



MANITOBA LABOUR BOARD

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GUIDELINES FOR A VIDEOCONFERENCING HEARING

These guidelines address videoconference hearings conducted by the Manitoba Labour Board. They are intended to assist the Board and the parties that appear before it, to supplement the existing Rules of Procedure that would otherwise govern the proceeding.

These guidelines do not address the issue of whether a matter should proceed by way of videoconference over the objection of another party. The suitability of a videoconference hearing will be addressed in advance at a case management conference.

In these Guidelines, “parties” refers to any named party to a proceeding. “Participant” refers to any individual who may attend the hearing, including any witness or observer.

GENERAL

Nothing in these Guidelines affects any power the Board has under legislation or regulation.

TECHNOLOGICAL REQUIREMENTS

Platform: The Board requires all participants to the proceeding to use the Microsoft Teams platform. The link to the hearing will be provided in advance. The parties and participants must ensure that they have the necessary software downloaded.

Equipment: Each participant in the proceeding is required to use compatible equipment (e.g., laptop, tablet, desktop computer, webcam, headphones) with the Microsoft Teams platform. Each participant is responsible for ensuring the compatibility and functioning of their equipment and that the location from which they will participate has adequate internet bandwidth to support the use of the Microsoft Teams platform without interruption.

The participants will need to have access to a camera, microphone and speaker on their device. In general, while laptops or equivalent are preferable to cell phones for purposes of being able to see counsel or witnesses, it is recognized that in some cases laptops or equivalent may not be available. Parties are responsible for using best efforts to make satisfactory arrangements with respect to their witnesses and any individual appearing before the Board.

The use of a headset or headphones in lieu of external speakers, is recommended to avoid reverberation and reduce ambient noise.

Participants must locate their webcams so that the participant appears well lit, against a neutral and not-distracting background, with only head and shoulders visible.



Test Session: Participants are encouraged to participate in an orientation in advance of the hearing with a Labour Board representative to familiarize themselves with the Microsoft Teams platform and ensure that their equipment is compatible and functioning. In the test session, participants will be advised of all technical features that will be employed during the hearing.

Witnesses: The party calling a witness shall take reasonable steps to ensure that the witness is able to participate in the videoconference hearing. Counsel for the party calling the witness shall ensure that they are adequately familiarized and prepared for the proceeding, and that they have the necessary equipment with adequate internet bandwidth to support the use of the Microsoft Teams platform without interruption.

REQUIREMENTS PRIOR TO THE PROCEEDING

Documents: Document management is critical to the success of videoconferencing procedures. The parties must file with the Board, and provide to each other, all documents upon which they intend to rely 5 business days in advance of the hearing.

The pages of the documents submitted should be sequentially numbered and include a table of contents that identifies the name of the document and its page numbers. It is the Board's preference that all documents be submitted in .pdf format. Parties unable to provide .pdfs should contact the Board officer well in advance of the submission deadline.

Parties are strongly encouraged to agree on a set of joint exhibits or agreed upon documents.

If the parties are unable to agree upon some or all of the documents upon which they intend to rely, they will each be required to submit those documents separately to the Board and all other parties.

The Board officer will collate all submitted documents and provide electronic copies to the parties in advance of the hearing.

Before the hearing, the party calling a witness shall provide them with a clean, unannotated hard copy set of exhibits to be referred to during the witness' evidence.

Exchanging documents on the hearing day should be avoided, to the extent possible.

Redacting documents: Any confidential information on documents (e.g. personal identifiers, Social Security numbers, and protected health information) shall be scrubbed by the party relying on the document, unless that information is relevant to the proceeding.

REQUIREMENTS DURING THE PROCEEDING:

Advance Log-On: All participants shall log on to the platform at least 10 minutes in advance of the scheduled start time of the proceeding. The proceeding shall not begin until the Board has satisfied itself that all necessary participants are adequately connected to the Microsoft Teams platform.

Disclosure of Participants: At the outset of the proceeding, each participant shall identify any other persons present at the participant's location. Each party has an ongoing obligation to alert the Board and other participants if any additional persons join the conference, and shall represent at the beginning and end of each session that the party has fully disclosed all persons who have or had access to the proceeding or any portion of it. Where possible, the participant's location shall be clear of distracting audio such as pets, family members and traffic sounds.

It is recommended that each party announces the individuals present upon continuing proceedings after each break in the proceedings.

Hearing Participants: Only authorized participants will have access to the hearing. Parties who wish to have others observe the hearing (who will not be participating as a witness), should inform the Board officer in advance. Participants will wait in the virtual lobby until granted access by the Board officer. As a default, participants will be asked to keep their microphones on "mute" unless and until they wish to speak.

Public Access: Media and members of the public may observe the Board's virtual hearings. A member of the media or public who wishes to observe a hearing must contact the Registrar of the Board at least two business days in advance of the hearing, indicating their name, email address and the hearing they wish to listen to. The Registrar will provide the requestor with information on how to listen to the proceeding. Requests received less than two business days in advance of the teleconference hearing may not be able to be accommodated. Members of the public will need to be muted in all virtual hearings. They will be able to listen and view the Panel and the Party making submissions.

Hearing Etiquette: All participants who are not actively being questioned as a witness, asking questions of a witness, defending a witness, or providing or responding to opening statements, closing arguments, or other arguments, shall maintain their audio on mute to limit potential interruptions. Those observing the hearing shall disable their video camera at the request of the Board.

In the Test Session the Board officer will advise participants how to "pin" others to ensure the video of the Board, Witness, and counsel are always available.

Witnesses: Witnesses should follow the below practices:

- i. A witness shall give evidence sitting at an empty desk or table, and the witness' face shall be clearly visible in the video.
- ii. To the extent possible, the webcam should be positioned at face level, relatively close to the witness (e.g., by positioning a laptop on a stack of books).
- iii. Witnesses may not use a "virtual background." Instead, the remote venue from which they are testifying must be visible.
- iv. Witnesses should speak directly to the camera while testifying.
- v. Witnesses should avoid making quick movements.
- vi. All non-party or expert witnesses shall sign-off from the Microsoft Teams session at the conclusion of their testimony.



At any time, the Board may ask a witness to orient their webcam to provide a 360-degree view of the remote venue in order to confirm that no unauthorized persons are present; any authorized persons (counsel, etc.) in the room with the witness must be identified at the start of the witness' testimony.

Emergency Notifications/Back-up Plan: Any participant who has temporarily lost an adequate connection to the Microsoft Teams platform shall promptly notify the Board by contacting the Board Officer. The Board Officer's contact information will be provided with the invitation to the hearing. If technical challenges prevent one or more participants from continuing to participate in the proceeding, the Board may reschedule the proceeding, or otherwise attempt to facilitate the completion of the proceeding.

No Multi-tasking: All participants shall devote their full attention to the proceeding.

Termination: The Board shall terminate the proceeding if it determines that the videoconferencing format is not working as anticipated, is otherwise inadequate, or is prejudicial to any party or to the integrity of the proceeding.

Filing Exhibits: Documents disclosed in advance will not be considered filed exhibits until they are formally entered by the parties. The Board will verify that all parties have a complete set of all documents that were received into the record. The Parties will be provided an opportunity to make submissions regarding the admissibility of the document at the hearing. The Board will have the authority to determine if the document should be admitted based on the submissions of the Parties.

Recording: No parties, participants or observers may record or rebroadcast any part of the proceeding.

Telephone evidence: In exceptional circumstances the Board may permit a witness to testify by telephone, provided the Board is satisfied that in view of the nature of the witness and the subject of the testimony, a telephonic examination will be fair and not prejudice the presentation of the case of any party.

Closing submissions: The parties shall compile and circulate a Digital Case Book to each other and to the Board prior to closing arguments. All authorities should be filed electronically. The parties may agree to file written arguments with the Board, on such terms as they agree, or as directed by the Board.

MODIFICATIONS OF THESE GUIDELINES

The Board may modify these Guidelines in its discretion to protect the fairness of the hearing.