personne et des droits de la jeunesse: www.cdpedj.qc.ca
- Éducaloi: www.educaloi.qc.ca

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 and resolution (s. 84 and 114 of the Charter)

Plaintiff's Factum

Filed at the same time as the Application to Institute Proceedings or, at the latest, 15 days later (s. 115 of the Charter)

Defendant's Factum

Not mandatory - File 30 days after receiving the plaintiff's factum (s. 115 of the Charter)

Hearing

The Tribunal hears cases in all of the judicial districts of Québec (s. 119 of the Charter)

Decision of the Tribunal (judgment)

Appeal with leave - Court of Appeal

At the latest, 30 days from the date of the notice of the Tribunal's judgment (s. 132-133 of the Charter and 360 of the Code of civil procedure)

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 allegedly committed against you by the person or organization named in your complaint, and the conclusions that you are seeking. According to sections 13 and 14 of the Regulation, this document must also contain:

- Your name, address, telephone and E-mail;
- The name and address of the parties 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 and the resolution from the Commission.

What do I need to attach to it?

You must attach a copy of the letter and the resolution in which the Commission informs you of the possibility to submit an application to the Tribunal (s. 14 of the Regulation).

How and to whom do I send it?

You must file your application at the office of the Court of Québec (known as the *greffe*) in the judicial district where the defendant lives or has its principal business establishment (e.g. head office) (s. 114 of the Charter).

Your application will be heard in the courthouse of that district (s. 119 of the Charter). To find the judicial district in which a municipality is located: <https://www.justice.gouv.qc.ca/en/join-us/search-for-judicial-district>

You will then need to serve by court bailiff the application upon each of the parties sued. Service is the act of transmitting them a copy of your proceedings. Proof that the application was served to all parties must be filed at the office of the Court of Québec.

THE PLAINTIFF'S FACTUM

You need to file a second document at the office of the Court of Québec: the "Plaintiff's Factum" (s. 115 of the Charter).

What is it?

This document is more detailed than the Application to Institute Proceedings. It explains to the Tribunal the main aspects of your file and why you think you are right.

According to section 16 of the Regulation, it 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 (e.g. documents, forms, written testimonies, photos, videos, letters, e-mail correspondence, etc.);
- The conclusions that you are seeking (e.g. amount of money, reinstatement in your former job, excuse letter, 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.

SOMEONE FILED A LAWSUIT AGAINST YOU BEFORE THE TRIBUNAL

Defendant

You have received the Application to Institute Proceedings and the Plaintiff's Factum. It is up to you to decide whether or not to file your own Factum to explain to the Tribunal the main elements of the file from your perspective. You can choose to be represented by a lawyer or to represent yourself.

Defendant's Factum

If you decide to file your own Factum, you must do so with the office of the Court of Québec within 30 days of receiving the Plaintiff's Factum (s. 115 of the Charter and s. 18 of the Regulation). Your Factum must contain the same elements as the Plaintiff's Factum (s. 16 of the Regulation). The Tribunal will send your Factum to the other parties.

YOUR PROCEDURES

Whether you are a plaintiff or a defendant:

- All procedures must be written on one side of a 8½ x 11 inches (standard) paper and have a back. Remember to number each of the paragraphs in your documents (s. 21 and 25 of the Regulation);
- Remember to sign each of the procedures that you are filing (*Application to Introduce Proceedings*, *Factum*, etc.) (s. 24 of the Regulation);
- You must file 5 copies of each of your procedures. You must also file an additional copy for every party involved in your file (s. 29 of the Regulation).

In order to assist you, the Tribunal has provided procedural forms on its website:

<https://tribunaldesdroitsdelapersonne.ca>