

HEARING SUMMARY

INTRODUCTION

A hearing summary is a written record of Board proceedings. The record is a short-form summary of what has occurred during a hearing. The presiding Chair or Vice-Chair records the summary. For a sample of a hearing summary.

This policy describes:

- the purpose of a hearing summary;
- the contents of a hearing summary; and
- responsibility for its preparation.

PURPOSE

The hearing summary is the chief record of proceedings before the Board. Without a summary there is no internal record of what occurred at a hearing. Approved hearing summaries are filed on the Board process file and become a permanent record.

Copies of the signed hearing summary will be provided to parties if they ask for them. No hearing summary is to be given out until it is checked and signed by the Chair or Vice-Chair. All summaries given out must include the cautionary note now printed at the end of each summary.

This hearing summary is a brief summary of the Board's proceedings compiled by the presiding Chair or Vice-Chair. It is compiled for convenience only. It is not a verbatim transcript nor is it the formal record of the Board's decision. The presiding Chair or Vice-Chair's signature only confirms the accuracy of the summary—it does not replace the Board's written confirmation of any decision or order.

A letter confirming the results of the hearing or written reasons for decision must be sent to the parties. The Director of Settlement, the Manager of Settlement, or the presiding Chair or Vice-Chair writes the letter. The Chair or Vice-Chair writes the written reasons for decision. A properly prepared summary allows the writer to accurately confirm the decision or directive made at the hearing.

Board policy is to not allow court reporting, taping or videotaping of proceedings, except in exceptional circumstances. If a Board panel approves the recording of a proceeding, the party initiating the request must bear the full cost, including providing full transcripts to all parties. Transcripts provided are used at the panel's discretion. Record in the hearing summary any panel decision that allows the outside recording of proceedings.

A party dissatisfied with a Board decision may challenge it in Court. Section 19 of the [Code](#) allows for judicial review of Board decisions. See: [[Judicial Review, Chapter 36](#)]. One of the main grounds for overturning Board decisions is that the Board breached the rules of natural justice. Natural justice requires fair treatment of parties.

The rules of natural justice apply to many aspects of Board hearings. Parties must receive adequate notice of the hearing. They must have the opportunity to be heard. There should be no bias or appearance of bias. The parties have the right to present evidence, cross-examine opposing witnesses and argue their case.

The hearing summary forms part of the material before the Court on a judicial review application. A properly prepared summary assists the Judge in determining the fairness of the Board proceedings. Board members' notes are personal and are not filed with the Court. The summary may well be the only official record of what happened in a hearing that a reviewing Judge sees.

CONTENT

Preliminary Matters

It is not uncommon for parties to raise preliminary objections at the outset of the hearing. Record in detail the nature of such objections and any rulings by the Board. If the Board reserves its decision, note that fact. Preliminary objections may include arguments that:

- particular Board members should not sit as panel members;
- the Board has no jurisdiction under the [Code](#) to hear the matter; and
- the matter has been settled by the parties or decided by the Board.

Record disputes about whether a party has been given adequate notice of the hearing. Note any parties that are not represented at the hearing even though they have been given prior notice. Summarize any requests by a non-party to be given intervenor status.

Evidence

At the outset of the hearing, the parties are normally asked to provide a brief description of the evidence they are calling and their position on how the case should be decided.

Following opening statements, the Board hears the evidence of the parties. Witnesses testify under oath. See: [[Oaths, Chapter 34\(b\)\(iii\)](#)].

Identify any exhibits (by number) that are entered into evidence through a witness.

Adjournment

Record any application by a party for an adjournment of the proceedings. This applies no matter what stage of the hearing the request occurs. Always note the reasons stated for the adjournment request, along with the Board ruling.

Exhibits

At the end of the hearing record, compile a summary of all exhibits entered during the hearing. For details on recording and controlling exhibits see: [[Clerking Procedures, Chapter 34\(b\)\(i\)](#)].

Argument

Following the conclusion of evidence, the parties argue their case. Argument normally proceeds in the same order as the evidence.

Disposition

Following evidence and final argument, the Board will commence on the disposition of the case. The Board may decide the issue then or it may reserve its decision. In some situations, the hearing will not end that day and arrangements will be made for it to be continued on some future date.

If the Board gives an oral decision at the end of the hearing, fully describe that ruling. For details on recording oral decisions see: [[Oral Decisions, Chapter 34 \(c\)\(i\)](#)]. The recorded decision summary may be relied on for preparing a letter to the parties.

Because of the urgency of a matter, the Board may decide to issue an oral decision, with written reasons to follow. Again, record in detail the decision given at the hearing. Note that written reasons are to be issued in the future. If the Board reserves its decision, indicate whether written reasons are to follow or the decision is to be delivered orally. The Hearing Co-ordinator notes any time commitments the Board makes for release of its decision in the database.

RESPONSIBILITY FOR HEARING SUMMARIES

The presiding Chair or Vice-chair is responsible for recording and verifying the contents of the hearing summary. The original, signed summary is entered as a supporting document and filed in the process file.