FONDATION BARREAU DU QUÉBEC

REPRESENTING YOURSELF BEFORE AN ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE TRIBUNAL OF QUÉBEC
ADMINISTRATIVE LABOUR TRIBUNAL
RÉGIE DU LOGEMENT

BROCHURE 4

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RÉGIE DU LOGEMENT

BOOKLET 4

WARNING

This document provides general information and does not constitute a legal opinion. Its contents should not be used to attempt to respond to a particular situation.

In this document, the masculine includes both men and women, depending on the context.

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FOREWORD

More and more people choose to represent themselves before tribunals, *without a lawyer*. The *Fondation du Barreau du Québec* makes general information available to these individuals to help them better understand the main steps of the process before a tribunal and what steps they should take.

The fourth guide in this series is intended more specifically for people wishing to go through such a process before an **administrative tribunal**. It is meant to demystify what happens in an administrative proceeding and assist individuals who choose to represent themselves, from the filing of an application before an administrative tribunal until a decision is rendered.

Although it should not be used as an exhaustive source of information, we hope this guide will help you understand what is involved in an administrative proceeding.

In the same series:

REPRESENTING YOURSELF IN COURT for Civil Matters, published in the 2nd quarter of 2009.

REPRESENTING YOURSELF IN COURT for Family Matters, published in the 3rd quarter of 2010.

REPRESENTING YOURSELF IN COURT for Criminal and Penal Matters, published in the 3rd quarter of 2012.

The words and expressions in **bold type and in colour** in the text (the colour varies depending on the chapter) refer to definitions you will find in the glossary at the back of this guide.

The addresses of the websites given in this guide could change.

REPRESENTING YOURSELF BEFORE AN ADMINISTRATIVE TRIBUNAL

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INTRODUCTION

Quebec's legal system is made up of several courts and tribunals—so many it can be difficult to tell the difference between them and to know which one to turn to in the case of a dispute.

The role of any court or tribunal is to hear the parties to a dispute and to render decisions affecting their rights. Some cases are heard by courts of justice, such as the Court of Québec and the Superior Court, whereas others are heard by administrative tribunals.

Administrative tribunals are autonomous and independent organizations to which the State has given the power to rule on certain disputes involving specific matters. Since there are too many administrative tribunals to list them all, in this guide we will discuss the three which are the most often used and before which many people choose to represent themselves at hearings:

- The Administrative Tribunal of Québec (ATQ)
- The Administrative Labour Tribunal (ALT); and
- The *Régie du logement* (Régie).

The first chapter covers common notions which apply to the three tribunals mentioned above whereas the following chapters discuss the characteristics specific to each of them.

The second chapter covers the **Administrative Tribunal of Québec** (ATQ), not to be confused with the generic term "administrative tribunal", which applies to all three tribunals we will discuss. The third chapter examines the **Administrative Labour Tribunal** (ALT), which was created on January 1, 2016 when the *Commission des lésions professionnelles* (CLP) and the *Commission des relations du travail* (CRT) merged, and the fourth chapter discusses the ***Régie du logement*** (Régie). Each chapter gives readers details about how these three administrative tribunals work.

We hope that the information provided in this guide will help readers better assess whether or not they should represent themselves before a tribunal and understand the impact of such a choice. The outcome of certain disputes can have very significant consequences. An example is a dispute with the *Société de l'assurance automobile du Québec* involving the refusal to recognize a person's inability to work. If the ATQ confirms the SAAQ's decision, the person will have to live with his disability without receiving any compensation. The consequences can be just as serious for a worker who is injured while at work. If the ALT does not recognize that the person was the victim of an employment-related accident, he will not be entitled to the various benefits prescribed by law. A woman who loses her job because she becomes pregnant can be reinstated and receive her lost wages if the ALT allows her complaint. Another example is the obligation to move after the Régie cancels a lease.

STEP 1
DECIDING WHETHER OR NOT TO BE REPRESENTED BY A LAWYER

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CHAPTER 1

REPRESENTING YOURSELF BEFORE AN ADMINISTRATIVE TRIBUNAL: WHAT YOU SHOULD KNOW

STEP 1
DECIDING WHETHER OR NOT TO BE REPRESENTED BY A LAWYER

1.1 YOUR RIGHT TO BE REPRESENTED BY A LAWYER

You are generally allowed to be represented by a lawyer before an administrative tribunal.

You can consult a lawyer to find out how much it would cost for him to help you with all or just part of the **dispute**. You can also hire a lawyer only for help filling out forms, attaching the required documents, paying any fees you may have to pay and sending everything to the right tribunal.

If you don't know a lawyer, groups or associations of lawyers provide referral services according to the area of the law and region.

▶ See "Available Resources" at the end of this guide

Before deciding that you can't afford to hire a lawyer, take the time to consider all the possible options.

Maybe you're eligible for legal aid. Legal aid is a public service that provides legal advice and representation by a lawyer who is paid for by the government. This service is offered free of charge to applicants who are eligible for it or in return for a contribution. For more information:

▶ See **www.csj.qc.ca/commission-des-services-juridiques/accueil.aspx?lang=en**

If you're not eligible for legal aid, find out whether your property or automobile insurance policy has a "legal expense insurance" clause allowing you to be reimbursed for part of the fees paid to a lawyer and other costs. For more information:

▶ See **www.legalinsurancebarreau.com**

1.2 YOUR RIGHT TO REPRESENT YOURSELF OR TO BE REPRESENTED BY A PERSON OF YOUR CHOICE BEFORE AN ADMINISTRATIVE TRIBUNAL

You can file an action before an administrative tribunal yourself to contest a decision or make a claim. The rules vary from one administrative tribunal to the next.

Before the Administrative Tribunal of Québec, only a lawyer can represent you except in certain cases where the law allows otherwise. This is the case, for example, with compensation for rescuers and victims of crime or for immigration matters.

Before the Administrative Labour Tribunal, in occupational health and safety matters you can be represented by a person of your choice: a lawyer, union **representative**, employer's representative or any other person you feel is competent, with the exception of a professional who has been struck off the roll, declared disqualified to practice his profession or whose right to engage in professional activities has been restricted or suspended under the *Professional Code* or other legislation. For certain recourses filed with the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST), the Commission usually provides workers with a lawyer free of charge.

Before the *Régie du logement* (Régie), you can be represented at a **hearing** by your spouse or other representative in cases where the law allows it. A legal person (company, organization, etc.) can be represented by a lawyer, director, officer or employee working for the legal person alone. In all cases, a party can be represented by a lawyer unless the dispute only involves the collection of a small amount (a "small claim").

▶ See "Available Resources" at the end of the guide

1.3 SHOULD YOU HIRE A LAWYER OR NOT? WHAT QUESTIONS YOU SHOULD ASK YOURSELF

Representing yourself before an administrative tribunal is not an easy thing to do. Before deciding to act alone, think about the significant consequences your decision could have on your rights.

➲ The rules of procedure apply to everyone equally. If you decide to act alone, you will have to find out what the rules are, understand them and follow them;

➲ If you choose to be represented for all or part of the proceeding, find a lawyer who is qualified and knowledgeable about the applicable law.

THE HELP OF A LAWYER IS ESPECIALLY USEFUL IF, FOR EXAMPLE:

- You don't know your rights and how much you can ask for;
- You want to take an action but you don't know which tribunal has jurisdiction to hear your application;
- You don't understand the decisions you've received or the claims made against you;
- You don't know how to prove what you're claiming, or how to present your **evidence**;
- You have trouble understanding the **rules of procedure** and meeting the deadlines;
- Your file seems complicated;
- You have to call several **witnesses**;
- You require the services of an **expert** to establish certain important facts of your case;
- You don't feel comfortable speaking in public;
- You don't feel comfortable with the idea that the other party could be represented by a lawyer.

IF YOU THINK YOU CAN REPRESENT YOURSELF BEFORE AN ADMINISTRATIVE TRIBUNAL, ASK YOURSELF WHETHER:

- Your file is simple: few witnesses, not too many documents, issues that can be explained easily;
- You understand your file well enough to explain it verbally and in writing;
- You're able to draft the necessary documents relating to your **proceeding**;
- You're able to understand the laws and regulations concerning your proceeding;
- You're able to understand the documents associated with your proceeding, such as the contents of a medical record;
- You're able to organize your documents clearly and logically;
- You have enough time to follow your case;
- You'd be at ease talking to the lawyer for the other party;
- You're able to prepare for the hearing before the tribunal;
- You're able to **examine** and **cross-examine** witnesses at the hearing;
- You can remain calm regardless what questions the lawyer for the other party asks you.

REMEMBER

- You have the option of representing yourself or being represented by a lawyer.
- If you decide to represent yourself, you can consult a lawyer, even if it's just for a few hours.
- If you want to represent yourself, it's in your interest to find out the extent of your rights and how to assert them.
- If you decide to represent yourself, you won't be given special treatment.
- Remember that some decisions by a tribunal could have repercussions that will last your lifetime.

STEP 2
THE ROLE OF EVERYONE INVOLVED

2.1 THE LAWYER

Lawyers are legal practitioners who are trained to act before tribunals. Although legal rules may appear complex and sometimes incomprehensible to you, for the lawyer they are work tools.

A lawyer is a member of a professional order, the *Barreau du Québec* (Quebec Bar), whose mission is to protect the public. The Bar requires that lawyers follow strict rules, including that of acting competently and in the best interests of their clients. When performing their duties, lawyers must be polite and courteous toward the tribunal, the parties to the **case** and the **witnesses**, in accordance with their *Code of Ethics*.

To protect the public, lawyers must take out professional liability insurance. To ensure their services are the best quality possible, lawyers must also take professional development courses and submit to inspections conducted by the Bar.

Also, requests for an investigation from clients who are dissatisfied or who believe they have been wronged by a lawyer are submitted to the Bar's *syndic*, an officer with investigatory and oversight powers that allow him to determine whether the objections made against a lawyer are well-founded and take action where necessary.

2.1.1 YOUR LAWYER

Lawyers are professionals who use their skills and knowledge of the law to represent and advise their clients. Before administrative tribunals, lawyers perform all the duties required to see a case through to its end for their client.

Your lawyer may, for example:

- Evaluate the law applicable to your situation and determine whether your claim is well-founded;
- Periodically help you assess what is at stake, your chance of success and the risks involved;
- Draft **proceedings** and fill out the appropriate forms;
- Talk to and negotiate with the other party;
- Represent you before the tribunal;
- Submit your **evidence** and refute that of the other party;
- Examine witnesses and cross-examine those of the opposing party;
- Help make your experience easier and less stressful;
- Advise you as to what steps should be taken or what strategy should be adopted after a decision is rendered by the tribunal (**execution**, contestation, judicial review, etc.).

2.1.2 THE LAWYER FOR THE OTHER PARTY

If you are self-represented and the other party is represented by a lawyer, you will be facing a legal professional trained to speak before tribunals. You should be aware that you cannot count on that lawyer to give you assistance or advice, as all lawyers must act in the interests of their client.

Since you have chosen to represent yourself, you have to deal directly with the lawyer for the other party. The other party's lawyer is also not prohibited from speaking to you if you are self-represented. In most cases, it can be useful for you to speak to each other. He may give you his opinion and explain his position and you can try to come to a settlement with him. As the master of your opinion and your position, you are free to agree or disagree with him.

2.2 THE ADMINISTRATIVE JUDGE

Administrative judges are impartial and must demonstrate independence at all times. They apply the law and the **rules of procedure** in the same manner for all parties. The judge is not the adviser or personal guide of either party.

If you represent yourself, you should not count on the judge to give you advice on how to present your case at the hearing.

The role of an administrative judge is to rule on disputes and render decisions. He is responsible for ensuring that the **hearing** is conducted properly and may also suggest that the parties take advantage of conciliation services.

2.2.1 THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC (ATQ) JUDGE

The administrative judge, also called a "member" of the Administrative Tribunal of Québec, is responsible for ensuring that the hearing is conducted properly.

Your case will be heard before one, two or three judges, according to the issue. Proceedings are generally heard before two administrative judges, one of whom is a lawyer or notary. Depending on the division involved, the other judge may be a doctor, a psychologist, a social worker or a chartered appraiser, to mention a few.

The Tribunal's judges must give the parties the opportunity to prove and debate the facts in support of their claims and, if necessary, give equitable and impartial assistance to each party.

An administrative judge at the ATQ may, for example:

- Ask you to participate in a management or pre-hearing conference;
  ▶ See ATQ 3.2.2 and 3.2.3
- Ask you to participate in a conciliation session to attempt to settle the file.
  ▶ See ATQ 3.2.4

2.2.2 THE ADMINISTRATIVE LABOUR TRIBUNAL (ALT) JUDGE

The administrative judge, also called a "member" at the Administrative Labour Tribunal, is a lawyer or a notary in the occupational health and safety division. In the other divisions, administrative judges have a Bachelor's degree, preferably in law or industrial relations, or a relevant degree or diploma as well as knowledge of the applicable legislation and ten years of experience relevant to the exercise of the Tribunal's functions. The judge is the person who makes the decision.

If the president of the ALT considers it appropriate, he may assign a matter to a panel of three members.

If the president considers it expedient, he may assign one or more assessors to a member sitting on the occupational health and safety division. This is the case where a **dispute** involves a matter that requires specialized knowledge of a medical, professional or technical nature. For example, to determine how much a worker should receive for a physical injury or psychological **harm**, an administrative judge could ask for the opinion of a doctor (medical assessor).

Assessors do not have decision-making authority. Their function is to sit with an administrative judge and advise him on any question of a medical, professional or technical nature.

2.2.3 THE *RÉGIE DU LOGEMENT* (RÉGIE) JUDGE

The administrative judge, also called a "commissioner" at the *Régie du logement*, is a lawyer or notary.

In addition to his traditional role as a decision-maker, the commissioner also has a duty to give

equitable and impartial assistance to people who appear before him.

2.3 THE CONCILIATOR

The conciliator is a judge of the administrative tribunal who is neutral and unbiased. He helps the parties find a solution to their dispute. However, the conciliator does not make a decision about the proceeding and he also does not give his opinion on the parties' respective positions.

2.4 THE ADMINISTRATIVE TRIBUNAL STAFF

The role of the administrative tribunal staff is limited to giving general information and receiving certain proceedings. However, if you represent yourself, in some cases the staff of the tribunal in question may assist you.

For example, the staff may:

- Tell you about the types of forms you need, how to fill them out and any related costs;
- Tell you how to word a **motion**, claim or any other proceeding.

However, the staff may under no circumstances:

- Recommend a lawyer to you;
- Advise you about the claims you may submit to the tribunal;
- Give you advice regarding the evidence you should present or the witnesses you should call to testify;
- Give you legal advice regarding your chance of success;
- Give you legal advice about your rights following a decision rendered by the tribunal.

2.5 RULES OF CONDUCT BEFORE ADMINISTRATIVE TRIBUNALS

When you appear before the tribunal, be respectful, polite and calm toward the judge, the other party, the other party's lawyer, the witnesses and the tribunal staff.

Certain rules of conduct must be followed in the hearing room. Here are a few:

- Always be appropriately attired;
- Turn off your cell phone before entering the hearing room;
- If you are speaking in French, use "vous" to address the judge, the other party, his lawyer, the court clerk and the witnesses;
- During the hearing, listen carefully and don't interrupt others when they're speaking;
- Speak directly to the judge, not the other party;
- Try not to argue with the other party. Remain calm and control your emotions;
- Don't bring food or drinks into the hearing room and don't chew gum.

Arrive on time and have your presence noted at the reception desk.

You will not necessarily be heard at the time indicated in the notice, so plan on spending plenty of time at the tribunal.

Administrative tribunal hearings are public. That means that anyone can attend them unless the judge decides otherwise.

REMEMBER

- Take account of the limits imposed on each person regarding the role they are called upon to play in the process.
- Be courteous toward everyone involved. They must act the same way toward you.

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THE ATQ'S JURISDICTION

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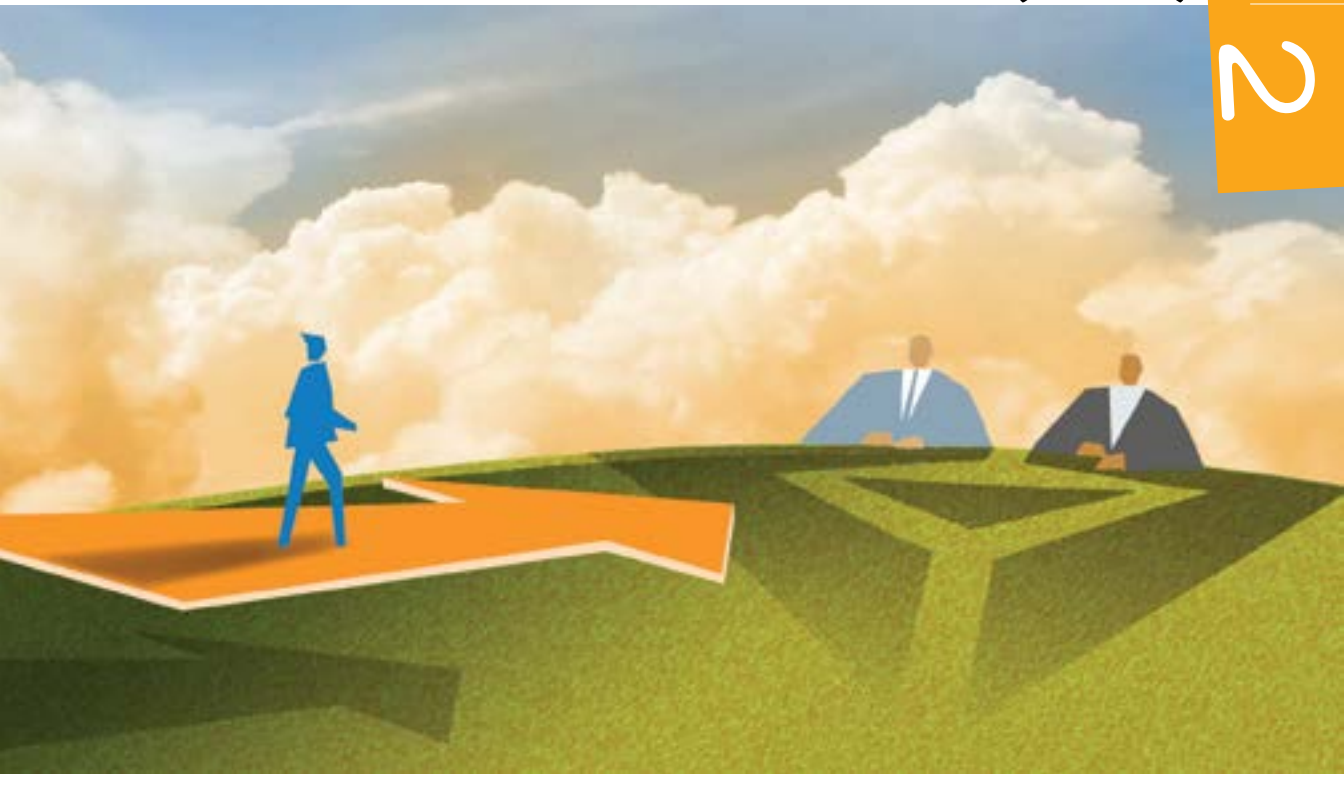
CHAPTER 2

REPRESENTING YOURSELF BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC (ATQ)



STEP 1
THE ATQ'S JURISDICTION

If you think that a decision concerning you rendered by a government department, agency or municipality should be different, you can contest the decision by filing a **motion** in writing with the Administrative Tribunal of Québec, commonly referred to as the "ATQ", in the following cases:

- A decision rendered by the administrative review department of the *Société de l'assurance automobile du Québec* (SAAQ);
- A decision rendered by the administrative review and recourses department of the Department of Employment and Social Solidarity (MESS);
- A decision rendered by the administrative review department of the *Retraite Québec*;
- A review decision rendered by the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST), victims of crime compensation department;
- A decision rendered in review by the *Régie de l'assurance maladie du Québec* (RAMQ);
- A decision rendered by the *Commission de protection du territoire agricole* (CPTA);
- The result of a contestation of the accuracy of an entry on the municipal roll related to the property value or rental value of an immovable.

Not all decisions can be contested before the ATQ. For more information, see the list of proceedings provided under the *Act respecting administrative justice* at the following address:
legisquebec.gouv.qc.ca/en/ShowDoc/cs/J-3

The Administrative Tribunal of Québec, which we will refer to in this chapter as the "Tribunal" or the "ATQ", has jurisdiction to rule on a **dispute** between two parties: an individual, called the "citizen", and a government department, agency or municipality, called the "Administration". **Proceedings** before this Tribunal begin with the filing of an **introductory motion**.

When you file a motion with the Tribunal to contest a decision involving you, the Tribunal must rule on that decision to determine whether it should be confirmed, changed or cancelled.

Before filing a introductory motion before the Administrative Tribunal of Québec, you have to determine whether it has jurisdiction (authority) to hear your case. The Tribunal's powers vary depending in which of the following divisions your proceeding began:

- The social affairs division;
- The immovable property division;
- The territory and environment division;
- The economic affairs division.

1.1 THE SOCIAL AFFAIRS DIVISION

The social affairs division is the one that hears the greatest number of proceedings. It is responsible for ruling on many proceedings pertaining to matters of income security or support, social aid and allowances, health services and social services, pension plans, compensation, immigration, education and road safety. The proceedings are listed in Schedule I of the *Act respecting administrative justice*.

The social affairs division also rules on proceedings involving the protection of persons whose mental state presents a danger to themselves or others. These proceedings come under the **mental health section**, which has jurisdiction over two types of mental health matters.

In some cases, it rules on proceedings involving whether such persons should be detained in a hospital or decisions involving a person confined in custody.

In other types of cases, it is designated as a Review Board with respect to the steps to be taken involving a person accused of a criminal offence who has been held to be not criminally liable on account of a mental disorder or who has been declared unfit to stand trial.

1.2 THE IMMOVABLE PROPERTY DIVISION

The immovable property division is responsible for ruling on proceedings involving municipal taxation and expropriation pertaining in particular to the property assessment roll, the roll of rental values or the fixing of indemnities arising from the expropriation of property. The proceedings are listed in Schedule II of the *Act respecting administrative justice*.

1.3 THE TERRITORY AND ENVIRONMENT DIVISION

The territory and environment division is responsible for ruling on proceedings involving the preservation of agricultural land and agricultural activities as well as the quality of the environment. The proceedings are listed in Schedule III of the *Act respecting administrative justice*.

1.4 THE ECONOMIC AFFAIRS DIVISION

The economic affairs division is responsible for ruling on proceedings concerning permits, licences, certificates or authorizations provided for in various economic, professional or commercial laws. The proceedings are listed in Schedule IV of the *Act respecting administrative justice*.

REMEMBER

- Before filing an introductory motion for a proceeding before the ATQ, check whether the decision can be contested.
- Also make sure the ATQ has authority to hear your request.

STEP 2
FILING A PROCEEDING BEFORE THE ATQ

Certain rules must be followed before the Administrative Tribunal of Québec. We will discuss the main ones that apply to most **proceedings**.

2.1 DRAFTING AN INTRODUCTORY MOTION

To draft your **introductory motion** you can use the Tribunal's form, called a "Motion Instituting Proceedings" or write a letter to the Tribunal. The form gives you some useful information and indicates what you must provide to the Tribunal. If you'd like to receive the form by mail, contact the Tribunal. It is also available on the ATQ's web site:

www.ATQ.gouv.qc.ca/documents/file/ANGLAIS/Recours_Formulaire_An.pdf

Your **motion** must mention the following, among other things:

- The decision you're contesting or the facts which gave rise to it;
- The date of the decision you're contesting as well as the government department, agency or municipality's file number;
- The grounds for your proceeding (why you are contesting the decision);
- The conclusions sought (what you would like the Tribunal to do for you, such as set aside (cancel) or modify the decision).

You must sign your motion and indicate your name and contact information as well as that of your lawyer, if you have one or, if the law allows it, that of your **representative**. If this information changes, you must notify the Tribunal so it can always contact you and send you documents.

As for the documents required in support of your motion, in addition to a copy of the decision you are contesting you must attach any other document connected with your motion, such as a recent medical report. If you don't have these documents, don't wait until you have them to file your **introductory motion** since you can submit them to the Tribunal later. It is important to keep a copy of each document you send, as well as a copy of your motion.

2.2 WHERE TO SEND YOUR MOTION

When your motion is ready, you must send it to the Tribunal using one of the following means:

- Take it in person to the Tribunal;
- Fax or mail it to the Tribunal;
- File it with one of the **Court** of Québec **offices** located in courthouses.

2.3 THE DEADLINE FOR FILING A MOTION

The deadline for contesting a decision may be 30 or 60 days. Your motion should generally be filed within 30 days of receipt of the decision; however, this deadline is 60 days when the proceeding involves matters handled by the immovable property division. ▶ See 1.1

The deadline for filing your motion is generally indicated at the end of the decision you would like to contest. You can also contact the government department, agency or municipality that rendered the decision to find out what the deadline is.

If you send your motion by mail, you must take account of delivery time. You have to meet the deadline for contesting the decision, otherwise the Tribunal will refuse to hear your case. If you don't meet the deadline, the Tribunal will only hear you if you have a good reason for being late. In this case, you'll also have to show that no other party suffered serious **harm** as a result.

2.4 THE FEES FOR FILING A MOTION

Fees are charged for certain proceedings. However, there are no fees for proceedings involving the division. ▶ See 1.1

The fees must be paid when the application is filed, that is, when you mail or deliver your motion to the Tribunal.

The table of fees is available on the Tribunal's web site: **www.ATQ.gouv.qc.ca/documents/file/Fees_2018-01-01.pdf**

REMEMBER

- Make sure your introductory motion is signed and contains the necessary information.
- Keep a copy of your motion and each document you file with it.
- File your motion at the right place within the time limit.
- Notify the ATQ of any change to your contact information.

STEP 3
THE STAGES OF A PROCEEDING BEFORE THE ATQ

A motion filed before the Administrative Tribunal of Québec does not suspend the **execution** of the contested decision unless the law so provides or the Tribunal orders otherwise due to an emergency or the risk of serious and irreparable **harm**.

3.1 RECEIPT OF YOUR MOTION BY THE TRIBUNAL

When the Tribunal receives your **motion**, it sends you an "acknowledgement of receipt" and gives you the number of your file. When you contact the Tribunal, be sure to mention this file number.

The Tribunal then informs the government department, agency or municipality whose decision you are contesting of your motion and sends it a copy. Within 30 days after receiving a copy of your motion, the government department, agency or municipality must send you and the Tribunal a copy of the documents it has relating to your motion.

These documents will constitute the Tribunal's **administrative file**. Note that for an expropriation, there is no such administrative file. For municipal taxation, you will receive summary documents sent by the municipal organization responsible for the assessment.

KEEP IN MIND

If the organization does not send the administrative file within 30 days, you can apply to the Tribunal in writing for compensation.

3.2 THE STAGES AFTER THE MOTION IS FILED

During the **case**, if you want to submit an application to the Tribunal, you must do so in writing unless the Tribunal authorizes you to do so verbally. The application must be signed by you or your **representative** and indicate the name of the parties, the Tribunal's file number, the reasons for it and the conclusions sought. You must send a copy to the other party.

After the motion is filed, if you're represented, the Tribunal will only communicate with your representative, other than for the notice of **hearing** and the decision, which will be sent to you personally. You should therefore notify the Tribunal and the other party immediately in writing if you change representatives during the case.

Once your motion is received by the Tribunal, different stages may follow. They may vary depending on the nature of your motion or the division that will examine it. These steps are discussed below.

3.2.1 DISCONTINUING YOUR PROCEEDING

You can choose to discontinue your **proceeding**, i.e. to withdraw it, at any time. All you have to do is send the Tribunal a signed letter informing it that you wish to discontinue your proceeding or complete and sign the discontinuance form available on the Tribunal's web site. The filing of a discontinuance puts an end to the case.
www.ATQ.gouv.qc.ca/documents/file/ANGLAIS/desistement_anglais_sec_mtl_qc.pdf

3.2.2 THE MANAGEMENT CONFERENCE

In certain circumstances, the Tribunal may require that you attend a management conference, for example, when there is a risk that your file will not be ready for the hearing.

At this conference, the Tribunal may set time limits for obtaining or preparing certain documents, such as a medical expert's report. (▶ See 4.1) It is important that you comply with these time limits. The Tribunal may also ask you to agree with the representative of the government department, agency, or municipality on the conduct of the hearing by specifying the items in **dispute**, the number of **witnesses** present and the probable duration of the hearing. The Tribunal may also propose that you participate in a conciliation session. ▶ See 3.2.4

KEEP IN MIND

It is important that you attend this management conference, otherwise the Tribunal may render decisions in your absence.

3.2.3 THE PRE-HEARING CONFERENCE

The Tribunal may decide to have you participate in a pre-hearing conference if it considers it useful to prepare for the hearing and if the circumstances of the case allow it. The representative of the government department, agency or municipality whose decision you are contesting will also participate in it. This conference is used to define the questions to be discussed during the hearing and what you are seeking. It also serves to ensure the exchange of the documents necessary for the hearing between the parties, look at the possibility of you or the representative admitting certain facts before the hearing or see whether you agree to give **evidence** by a **declaration under oath**, and address any other issue that may simplify or accelerate the conduct of the hearing.

3.2.4 CONCILIATION

Sometimes the dispute can be resolved before the hearing is held through conciliation. A neutral and unbiased individual, the conciliator, helps the parties find a solution to their dispute.

You can ask to participate in conciliation at any time after your proceeding is filed by contacting the Tribunal, which will check whether the department, agency or municipality whose decision you are contesting agrees to participate. Also, if the issues and the circumstances allow it, the Tribunal will ask you to participate in a conciliation session. For certain types of proceedings, it can even force you to.

For more information, watch the video about conciliation at
www.ATQ.gouv.qc.ca/en/conciliation/general-explanations/what-is-conciliation

➢ The purpose of conciliation

The purpose of conciliation is to facilitate dialogue and negotiations between the parties and help them identify their interests, assess their positions and explore mutually satisfactory solutions. Its ultimate goal is to encourage you to settle with the other party. If you settle and the conciliation ends in an agreement between you and the department, agency or municipality whose decision you contested, your proceeding is over.

Conciliation allows you to talk to and negotiate directly with the representative of a department, agency or municipality and try to agree on a solution to the dispute. It also gives you an opportunity to exchange certain information with the other party allowing you to disclose or provide information about certain facts and express your point of view.

Even if you don't reach an agreement, conciliation can help you better understand the situation and the rules that apply, which will help you prepare for the hearing.

➢ The conciliator's role

Conciliation takes place in the presence of one or two conciliators who are neutral and unbiased. The conciliator is an administrative judge, a member of the Tribunal, whose role is to help the parties dialogue and find solutions.

However, the conciliator does not render a decision about your proceeding and he also does not give his opinion on the parties' respective positions.

➢ The conciliation session

Conciliation sessions are held in all regions of Quebec. To use this service, you must apply for it by contacting the Tribunal.

Whether it is at your request, at the request of the Tribunal or because it's compulsory, when a conciliation session is to be held the Tribunal sends you a letter indicating the date, time and place of the session.

You must attend the conciliation session. You may be assisted by a lawyer and be accompanied by any other person whose presence the conciliator considers useful.

If you are unable to be present on the date set by the Tribunal, you must notify it in writing as quickly as possible, telling it why you cannot attend. It will be up to the Tribunal to decide whether or not it agrees to change the date.

Conciliation takes place ***in camera***, which means "in private", and follows less formal rules than during a hearing.

Nothing that is said or written during a conciliation session may be disclosed at the hearing before the Administrative Tribunal or any other tribunal unless the parties agree.

➢ How to prepare for a conciliation session

Before the conciliation session, read the administrative file that the government department, agency or municipality sent you. This file contains the decision you're contesting as well as the reasons for the decision. Reading the file can help you identify some of your arguments.

It may also make you realize that certain documents are missing, such as invoices or photographs. If that is the case, send the other party a copy as soon as possible before the conciliation session.

To explain your point of view and better negotiate with the other party, it is important to prepare before the conciliation session. Determine in advance what is essential for you, what you hope to achieve and why you should succeed. If you are only contesting part of the decision, it is important to clearly identify what you are contesting and what you admit. Also, before the conciliation session, find out what legal rules apply to your situation.

The day of the conciliation session, have your file and all other relevant documents with you.

➢ **The end of conciliation**

You can put an end to the conciliation session at any time. If you can't agree or if the conciliation only leads to a partial agreement, you still have the possibility of being heard by a judge at a hearing. In this case, the administrative judge who acted as conciliator cannot be the judge at the hearing.

However, if the conciliation is successful and allows you to come to a satisfactory solution, a conciliation agreement is drafted and signed by the parties and the conciliator. Make sure this agreement covers all the points on which you agreed and that you understand the terms used. This agreement puts an end to the case and is **enforceable** as if it were a decision by the Tribunal. This means that both parties must comply with it.
▶ See 6.1

3.2.5 SETTLING OUT OF COURT

For most cases, the parties may come to a settlement any time before the hearing which will put an end to the dispute. This is called an "out-of-court settlement". The parties must notify the Tribunal that their dispute has been settled.

Note that in municipal taxation matters, out-of-court settlements are not allowed. The recommendation made by the municipal assessor as a result of your acceptance of the value must be submitted to the Tribunal so it can render a decision that will put an end to your case.

REMEMBER

- Find out what rules of procedure apply to your case. You are responsible for knowing them.
- You can decide to put an end to your proceeding at any time by filing a discontinuance.
- Conciliation lets you settle your dispute without a hearing being held. It is important to be well prepared for it.

STEP 4
PREPARING FOR A HEARING BEFORE THE ATQ

If your file goes all the way to a **hearing**, you will have to invest a lot of time and energy preparing for it.

The effort you make preparing for the hearing can have a direct impact on the Tribunal's decision.

As soon as you receive the date of the hearing, make sure your file is ready to be submitted to the Tribunal. Here are a few important steps you should take before you appear before the Tribunal.

4.1 REVIEWING YOUR FILE

Since you play an important role in explaining the facts behind your case and the applications you are making to the Tribunal, you must carefully read your **administrative file** sent by the government department, agency or municipality whose decision you are contesting and make sure it is complete. This file must contain everything that is necessary and relevant to understand your claim and the documents in support of it.

If you are only contesting part of the decision made by the government department, agency or municipality, it is important to clearly identify what you are contesting and what you admit.

To convince the Tribunal that the decision should be changed or cancelled, you must present your **evidence** at the hearing. Evidence may be made up of documents (medical reports, receipts, invoices, contracts, photographs, etc.), **experts'** reports, testimony or all of the above. It is up to you to obtain these documents.

Your **proceeding** may require the opinion of an expert, for example, that of a doctor about your state of health or that of a chartered appraiser about the value of your land. If that is the case, you must hire such an expert and send his report to the Tribunal not later than 15 days before the date scheduled for the hearing, or by any other date set by the Tribunal. Two copies of the report (or three copies for a municipal taxation or expropriation matter) must be sent to the Tribunal office and one copy to the government department, agency or municipality.

4.2 IDENTIFYING AND PREPARING YOUR WITNESSES

Although you may be convinced you're right, don't forget that the government department, agency or municipality whose decision you are contesting also thinks it's right and that, like you, it will try to make the Tribunal agree with its position.

At the hearing, you will have to prove the facts on which you are basing your claim. In addition to the documents you expect to use, you could have to testify and call other **witnesses**.

You should begin by asking yourself whether you could convince the Tribunal that you're right with your testimony alone. If not, you should determine which other witnesses you might need.

You should also anticipate who the other party's witnesses will be so you can plan how to contradict their testimony. For example, if the other party has a doctor testify as an expert witness, it would be advisable for you to have a doctor testify also.

When you have identified the people whose presence is necessary at the hearing, don't forget that it's up to you to make sure those witnesses are present on the date set for the hearing.

If you're afraid a witness won't show up at the hearing, you must summon him to the hearing in accordance with the Tribunal's **rules of procedure** within the applicable time limit. It's best to call witnesses long enough in advance to ensure they will be present and avoid last-minute surprises or a **postponement**.

You can order a witness to be present before the Tribunal through a **summons** signed by a member of the Tribunal or the lawyer who represents you. It is your responsibility to have the summons **served** on the witness by **bailiff** within the time prescribed by law. You will have to pay the bailiff's fees.

You must carefully prepare for the **examination** of your witnesses as well as the **cross-examination** of the other party and its witnesses.

➢ Your witnesses

At the hearing, you must ask your witnesses questions so they can clearly explain their version of the facts to the Tribunal. Adequate preparation before the hearing is therefore essential.

It's to your advantage to meet your witnesses in advance to have a reasonable idea what they will say at the hearing. This avoids unpleasant surprises and lets you make necessary adjustments to your evidence. For example, you might decide not to have a witness heard since his version of the facts is less favourable than you thought.

This preparation can be used as a dress rehearsal for both you and your witnesses. It's an opportunity to ensure that all the elements of **proof** you have to present to the Tribunal are mentioned by your witnesses. ▶ See 5.2.2

Tell them that during the hearing they might be questioned by one of the administrative judges or by the representative of the government department, agency or municipality.

Other than an expert witness, a witness must have personal, direct knowledge of the facts. As an example, only a person who participated in or was present during a conversation can testify about it.

➢ The other party's witnesses

The cross-examination is your opportunity to ask your opponent's witnesses questions. You must be very careful during this step. ▶ See 5.2.2

Writing out your questions is a good way to make sure you don't forget anything important during the examination.

4.3 THE APPLICABLE LAW

At the end of the hearing, the Tribunal must assess all the facts submitted into evidence by the parties and render a decision according to the applicable law.

Bear in mind that, although you may be convinced that your position is well-founded, the legal rules may not be in your favour.

You are responsible for finding out what laws apply to your situation. To do so, check the laws and regulations pursuant to which the government department, agency or municipality made the decision you are contesting. You may also wish to check the *Act respecting administrative justice* and the rules of procedure for the Tribunal.

▶ See "Available Resources" at the end of this guide

Different legal **doctrine** texts can also help you understand the rules and legal principles relevant to your file. Doctrine can be found in bookstores specialized in legal texts and on the Internet.

At the hearing, it is useful to give the judge **jurisprudence**—decisions previously rendered by the courts dealing with situations similar to yours. These decisions can be found on different websites you can access free of charge, such as
soquij.qc.ca/fr/english and **www.canlii.org/en**

The jurisprudence and legal texts in support of the arguments you intend to submit to the Tribunal must be given to the other party during the hearing. It is therefore important to have enough copies for the judges and the other party. ▶ See 5.2.3

REMEMBER

- Carefully review your file and make sure it is complete.
- Identify the legal issues involved to determine those you wish to put forward.
- Determine which witnesses are necessary and go over their testimony with them.
- If you want to file an expert's report at the hearing, you must first file it within the allowed time.
- Determine what legal rules apply and find doctrine and jurisprudence that will support your case.
- Make sure you have enough copies for the administrative judges and the other party.

STEP 5
THE HEARING BEFORE THE ATQ

The **hearing** is generally the last step of the **proceeding**, particularly if conciliation failed.

To find out more about how a hearing is conducted, watch the information video on the Tribunal's web site.

▶ See "Available Resources" at the end of this guide

5.1 THE NOTICE OF HEARING

The Tribunal will send you notice of the date and place of the hearing by mail. If you cannot be present on that date, you must apply to the ATQ for a **postponement** as soon as possible. As indicated in the ATQ's Institutional Guidelines, an application for a postponement must be filed no later than 45 days before the scheduled hearing date. The applicant must have a serious reason for not meeting the deadline. No postponement is allowed simply because the parties agree to one.

5.2 THE DAY OF THE HEARING

Make sure you bring to the hearing all the documents necessary to present your **evidence** and have enough copies for the administrative judges and the other party.

Go to the hearing room indicated in the notice. Several cases may be scheduled to be heard in that room on the same day. Be patient and listen to the instructions of the administrative judge, who will tell you when it's your turn.

If a party does not attend the hearing, the case may be postponed or the judge may render a decision in that party's absence.

5.2.1 PRELIMINARY APPLICATIONS

Before and at the beginning of the hearing, special requests called "preliminary applications" can be made to the ATQ. For example, you may want to ask for permission to submit evidence that has not been given to the ATQ and the other party beforehand or to have **witnesses** excluded. Such an application must generally be made in writing but it may be presented verbally if the Tribunal allows it.

5.2.2 PRESENTATION OF THE EVIDENCE

At the hearing, each party takes turn presenting his evidence. Other than exceptional cases, it is up to you to prove to the Tribunal that the decision of a government department, agency or municipality should be changed or cancelled.

As a rule, you will present your evidence first. You must explain your version of the facts using evidence that may be made up of documents and testimonies. The Tribunal may refuse any evidence that is presented to it.

➲ Present your evidence coherently and in chronological order.

➲ Make sure that the evidence you submit is relevant and presented according to the applicable rules.

Sometimes the administrative judge intervenes to make sure the parties don't abuse their right to speak. For example, if you repeat yourself, the administrative judge may interrupt you and ask you to move on to another aspect of your case. He may also ask you questions about the facts you're explaining; listen carefully and answer to the best of your knowledge.

Testimony plays an essential role since it is often a decisive factor in the final decision.

➢ **The examination in chief**

As a rule, you will be the first to have your witnesses heard. If you have more than one witness, it's up to you to choose the order in which your witnesses will be heard.

You must call them one by one, in the order you have determined, to explain their version of the facts. You must ask direct questions which do not suggest an answer. If you suggest answers to your own witnesses, your opponent might object to your question. Other than an **expert** witness, no witness may give an opinion on the issues raised by your case; he can only testify as to facts about which he has personal knowledge.

Remember, if you want to have an expert witness testify (a doctor, appraiser, etc.), his report must be filed with the tribunal within the required time before the hearing.

Always refrain from making comments or expressing your opinion or disagreement while testimony is being given.

➢ **The cross-examination**

When you have finished **examining** a witness, it's the other party's turn to examine him. This is the **cross-examination**. If you testified, the other party may cross-examine you also. During cross-examination, suggestive questions, i.e. ones that imply that a certain answer should be given, are allowed.

Always keep in mind that you don't have to cross-examine your opponent's witnesses. The best **proof** is often that which you make using your own witnesses. In many cases, it's better to refrain from cross-examining a witness; that way you'll avoid being taken by surprise by answers that could strengthen your opponent's evidence.

➲ Writing out the questions you have for the witnesses will make sure you don't forget any;

➲ When you examine a witness, limit yourself to asking questions and avoid making comments on what he says or arguing with him.

5.2.3 THE ARGUMENTS (PLEA)

When the parties have finished presenting their evidence, they will take turns presenting their arguments. You will have to summarize the facts presented to the Tribunal and explain why the administrative judge should rule in your favour.

During your **arguments**, there's no need to repeat everything that has been said. You should only stress the important facts. You can also mention any contradictions you noticed that are in your favour.

Be sure you make the connection between the evidence and the legal principles that support your arguments. This is the point where you can submit **jurisprudence** and legal texts (laws or **doctrine**).
▶ See 4.3

Writing down your arguments is a good way to be sure you don't forget important points during the hearing.

Then it will be up to the other party's lawyer or **representative** to present his arguments which will be followed, if necessary, by a brief rebuttal by you.

At the end of the hearing, the Tribunal may render its decision immediately or, as in most cases, take it **under advisement**, which means that it will render its decision after the hearing. The decision is in writing giving reasons and it is mailed to you within 3 months of the date on which the case is taken under advisement, unless the President of the ATQ has said it will take longer. In the interim, you may not communicate with the administrative judge or send him other documents.

REMEMBER

- Make sure you know what points you have to make to the Tribunal.
- Identify your documents and put them in chronological order so you can find them easily during the hearing. This will make it easier to present your evidence.
- Make sure you have enough copies of the various documents you want to submit at the hearing.

STEP 6
WHAT HAPPENS AFTER THE ATQ MAKES ITS DECISION

6.1 EXECUTING THE DECISION

A decision by the Administrative Tribunal of Québec must be complied with as soon as the parties receive a copy of it. If one of the parties does not abide by the Tribunal's decision, it may be forced to through the filing of the decision with the Superior **Court office** according to the rules set out in the *Code of Civil Procedure*.

6.2 CONTESTING THE DECISION

A decision by the ATQ is final and cannot be appealed, other than in exceptional circumstances. In some cases it may be corrected, reviewed or revoked by the Tribunal. Also, some decisions may be appealed before the Court of Québec. In rare cases, a decision may be submitted to the Superior Court for judicial review.

6.2.1 SPECIAL RECOURSES BEFORE THE ATQ

➢ **Correction**

When a decision by the Tribunal contains a spelling, calculation or any other clerical error, you can ask the Tribunal in writing to correct the error. Clearly indicate in your request what error you have found.

➢ **Review or revocation**

The Tribunal's decision is generally final and cannot be appealed. However, there are certain special cases where it is possible to ask that all or part of a decision be changed:

- Where a new fact is discovered after the **hearing** which, had it been known in time, could have warranted a different decision;
- Where a party, owing to reasons considered sufficient, could not be heard at the hearing;
- Where a substantive or procedural defect is of a nature likely to invalidate the decision, for example, if the Tribunal did not rule on part of your **motion**.

A motion for review or revocation must be in writing and sent to the Tribunal as soon as possible, generally within 60 days of receipt of the decision. If the other party makes such a motion, you have 30 days from receipt of the other party's motion to respond to it in writing.

The Tribunal may study the case that is submitted to it without hearing the parties, unless it considers it advisable to do so or one of the parties asks for a hearing. In such a case you must ask the Tribunal to set a date for another hearing.

6.2.2 APPEALING A DECISION BEFORE THE COURT OF QUÉBEC

Some of the Tribunal's decisions from the immovable property division or concerning the preservation of agricultural land may be appealed to the Court of Québec with a judge's permission.

A written application must be received by the Court of Québec office of the place where the property, land or lot covered by the Tribunal's decision is located within 30 days of the date of the decision.

6.2.3 JUDICIAL REVIEW OF A DECISION BEFORE THE SUPERIOR COURT

In certain exceptional cases, an application for "judicial review" can be made before the Superior Court. This complex proceeding must generally be brought within 30 days of receipt of the Tribunal's decision.

REMEMBER

Most of the ATQ's decisions are final and cannot be appealed.

In you want to contest a decision by the ATQ, you have to do so within the time limits, which are very short and strict.

STEP 1
JURISDICTION OF THE ALT

STEP 2
COMMENCING AN ACTION WITH THE ALT

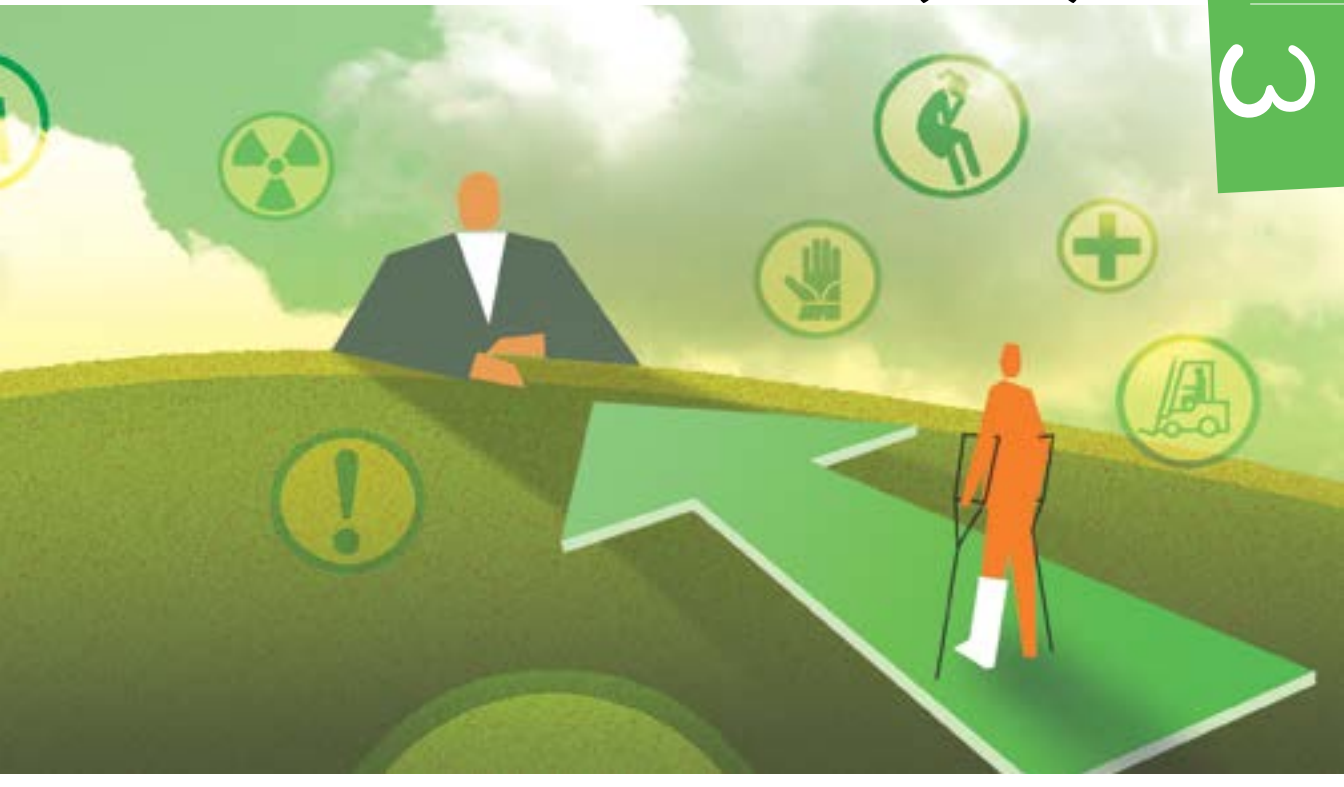
STEP 3
THE STAGES OF A PROCEEDING BEFORE THE ALT

STEP 4
PREPARING FOR A HEARING BEFORE THE ALT

STEP 5
THE HEARING BEFORE THE ALT

STEP 6
WHAT HAPPENS AFTER THE ALT MAKES ITS DECISION

REPRESENTING YOURSELF BEFORE THE ADMINISTRATIVE LABOUR TRIBUNAL (ALT)



STEP 1
JURISDICTION OF THE ALT

If you're a worker or an employer and you're dissatisfied with a decision rendered by the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST), in your case you can contest the decision before the Administrative Labour Tribunal, commonly referred to as the "ALT". The ALT hears contestations by workers and employers for different types of **disputes**, including the following cases:

- The existence of an employment injury;
- The effects of an employment injury;
- The date of the consolidation of an employment injury;
- Medical evaluations;
- Income replacement indemnities;
- The right to return to work;
- The right to refuse work;
- Protective reassignment;
- Rehabilitation;
- Financing and cost imputation;
- Prevention;
- The inspection of establishments;
- Disciplinary measures.

KEEP IN MIND

In cases involving the occupational health and safety division, the CNESST may intervene in the dispute at any time by sending a notice to each party as well as the ALT. In this case, the CNESST is represented by a lawyer.

Through conciliation or rulings, the ALT decides on a variety of both individual and collective recourses related to employment and labour relations.

The ALT is the tribunal which, among other things, rules on recourses involving job protection and psychological harassment at the workplace. Such recourses generally involve management and non-unionized workers in Quebec businesses. The ALT hears workers and employers in the following cases:

- Reprisals, suspension or dismissal because the employee exercised a right under the *Act respecting labour standards* (s. 122 A.L.S.);
- Dismissal without good and sufficient cause (s. 124 A.L.S.);
- Psychological harassment (s. 123.6 A.L.S.);
- Reprisals, suspension or dismissal because an employee engaged in a union activity or exercised a right under the *Labour Code* (s. 15 L.C.);
- Dismissal, suspension or reduced pay of a civil servant or municipal employee;
- Reprisals due to the exercise of an activity protected by the *Charter of the French language*;
- Reprisals, suspension or dismissal because the employee exercised a right or performed a civic duty under certain laws;
- Employee complaint against his union (s. 47.2 L.C.).

KEEP IN MIND

Recourses under sections 122, 123.6 and 124 of the *Act respecting labour standards* must first be filed with the CNESST, which will look after processing your file and send it to the ALT if necessary. All the other recourses listed above must be filed with the ALT directly.

Not all decisions can be contested before the ALT. For more information, see the list of recourses in the *Act to establish the Administrative Labour Tribunal* at: **www.legisquebec.gouv.qc.ca/en/ShowDoc/cs/T-15.1**

Although the Administrative Labour Tribunal hears and decides several matters related to employment as well as occupational health and safety, this publication only discusses some of them. The ALT has the power to decide any issue of law or fact necessary for the exercise of its jurisdiction. In particular, the ALT can confirm, change or cancel a contested decision or order and, if appropriate, render or make the decision or order which, in its opinion, should have been rendered or made initially. The ALT may render any decision it considers appropriate.

A matter is commenced before this Tribunal by filing a **proceeding** called an originating pleading. ▶ See 2.1

Before filing an **originating pleading** with the Administrative Labour Tribunal, you must determine whether it is the tribunal that has jurisdiction to hear your case. The Tribunal's jurisdiction varies depending on which of its divisions applies. The ALT sits in four divisions:

- The labour relations division;
- The occupational health and safety division;
- The essential services division;
- The construction industry and occupational qualification division.

1.1 THE LABOUR RELATIONS DIVISION

The labour relations division is responsible for deciding many different cases involving job protection, association and bargaining rights, and pay equity.

The ALT rules on job protection matters which mainly involve non-unionized workers in Quebec businesses as well as certain management employees, including those working for a municipality.

The ALT also rules on matters involving association and bargaining rights. It is responsible for the certification and recognition of associations as well as their revocation or cancellation. It also enforces the *Labour Code* and ensures that the rights and obligations of employers and unions are respected.

The ALT rules on pay equity issues. An employer whose business employs ten or more workers must set up and implement a pay equity program in accordance with the *Pay Equity Act*. The CNESST is responsible for enforcing that Act. It makes decisions regarding the programs set up by employers and various other pay equity matters. If the CNESST believes that the measures it has determined are not implemented to its satisfaction within the allotted time or if it finds that a provision of the *Pay Equity Act* is not being complied with, it may refer the matter to the ALT, which will issue the appropriate orders. Where a worker or an employer is not satisfied with the measures determined by the CNESST, an application can also be made to the ALT, which will confirm, change or cancel the decision rendered by the CNESST.

The ALT hears complaints by workers who believe their association has not fulfilled its duty to represent them fairly. It also hears complaints involving reprisals an employee may have suffered due to the exercise of his freedom of association (ex.: membership in a union or choice of union)

For more information, read the list of matters the labour relations division hears and decides in Schedule I of the *Act to establish the* Administrative Labour Tribunal at

www.legisquebec.gouv.qc.ca/en/ShowDoc/cs/T-15.1

1.2 THE OCCUPATIONAL HEALTH AND SAFETY DIVISION

The occupational health and safety division is responsible for ruling on actions by employers and workers who contest a decision by the CNESST.

The ALT is asked to decide cases brought under the *Act respecting industrial accidents and occupational diseases* (AIAOD) and of the *Act respecting occupational health and safety* (AOHS).

Employers and workers can apply to the Tribunal to contest a decision by the CNESST following an administrative review. However, the following decisions are contested directly with the ALT without an administrative review by the CNESST:

- Decisions rendered jointly by the CNESST and the *Société de l'assurance automobile du Québec* (SAAQ). In this particular case, you can choose whether to contest the decision before the Administrative Labour Tribunal (ALT) or the Administrative Tribunal of Québec (ATQ);
- Decisions rendered by the CNESST concerning a dismissal, suspension, transfer, discriminatory measures or reprisals, or any other penalty prohibited by law (section 32 of the AIAOD or section 227 of the AOHS).

1.3 THE ESSENTIAL SERVICES DIVISION

The role of the essential services division is to ensure essential services are maintained in order to preserve the health and safety of the population during legal strikes or illegal pressure tactics.

In labour relations, the notion of essential services refers to the balance between the right to strike and the protection of the public's health and safety.

1.4 THE CONSTRUCTION INDUSTRY AND OCCUPATIONAL QUALIFICATION DIVISION

The construction industry and occupational qualification division is responsible for hearing actions under specific laws concerning the construction industry.

The ALT decides actions to contest a decision of the *Commission de la construction du Québec* (CCQ), the *Régie du bâtiment du Québec* (RBQ), the *Corporation des maîtres électriciens du Québec* (CMEQ), the *Corporation des maîtres mécaniciens en tuyauterie du Québec* (CMMTQ) and *Emploi-Québec*.

The ALT hears complaints respecting the failure to comply with the *Act respecting labour relations, vocational training and workforce management in the construction industry* during a strike, lockout or work slowdown.

The ALT has the power to determine whether construction work is governed by the *Act respecting labour relations, vocational training and workforce management in the construction industry* or the *Building Act*. It may also determine which collective agreement applies to construction work depending on the business sector, and rule on the validity of a clause of a collective agreement, in

accordance with the *Act respecting labour relations, vocational training and workforce management in the construction industry*.

The ALT also intervenes to settle conflicts of jurisdiction regarding the exercise of a trade or occupation in the construction sector.

REMEMBER

Before filing an originating pleading before the ALT, check whether the decision is one that can be contested.

Also, make sure it is the tribunal that has the authority to hear your application.

STEP 2
COMMENCING AN ACTION WITH THE ALT

Certain rules must be followed before the Administrative Labour Tribunal. In this section we will discuss the main rules that apply to most recourses.

A matter before the ALT is commenced by a **proceeding**, called the originating pleading, being filed at one of the Tribunal's offices.

2.1 DRAFTING THE ORIGINATING PLEADING

The **originating pleading** that starts a case is in writing and it must make it possible to identify the author by the author's signature or that which serves the purpose of a signature. An originating pleading contains the following information:

- The applicant's name, address, e-mail address, and telephone and fax numbers;
- If the applicant is represented, the **representative's** name, address, e-mail address, and telephone and fax numbers;
- The other parties' names, addresses, e-mail addresses, and telephone and fax numbers;
- The identification of the contested decision;
- Any other information required pursuant to the legal provision on which the application is based.

Any changes to the information, including your contact information or that of your representative, must be immediately confirmed to the Tribunal in writing.

The originating pleading is also accompanied by a summary of the facts and conclusions sought, i.e. what you want the Tribunal to decide, such as to cancel or change a decision.

The contested decision must also be provided when required by the Tribunal.

Before the **hearing**, you must also file any other document related to the case, such as recent medical reports. It is important to keep a copy of each document you send, including the originating pleading.

2.2 WHERE TO FILE THE MOTION

When the originating pleading is ready, you must send it to the Tribunal. You can either deliver it by hand or send it by fax or mail to the Tribunal's administrative office. In some cases it can be filed on-line.

At the **labour relations division**, in some cases you can use an on-line application form to draft and file the originating pleading. The form is available at:
www.tat.gouv.qc.ca/menu-utilitaire/services-en-ligne/demande-en-ligne-division-des-relations-du-travail/

In this division, the following are the only applications that can be filed on-line:

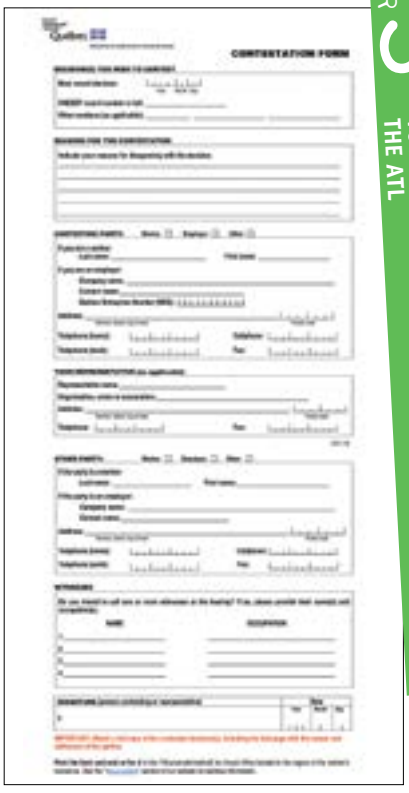
- A petition for certification;
- An application for recognition of a home childcare providers association;
- An application for recognition of an association representing family-type resources and certain intermediate resources;
- An application for recognition of an association of artists or producers.

All other recourses must be delivered to the Tribunal or sent by mail or fax.

When an application is filed on-line it must include the documents required by applicable laws and regulations. Each such document must be submitted as a PDF in a separate file.

In the case of a complaint for dismissal, suspension or another measure, you can use the on-line complaint form which is available on the ALT's web site. You must attach all the documents relevant to the complaint, such as a disciplinary notice or dismissal letter. You must also send a copy of your complaint and the relevant documents to the employer in question by any means that gives you **proof** that it was sent (**notification**).

In the **occupational health and safety division**, to draft the originating pleading, an employer or a worker can fill out an on-line "Contestation Form" to contest a decision by the CNESST. Be sure to have your CNESST file number on hand. The form is available at **https://www.tat.gouv.qc.ca/fileadmin/tat/8Section_anglaise/Fml_contest_SST_eng.pdf**


CONTESTATION FORM

If you use this on-line service, you don't have to attach the contested decision, other than for the following types of decisions:

- Decisions rendered jointly by the CNESST and the SAAQ;
- Decisions rendered by the CNESST concerning a dismissal, suspension, transfer, discriminatory measures or reprisals, or any other penalty prohibited by law (section 32 of the AIAOD or section 227 of the AOHS).

The Tribunal must receive the **motion** within the legal time limit. It is important to file it on time.

▶ See 2.3

2.3 THE DEADLINE FOR FILING THE MOTION

The deadline for commencing an action varies depending on the type of action and the division of the Tribunal.

In the **labour relations division**, the deadline for filing a motion or complaint may vary. For dismissal without good and sufficient cause and reprisals (dismissal, suspension, transfer or other penalty) due to the exercise of a right prescribed by the *Act respecting labour standards*, the deadline is 45 days as of the dismissal or the contested measure.

For pay equity matters, a worker or employer wishing to contest a decision by the CNESST has 90 days from receipt of the decision to file a contestation with the ALT.

For complaints involving psychological harassment, the worker must submit a complaint to the CNESST within 2 years following the date of the last incident of harassment. If the CNESST decides to intervene, it will determine whether the complaint should be transferred to the ALT. If the CNESST decides not to intervene, the worker has 30 days to file an application for review. If the CNESST maintains its decision, the worker can ask for the complaint to be transferred to the ALT.

For recourses against reprisals due to the exercise of a right prescribed by certain laws, the deadline is 30 or 45 days, depending on the law in question.

Lastly, an employee's complaint against a union must be filed within 6 months of discovering the facts giving rise to the complaint.

In the **occupational health and safety division,** the deadline is generally 45 days following receipt of the CNESST's decision. If the contestation involves an assignment to other duties, the right to refuse work, protective reassignment or the decision of a CNESST inspector, the deadline is 10 days.

The deadline for filing an originating pleading is generally indicated at the end of the decision you want to contest. You can also contact the CNESST to find out what the deadline is.

If your originating pleading is sent by mail, you must take account of delivery time. The Tribunal could refuse to hear your case if you don't meet the deadline and it will only hear you if you have a good reason for being late; in such a case, you will have to give it proof of the reason and convince it that no other party suffered serious **harm** as a result.

REMEMBER

- Make sure your originating pleading is signed and has all the required information.
- Keep a copy of your pleading and each document you file with it.
- File your originating pleading at the right place within the time limit.
- Notify the Tribunal of any change to your contact information.
- Find out what rules of procedure apply to your case; you are responsible for finding and following them.
- Be very aware of the deadlines that apply to your situation.

STEP 3
THE STAGES OF A PROCEEDING BEFORE THE ALT

A proceeding filed before the Administrative Labour Tribunal does not suspend the **execution** of the contested decision. However, the President of the Tribunal may decide that a case should be heard and decided on an urgent basis or by preference, to ensure the proper administration of justice.

3.1 RECEIPT OF YOUR ORIGINATING PLEADING BY THE ALT

When the Tribunal receives a **originating proceeding**, it sends you an "acknowledgement of receipt" and gives you the file number. When you contact the Tribunal, make sure you provide this number; note that it is different from the CNESST's file number.

In cases involving the occupational health and safety division, the Tribunal then notifies the other parties and the CNESST whose decision you are contesting of your **originating pleading** and sends them a copy.

The CNESST must then send the Tribunal and each party a copy of its file about the contested decision within 20 days of receiving a copy of the pleading. These documents will constitute the Tribunal's file.

3.2 WHAT HAPPENS AFTER THE ORIGINATING PLEADING IS FILED

During the **case**, if you want to submit an application to the Tribunal, you must do so in writing unless the Tribunal authorizes you to do so verbally. The application must be signed by you or your **representative** and indicate the name of the parties, the Tribunal's file number, the reasons for it and the conclusions sought. You must send the other party a copy.

If you're represented, the ALT will only communicate with your representative, other than for the decision, which will be sent to you personally. You should therefore notify the Tribunal and the other party immediately in writing if you change representatives during the case or if you are no longer represented.

In the **occupational health and safety division**, the Tribunal also sends the party the proceedings that have an impact on the continuation or end of the matter, or on the hearing, even when the party is represented.

Once your **originating pleading** is received by the Tribunal, different steps may follow, including a settlement. They vary depending on the type of case or the division of the Tribunal that will examine it. The steps that may occur are discussed below.

It is up to you to find out what **rules of procedure** apply to your case. The *Rules of Evidence and Procedure of the Administrative Labour Tribunal* are available at: **legisquebec.gouv.qc.ca/en/ShowDoc/cr/T-15.1,%20r.%201.1**

3.2.1 DISCONTINUANCE

You can choose to discontinue your proceeding (i.e. abandon your action or withdraw your complaint) any time before the Tribunal renders its decision. The filing of a discontinuance puts an end to the case. To do this, you can send the Tribunal a letter signed by you or your representative. The discontinuance may be sent by mail or fax or delivered to the Tribunal office that is handling your case. If the discontinuance involves a matter under the occupational health and safety division, it can be filed on-line.

You can also tell the Tribunal at the hearing that you wish to discontinue or file the on-line discontinuance form at **www.tat.gouv.qc.ca/menu-utilitaire/english-content/**

When the Tribunal receives your discontinuance it will close your file and you won't be able to change your mind.

3.2.2 THE PRE-HEARING CONFERENCE

The ALT may call the parties to a pre-hearing conference that may take place by telephone prior to the hearing or in person the morning of the hearing.

The purpose of the pre-hearing conference, held by an administrative judge, is to:

- Define the issues to be argued at the hearing;
- Assess the advisability of clarifying and specifying the parties' contentions and the conclusions sought;
- Ensure that all documentary **evidence** is exchanged by the parties;
- Plan the conduct of the proceeding and the order of presentation of evidence at the hearing;
- Examine the possibility for the parties of admitting certain facts or proving them by means of **sworn statements**;
- Examine any other matter likely to simplify or accelerate the conduct of the hearing.

The pre-hearing conference may also allow the parties to come to an agreement and thus terminate the matter.

3.2.3 CONCILIATION

Sometimes the **dispute** can be resolved before the hearing through conciliation. A neutral and impartial third party, the conciliator, provided by the ALT at no cost, helps the parties find a solution to their dispute.

You can ask to participate in conciliation any time after you file your action by contacting the Tribunal. It will find out whether the other parties agree to participate.

➢ **The purpose of conciliation**

The purpose of conciliation is to help the parties communicate, negotiate, identify their interests, assess their positions and explore mutually satisfactory solutions. Its ultimate goal is to have you settle amicably with the other party. If that happens and the conciliation ends in an agreement between you and the other parties, your case will be settled.

Conciliation allows you to talk to and negotiate directly with the other parties to agree on a solution to the dispute. It is also an opportunity to exchange certain information with the other parties, disclose or provide information about certain facts and express your point of view.

Even if you don't reach an agreement, conciliation can help you better understand the situation and the rules that apply, which will help you prepare for the hearing.

➢ The conciliator's role

Conciliation takes place in the presence of a conciliator who is neutral and unbiased. The conciliator's role is to meet the parties and try to come to an agreement. He is appointed by the President of the Tribunal and his role is to help the parties dialogue and find solutions. However, the conciliator does not make a decision about your proceeding.

➢ What happens during conciliation

Conciliation takes place in all regions of Quebec. To use this service, you must apply to the Tribunal.

The conciliation procedure generally begins with a telephone call. The conciliator may also meet the parties together or separately at the Tribunal. The presence of **witnesses** is normally not required. If you are represented by a lawyer or another person, the conciliator will handle your case with your representative. Conciliation takes place ***in camera***, which means "in private", and follows less formal rules than during a hearing.

The conciliator may not disclose and cannot be forced to disclose what is said or what he learned while performing his duties. As a result, nothing that is said or written during a conciliation meeting may be disclosed at the hearing before the ALT or any other tribunal unless the parties agree.

➢ How to prepare for conciliation

Before the conciliation meeting, read your file, including the decision you're contesting, as well as the reasons for the decision. In reading the file you might realize that certain documents are missing, such as invoices, photographs, etc. If that is the case, give them to the other party as soon as possible before the conciliation meeting.

To explain your point of view and help you negotiate with the other party, it is important to prepare before the conciliation meeting. Determine in advance what is essential for you, what you hope to achieve and why you should succeed. If you are only contesting part of the decision, it is important to clearly identify what you are contesting and what you admit. Also, before the conciliation meeting, find out what legal rules apply to your situation.

The day of the conciliation meeting, have your file and all other relevant documents with you.

➢ **The end of conciliation**

You can put an end to the conciliation meeting at any time. If you can't agree or if the conciliation only leads to a partial agreement, you still have the possibility of being heard by a judge at a hearing.

However, if the conciliation is successful and allows you to come to a satisfactory solution, a conciliation agreement is drafted and signed by the parties and the conciliator. This agreement binds the parties. A party may submit it to the Tribunal for approval. If no application for approval is submitted within 12 months, the agreement puts an end to the case.

However, in a matter brought before the **health and occupational safety division**, an agreement must be confirmed by a member of the Tribunal, provided it complies with the law. The confirmed agreement puts an end to the case and constitutes the Tribunal's decision.

If the parties cannot agree or if the Tribunal refuses to confirm the agreement, a **hearing** is held as quickly as possible.

Make sure the agreement covers all the points on which you agreed and that you understand the terms used. It must be followed by each party. ▶ See 6.1

3.2.4 SETTLING OUT OF COURT

For most recourses, the parties may come to a settlement any time before the hearing. It will put an end to the dispute. This is an "out-of-court settlement". In such a case, the parties must notify the Tribunal.

REMEMBER

- Have your case number on hand when you contact the ALT.
- You can decide to put an end to your proceeding at any time by filing a discontinuance.
- Conciliation lets you settle your dispute without a hearing being held. It's important to be well prepared for it.
- Find out what rules of procedure apply to your case. You are responsible for knowing them.

STEP 4
PREPARING FOR A HEARING BEFORE THE ALT

If your file goes all the way to a **hearing**, you will have to invest a lot of time and energy preparing for it.

The effort you make preparing for the hearing can have a direct impact on the Tribunal's decision.

As soon as you find out the date of the hearing, make sure your file is ready to be submitted to the Tribunal. Here are a few important steps you should take before you appear before the Tribunal.

4.1 REVIEWING YOUR FILE

Since you play an important role in explaining the facts behind your case and the applications you are making to the Tribunal, you must carefully read your file and make sure it is complete. Your file should contain everything that is necessary and relevant to understand your claim and the documents in support of it.

If you are only contesting part of a decision by the CNESST or another party, it is important to clearly identify what you contest and what you admit.

To convince the Tribunal that the decision should be modified or cancelled, you must present your **evidence** at the hearing. Evidence may be made up of documents (medical reports, receipts, invoices, contracts, photographs, etc.), **experts'** reports, testimony or all of the above. It is up to you to obtain these documents.

Your case may require the opinion of an expert, such as a doctor's opinion about your state of health. If this is the case, you must hire such an expert and send his report to the Tribunal not later than 30 days before the date scheduled for the hearing, or by any other date set by the Tribunal.

For matters under the **occupational health and safety division**, the ALT sends the parties the **proceedings** and the evidence filed by the parties not later than 15 days before the date scheduled for the hearing.

For matters under the **labour relations division**, the **essential services division** or the **construction industry and occupational qualification division**, the party filing a proceeding or any other document must inform the other parties. In such a case, you must ensure it includes the proof of **notification** and indicates the delivery method used.

4.2 IDENTIFYING AND PREPARING YOUR WITNESSES

Although you may be convinced you're right, don't forget that the other parties also think they're right and that, like you, they will try to make the Tribunal agree with them.

At the hearing, you will have to prove the facts on which you are basing your claim. In addition to the documents you expect to use, you could have to testify and call other **witnesses**.

You should begin by asking yourself whether you could convince the Tribunal that you're right with your testimony alone. If not, you should determine what other witnesses you will need.

You should also anticipate who the other party's witnesses will be so you can plan how to contradict their testimony. For example, if the other party has a doctor testify as an expert witness, it would be advisable for you to have a doctor testify also.

If you decide to have an expert testify, you must notify the Tribunal quickly since it could affect the length of the hearing. You must tell the Tribunal the name and profession of the witness. If your expert witness cannot go to the office where the hearing will be held, you can ask the Tribunal for permission to have him participate via video conference.

When you have identified the people whose presence is necessary at the hearing, don't forget that it's up to you to make sure those witnesses are present on the date set for the hearing.

If you're afraid a witness won't show up at the hearing, you must summon them to the hearing in accordance with the Tribunal's **rules of procedure** within the applicable time limit. It's best to call witnesses long enough in advance to ensure they will be present and avoid last-minute surprises or a request for a **postponement**.

You can order a witness to be present on the day of the hearing through a **subpoena** (summons) signed by the Tribunal or your lawyer. At least 10 days before the date of the appearance, you or your lawyer must have the subpoena notified by **bailiff**, registered mail or any other means that lets you prove that the witness received it. You will have to pay the bailiff's fees as well as the notification costs.

Also, for matters under the **occupational health and safety division**, a person summoned to appear to testify before the ALT is entitled to the same indemnity as witnesses in the Superior Court and to be reimbursed his travel and lodging costs. Where applicable, you will therefore have to pay the witnesses you summon the indemnity and their costs.

You or your lawyer is responsible for sending a subpoena to a witness at least 10 days before the date of the appearance.

You must carefully prepare for the **examination** of your witnesses as well as the **cross-examination** of the other party and his witnesses.

➢ **Your witnesses**

At the hearing, you must ask your witnesses questions so they can clearly explain their version of the facts to the Tribunal. Adequate preparation before the hearing is therefore essential.

It's to your advantage to meet your witnesses in advance to have a reasonable idea what they will say at the hearing. This avoids unpleasant surprises and lets you make any necessary adjustments to your evidence. For example, you might decide not to call a witness since his version of the facts is less favourable than you thought.

This preparation can be used as a dress rehearsal for both you and your witnesses. It's an opportunity to ensure that all the elements of **proof** you have to present to the Tribunal are mentioned by your witnesses. ▶ See 5.2.3

Tell your witnesses that they might be questioned by one of the administrative judges or by the other party's representative during the hearing.

Other than an expert witness, a witness must have personal, direct knowledge of the facts. As an example, only a person who participated in or was present during a conversation can testify about it.

➢ **The other party's witnesses**

The cross-examination is your opportunity to ask the other party's witnesses questions. You must be very careful during this step. ▶ See 5.2.2

Writing out your questions is a good way to make sure you don't forget anything important during the examination. It can also be useful to ask questions in chronological order according to when the events took place.

4.3 THE APPLICABLE LAW

At the end of the hearing, the Tribunal must assess all the facts submitted into evidence by the parties and make a decision.

Bear in mind that, although you may be convinced that your position is well-founded, the legal rules may not be in your favour.

You are responsible for finding out what laws apply to your situation. To do so, check the law and regulations under which the other party made the decision that you're contesting, such as the *Act respecting industrial accidents and occupational* diseases and the *Act respecting occupational health and safety*. Also check the *Act to establish the Administrative Labour Tribunal* and the rules of procedure for the Tribunal.

▶ See "Available Resources" at the end of this guide.

Different legal **doctrine** texts can also help you understand the rules and legal principles relevant to your case. Doctrine can be found in bookstores specialized in legal texts and on the Internet.

At the hearing, it is useful to give the judge **jurisprudence**—decisions previously rendered by the courts dealing with situations similar to yours. These decisions can be found on different web sites you can access free of charge, such as **citoyens.soquij.qc.ca** and **www.canlii.org**.

The jurisprudence and legal texts in support of the arguments you intend to submit to the Tribunal must be given to the other party at the hearing. It is therefore important to have enough copies for the judges and the other party.

REMEMBER

- Carefully review your file and make sure it is complete.
- Identify the legal issues involved to determine those you wish to put forward.
- Determine what witnesses you need and go over their testimony with them.
- If you want to submit an expert's report at the hearing, you must first file it within the required time.
- Determine what legal rules apply and find doctrine and jurisprudence that apply to your case.
- Make sure you have enough copies for the administrative judge and the other party.

STEP 5
THE HEARING BEFORE THE ALT

The **hearing** is generally the last step of the proceeding, particularly if conciliation failed.

5.1 THE NOTICE OF HEARING

The Tribunal will mail you a notice of the date and place of the hearing. If you cannot be present on that date, you must send the Tribunal a written application for a **postponement** as soon as you realize that you won't be able to attend. A postponement is only granted for serious reasons and if required for the ends of justice. The parties' consent is not in itself sufficient ground to grant a postponement.

An application for a postponement must be notified to the other parties, include supporting documents and contain the following information:

- The grounds invoked;
- The consent of the other parties, where applicable;
- The probable duration of the hearing;
- The need for **expert** evidence and the presence of an expert at the hearing;
- The early dates when all the parties, their **representatives** and **witnesses**, including the experts, are available.

For more details about the time limits and the requirements for filing an application for a postponement, you can read the ALT's guidelines about postponements at: **www.tat.gouv.qc.ca/le-tribunal/fonctionnement-du-tribunal/la-remise-daudience/**

5.2 THE DAY OF THE HEARING

Make sure you bring to the hearing all the documents you need to present your **evidence** and have enough copies for the administrative judge and the other party.

Let the receptionist know you've arrived and then take a seat in the hearing room you're told to go to. Several cases may be scheduled for hearing in that room on the same day. Be patient and listen to the instructions of the administrative judge, who will tell you when it's your turn.

If a party does not attend the hearing, the case may be cancelled, postponed or the administrative judge may render a decision in the person's absence.

5.2.1 PRELIMINARY APPLICATIONS

Before and at the beginning of the hearing, special requests called "preliminary applications" can be made to the Tribunal. For example, you may want to ask for **execution** of the contested decision to be suspended or for witnesses to be excluded. In theory, such an application must be made in writing but it may be presented verbally if the Tribunal allows it.

5.2.2 PRESENTATION OF THE EVIDENCE

At the hearing, the parties take turns presenting their evidence. Other than in exceptional circumstances, it is up to you to prove to the Tribunal that the decision you are contesting should be changed or cancelled.

You will explain your version of the facts when presenting your evidence, which may consist of documents and testimony. The Tribunal may refuse any evidence that is presented to it.

KEEP IN MIND

- Present your evidence coherently and in chronological order.
- Make sure the evidence you submit is relevant and presented according to the applicable rules.

It is normal for the administrative judge to intervene to make sure the parties don't abuse their right to speak and waste the Tribunal's time. For example, if you repeat yourself, the administrative judge might interrupt you and ask you to move on to another aspect of your case. He may also ask you questions about the facts you're explaining; listen carefully and answer to the best of your knowledge.

Testimony plays an essential role since it is often a key factor in the final decision. A person asked to testify may be examined by each of the parties. The administrative judge can also ask questions himself.

➢ **The examination in chief**

This is when you ask your witnesses questions. If you have more than one witness, it is up to you to decide in what order you want them to be heard.

When you have other witnesses heard, you must call them one by one, in the order you have determined. You can ask them direct questions to explain their version of the facts. You must ask direct questions which do not suggest an answer. If you suggest answers to your own witnesses, your opponent can object to your question. Other than an expert witness, witnesses may not give an opinion on the issues raised by the case; they can only testify as to facts about which they have personal knowledge.

Remember, if you want to have an expert witness testify, such as a doctor, you must have sent a copy of his report within the required time.

Always refrain from making comments or expressing your opinion or disagreement when testimony is being given. You will get a chance to cross-examine the witness if you think it's necessary.

➢ **The cross-examination**

When you have finished examining a witness, it's the other party's turn to examine him. This is the **cross-examination**. If you testified, the other party may cross-examine you also. During cross-examination, suggestive questions are allowed.

Always keep in mind that you don't have to cross-examine the other party's witnesses. The best **proof** is often that which you make using your own witnesses. In many cases, it's better to refrain from cross-examining a witness unless you can't make your proof any other way. That way, you'll avoid being taken by surprise or strengthening the other party's evidence.

When you examine a witness, limit yourself to asking questions and avoid making comments or arguing.

5.2.3 THE ARGUMENTS (PLEA)

When the parties have finished presenting their evidence, they will take turns presenting their arguments. You will have to summarize the facts presented to the Tribunal and explain why the administrative judge should rule in your favour.

During your **arguments**, there's no need to repeat everything that has been said. You should only stress the important facts. You can also mention any contradictions you noticed that are in your favour.

Be sure you make the connection between the evidence and the legal principles that support your arguments. This is the point where you can submit **jurisprudence** and legal texts (laws or **doctrine**). ▶ See 4.3

Writing down your arguments is a good way to be sure you don't forget important points during the hearing.

It will then be the turn of the other party or his lawyer or representative to submit arguments, to which you may respond if necessary.

At the end of the hearing, the Tribunal may render its decision immediately or, what happens most often, the Tribunal will take the case under advisement, which means that it will render its decision after the **hearing**.

The decision will be in writing giving reasons and it will be mailed to you within a period that may vary. It is rendered within three months after the matter is taken under advisement other than in the **occupational health and safety division**, where the decision will be rendered within nine months after the filing of the originating pleading. However, the President of the Tribunal may extend these times.

In the interim, you may not communicate with the administrative judge or send him other documents.

REMEMBER

- Be sure you fully understand the information you will present to the Tribunal and the arguments you intend to make.
- Bring the file sent by the Tribunal.
- Identify your documents and put them in chronological order so you can find them easily during the hearing. This will make it easier to present your evidence.
- Make sure you follow the special rules of procedure for filing experts' reports.
- Make sure you have enough copies of the various documents you want to submit at the hearing.

STEP 6
WHAT HAPPENS AFTER THE ALT MAKES ITS DECISION

6.1 EXECUTING THE DECISION

A decision by the Administrative Labour Tribunal must be complied with as soon as the parties receive a copy of it; the decision is **enforceable**.

If one of the parties does not abide by the Tribunal's decision, he can be forced to through the filing of the decision with the Superior Court **office** for the district in which the case was brought according to the rules set out in the *Code of Civil Procedure*. This will force the party to abide by the decision, otherwise he could be in contempt of court.

6.2 CONTESTING THE DECISION

The ALT's decisions are final and cannot be appealed, other than in exceptional circumstances. In some cases they may be corrected, reviewed or revoked by the Tribunal. In rare cases, a decision may be submitted to the Superior Court for judicial review.

6.2.1 SPECIAL RECOURSES BEFORE THE ALT

- **Correction**

A decision by the Tribunal containing an error in writing or calculation or any other clerical error may be corrected on the record and without further formality by the administrative judge who rendered the decision.

When a decision contains such an error, a party may ask the Tribunal in writing to rectify it. Such a request must indicate the error in question.

➢ **Review or revocation**

In general, no party can contest a decision by the ALT. However, there are some special cases where review or revocation is possible. You can ask for all or part of a decision by the ALT to be reviewed or revoked in the following cases:

- If a new fact is discovered after the **hearing** that could not have been discovered before but which, had it been known in sufficient time, could have warranted a different decision;
- If a party, owing to reasons considered sufficient, could not be heard, for example, if the party was not at the hearing for a serious reason;
- If a party, owing to reasons considered sufficient, could not make representations;
- If a substantive or procedural defect is of a nature likely to invalidate the decision, for example, if the ALT did not rule on part of the contestation from which the **dispute** arose.

An application for review or revocation must be in writing and sent to the Tribunal and the other parties within a reasonable time, generally 30 days after receipt of the decision or after the discovery of a new fact that could warrant a different decision.

The **motion** must specify the decision in question and state the grounds in support of the motion for review or revocation.

Any party covered by such a request may respond to it in writing within 30 days of receipt of the other party's motion.

The Tribunal proceeds on the record unless a party asks to be heard or the Tribunal, on its own initiative, considers it appropriate to hear the parties.

6.2.2 JUDICIAL REVIEW OF A DECISION BEFORE THE SUPERIOR COURT

In certain exceptional cases, an application for "judicial review" can be made before the Superior Court. This complex proceeding must generally be brought within 30 days of receiving the Tribunal's decision

REMEMBER

The ALT's decisions are final and cannot be appealed. Everyone must comply with them.

If you want to contest a decision by the ALT, you have to do so within the time limits, which are very short and strict.

STEP 1
THE RÉGIE'S JURIDICTION

STEP 2
FILING A PROCEEDING BEFORE THE RÉGIE

STEP 3
THE STAGES OF A PROCEEDING BEFORE THE RÉGIE

STEP 4
PREPARING FOR A HEARING BEFORE THE RÉGIE

STEP 5
THE HEARING BEFORE THE RÉGIE

STEP 6
WHAT HAPPENS AFTER THE RÉGIE MAKES ITS DECISION

REPRESENTING YOURSELF BEFORE THE *RÉGIE DU LOGEMENT* (RÉGIE)

STEP 1
THE RÉGIE'S JURISDICTION

If you own or rent a dwelling and you have questions about the lease, you must apply to the *Régie du logement*.

The *Régie du logement*, commonly referred to as the "Régie" (rental board), has exclusive jurisdiction to decide on any application respecting the lease of a dwelling where the value of the applicant's interest does not exceed the amount of the Court of Québec's jurisdiction (ex. damages, rent reduction, cancellation of the lease or rent collection).

▶ See "Available Resources" at the end of this guide

Other than in exceptional cases prescribed by law, the Régie hears applications regardless the amount relating to matters involving:

- Lease renewal and modification;
- Fixing the rent and other lease terms;
- Certain aspects of repossession of and eviction from a dwelling such as a change of destination, division or substantial enlargement of a dwelling;
- Low-rental housing;
- Demolition of a dwelling located in a municipality where there is no municipal by-law that provides for it;
- Sale of a rental building within a building complex;
- Converting residential buildings to divided co-ownership.

The provisions relating to residential leases apply to the services, accessories and dependencies of a dwelling, room, mobile home or the land on which it is placed.

The Régie does not hear **disputes** concerning the lease of a dwelling leased as a vacation resort, such as a cottage, nor the lease of a dwelling in which over one-third of the total floor area is used for purposes other than residential. The lease of a room is likened to that of a dwelling, although several exceptions apply.

Before filing an application with the *Régie du logement*, you must determine whether it is the tribunal that has jurisdiction to hear your case. The possible applications are listed on the *Régie du logement*'s web site.

▶ See "Available Resources" at the end of this guide

REMEMBER

- The Régie only decides on applications relating to the lease of a dwelling.
- Don't forget that the Régie determines its jurisdiction based on the total value of all the claims you submit.
- Before filing an application with the Régie, check whether it's the tribunal that has jurisdiction to hear your case.

STEP 2
FILING A PROCEEDING BEFORE THE RÉGIE

The *Régie du logement* is asked to decide on disputes between a tenant and a landlord who are bound by a residential lease. The proceeding begins with the filing of an application with the Régie.

Certain rules must be followed before the Régie. Below we will discuss the main ones that apply to most proceedings.

2.1 DRAFTING AN APPLICATION

To submit an application to the Régie, you can go to one of the Régie's offices to get the form you have to file for this purpose. An employee can help you fill it out. The form is also available on the Régie's web site.

▶ See "Available Resources" at the end of this guide

The application must be signed and indicate the following:

- The name and address of the party filing it and those of the party against whom it is being made;
- The address of the dwelling in question;
- The grounds invoked in support of the application, i.e. the reasons for it;
- The conclusions sought.

2.2 WHERE THE APPLICATION SHOULD BE FILED

Once the application is completed, you should send it to any office of the Régie using one of the following means:

- Deliver it by hand to one of the Régie offices and pay the required fee;
- Mail it to the Régie along with the required fee.

Some applications can be filed on-line on the Régie's website:

- application regarding unpaid rent (collection of rent and cancellation of the lease);
- application to fix the rent (brought by the landlord);
- application to fix the rent for a new tenant or sub-tenant (brought by the tenant or sub-tenant);
- application to modify the lease (brought by the landlord);
- application to repossess the dwelling.

▶ See "Available Resources" at the end of this guide

2.3 THE DEADLINE FOR FILING AN APPLICATION

Before filing an application before the *Régie du logement*, the obligations between landlord and tenant are subject to several deadlines and formalities. To find out what they are, visit the *Régie du logement*'s web site.

▶ See "Available Resources" at the end of this guide

In some cases, there is no set time for filing an application with the Régie. However, the three-year prescription period prescribed by the *Civil Code of Québec* must be taken into account. In other cases, the application must be instituted within a variety of time limits. For example, the time limit is one month in the case of the fixing of the rent or the repossession of a dwelling and 10 days in the case of major work.

2.4 THE FEES PAYABLE WHEN FILING AN APPLICATION

Fees must be paid when an application is filed. They vary depending on the nature of the application.

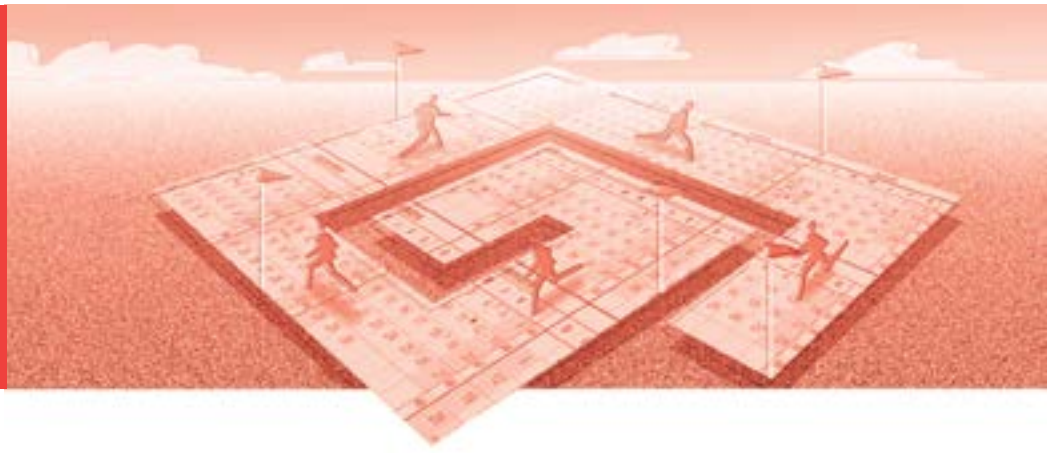
To find out more, visit the Régie's web site.

▶ See "Available Resources" at the end of this guide

REMEMBER

Make sure your application is signed and contains the necessary information.
Keep a copy of your application and the documents you file with it.
Pay the required fees.
Notify the Régie of any change to your contact information.

STEP 3
THE STAGES OF A PROCEEDING BEFORE THE RÉGIE



A proceeding begins with the filing of an application with the Régie and ends with a final decision, agreement or discontinuance.

3.1 RECEIPT OF THE APPLICATION BY THE RÉGIE

When the Régie receives an application, it gives it a file number that all parties must provide when contacting the Régie.

3.2 SERVING THE APPLICATION

After you file an application with the Régie, you must serve a copy on the other party within a reasonable time. The purpose of **service** is to make the other party aware of the application.

Service may be by registered mail, **bailiff** or any other appropriate means that will let you prove it was received.

An application made against more than one person must be served on each of them.

At the **hearing**, you will be responsible for proving that the other party received a copy of the application.

If you want to have the cost of serving the application reimbursed, you have to give the commissioner proof of the costs incurred at the hearing. You will be reimbursed according to the rate that applies at the time.

3.3 THE VARIOUS STAGES AFTER AN APPLICATION IS FILED

During the **case**, if you want to submit an application other than the initial application to the Régie, you must do so in writing, unless a commissioner authorizes you to do so verbally at the hearing, provided the other party is present.

Once the initial application is received by the Régie, various steps may follow. You will find them below.

3.3.1 DISCONTINUANCE

The applicant can choose to discontinue the proceeding, i.e. to withdraw his application, at any time. All he has to do is send the Régie a signed letter informing it that he wishes to end the proceeding or complete and sign the discontinuance form available on the Régie's web site. The filing of a discontinuance puts an end to the case.

▶ See "Available Resources" at the end of this guide

The Régie notifies the other party of the discontinuance unless it is filed at the hearing in the presence of the other party.

3.3.2 AMENDMENT

At any time before the hearing, the application can be amended to complete or correct the allegations (reasons for the application) and conclusions. The amended application must be sent to the Régie and served on all the parties before the hearing. If the amendment is made to add a party, a copy of the original application and the amendment must be served on him. In some cases an amendment can be made verbally at the hearing. An amendment must be accepted by the tribunal.

3.3.3 CONCILIATION

Sometimes the **dispute** can be resolved before the hearing is held through conciliation.

As soon as an application is filed, the Régie may offer conciliation. A party may also ask to participate in a conciliation session to attempt to settle the dispute. For such a session to take place, all the parties must agree.

➢ The purpose of conciliation

The purpose of conciliation is to facilitate dialogue and negotiations between the parties and help them identify their interests, assess their positions and explore mutually satisfactory solutions. Its ultimate goal is to encourage you to settle with the other party. If you settle and the conciliation ends with an agreement, the proceeding is over.

Conciliation allows you to talk to and negotiate directly with the other parties to attempt to agree on a solution to the dispute. It is also an opportunity to exchange certain information, provide information about certain facts and express the different points of view.

Even if you don't reach an agreement, conciliation can help you better understand the situation, which will help you prepare for the hearing.

➢ The conciliator's role

Conciliation takes place in the presence of conciliator who is neutral and unbiased. His role is to help the parties dialogue and find solutions.

However, the conciliator does not render a decision about the proceeding and he also does not give his opinion on the parties' respective positions.

➢ The conciliation session

Conciliation sessions are held at the *Régie du logement* offices. The Régie notifies the parties of the date, time and place where the session will be held.

Conciliation takes place ***in camera***, which means "in private", and follows less formal rules than during a hearing.

Nothing that is said or written during a conciliation session may be disclosed at the hearing before the Régie or any other tribunal unless the parties agree.

➢ How to prepare for a conciliation session

It is important to prepare for the conciliation session. You must determine in advance what is essential for you, what you hope to achieve and why you should succeed. This step will help you explain your point of view and better negotiate with the other party.

The day of the conciliation session, have all documents relating to the dispute with you.

➢ The end of conciliation

A party can put an end to the conciliation session at any time. If you can't agree or if the conciliation only leads to a partial agreement, you still have the possibility of being heard by a commissioner at a hearing. If your case goes to a hearing, the commissioner who acted as conciliator cannot be the judge at the hearing.

However, if the conciliation is successful and allows you to come to a satisfactory solution, a conciliation agreement is drafted by the conciliator and signed by the parties. Make sure this agreement covers all the points on which you agreed and that you understand the terms used. This agreement must be respected by each party since it is confirmed by a commissioner as if it was the tribunal's decision.

3.3.4 **AGREEMENT**

At any time before the hearing, the parties may come to an agreement. In such a case, a copy of the agreement is signed by the parties and must be sent to the Régie to put an end to the dispute. To make sure the parties comply with the agreement, it may be confirmed by the Régie.

REMEMBER

- Find out what rules of procedure apply to your case. You are responsible for knowing them.
- Keep proof that the application was served.
- The applicant can decide to put an end to his proceeding at any time by filing a discontinuance.
- Conciliation lets you settle your dispute without a hearing being held. It is important to be well prepared for it.

STEP 4
PREPARING FOR A HEARING BEFORE THE RÉGIE

If the file goes all the way to a **hearing**, you will have to invest a lot of time and energy preparing for it.

The effort you make preparing for the hearing can have a direct impact on the Régie's decision.

As soon as you receive the date of the hearing, make sure your file is ready to be submitted to the Régie. Here are a few important steps you should take before you appear before the Régie.

4.1 REVIEWING YOUR FILE

Since you play an important role in explaining the facts behind your **case** and the applications you are making to the Régie, you must make sure the file contains everything that is necessary and relevant to understanding the case.

Make sure you have proof in your file that the other party received a copy of the proceeding. This proof of **service** is essential and must be given to the commissioner at the hearing.

To convince the commissioner that you are right, you must present **evidence** at the hearing. What that evidence will be varies depending on the nature of the proceeding. Evidence may be made up of documents (notices required by law, demand letters, correspondence, receipts, invoices, contracts, photographs, advertising, electricity bills, etc.), **experts'** reports, testimony or all of the above. You are responsible for obtaining these documents, submitting them at the hearing and giving the other party a copy. You must also make sure your **witnesses** are present the day of the hearing.

The proceeding may require the opinion of an expert, such as an appraiser or inspector. Proof of this opinion may be made through his testimony or the filing of his report.

4.2 IDENTIFYING AND PREPARING YOUR WITNESSES

Although you may be convinced you're right, don't forget that the other party also thinks he's right and that, like you, he will try to make the commissioner agree with his position.

At the hearing, you will have to prove the facts on which you are basing your claims. In addition to the documents you expect to use, you could have to testify and call other witnesses.

You should begin by asking yourself whether you could convince the commissioner that you're right with your testimony alone. If not, you should determine which other witnesses you will need.

You should also anticipate who the other party's witnesses will be so you can plan how to contradict their testimony.

When you have identified the people whose presence is necessary at the hearing, don't forget that it's up to you to make sure those witnesses are present on the date set for the hearing.

If you're afraid a witness won't show up at the hearing, you must summon him to the hearing according to the Régie's **rules of procedure** within the applicable time limit. It's best to call witnesses long enough in advance to ensure they will be present and avoid last-minute surprises.

You can order a witness to be present before the Régie and bring documents through a writ of **subpoena**, signed by a commissioner. It is your responsibility to have the **summons** served on the witness by **bailiff** within the time prescribed by law. You will have to pay the bailiff's fees.

You must carefully prepare for the **examination** of your witnesses as well as the **cross-examination** of the other party and his witnesses.

➢ Your witnesses

At the hearing, you must ask your witnesses questions so they can clearly explain their version of the facts. Adequate preparation before the hearing is therefore essential.

It's to your advantage to meet your witnesses in advance to have a reasonable idea what they will say at the hearing. This avoids unpleasant surprises and lets you make any necessary adjustments to your evidence. For example, you might decide not to have a witness heard since his version of the facts is less favourable than you thought.

This preparation can be used as a dress rehearsal for both you and your witnesses. It's an opportunity to ensure that all the elements of proof you have to present to the Régie are mentioned by your witnesses. ▶ See 5.2.2

Tell your witnesses that during the hearing they might be questioned by the commissioner, the other party or his **representative** where applicable.

Other than an expert witness, a witness must have personal, direct knowledge of the facts. As an example, only a person who participated in or was present during a conversation can testify about it.

➢ **The other parties' witnesses**

The cross-examination is your opportunity to ask the other party's witnesses questions. You must be very careful during this step. ▶ See 5.2.2

Writing out your questions is a good way to make sure you don't forget anything important during the examination.

4.3 THE APPLICABLE LAW

At the end of the hearing, the Régie must assess all the facts submitted into evidence by the parties and render a decision according to the applicable law.

Bear in mind that, although you may be convinced that your position is well-founded, the legal rules may not be in your favour.

You are responsible for finding out what laws apply to your situation. To do so, check the *Act respecting the Régie du logement* and its regulations, the rules of procedure as well as the chapter of the *Civil Code of Québec* on lease.

Different legal **doctrine** texts can also help you understand the rules and legal principles relevant to your file. Doctrine can be found in bookstores specialized in legal texts and on the Internet.

At the hearing, it is useful to give the commissioner **jurisprudence**, that is, decisions previously rendered by courts or tribunals dealing with situations similar to yours. These decisions can be found on different Websites you can access free of charge, such as **soquij.qc.ca/fr/english** and **www.canlii.org/en**.

The jurisprudence and legal texts in support of the arguments you intend to submit to the Régie must be given to the other party at the hearing. It is therefore important to have enough copies for the commissioner as well as the other party.

REMEMBER

- Carefully review your file and make sure it is complete, even if the other party made the application.
- Identify the legal issues involved to determine those you should put forward.
- Determine which witnesses you need and go over their testimony with them.
- Determine what legal rules apply and find doctrine and jurisprudence that apply to your case.

STEP 5
THE HEARING BEFORE THE RÉGIE

The **hearing** is generally the last step of the proceeding, particularly if conciliation failed.

To find out more about what happens at the hearing, visit the Régie's web site:
www.rdl.gouv.qc.ca/en/hearing/how-the-hearing-is-conducted

5.1 THE NOTICE OF HEARING

The Régie will send you notice of the date and place of the hearing as well as the nature of the application by mail. If you cannot be present on that date, a **postponement** of the hearing is possible with the written consent of all the parties. If you don't get this consent, you can make a written request to the Régie giving the reasons why you won't be able to attend. You can also do so verbally at the hearing or through a **mandatary** authorized by law to speak on your behalf. ▶ See 1.2, Chapter 1

A postponement is only granted for serious reasons. The commissioner who is to hear your application will decide whether the postponement should be allowed depending on the circumstances.

5.2 THE DAY OF THE HEARING

Make sure you bring to the hearing all the documents necessary to present your **evidence** and have enough copies for the commissioner and the other party.

Let the receptionist know you've arrived and then wait to be called. When the commissioner is ready, you will be asked to enter the hearing room.

If none of the parties attends the hearing, the case is struck (cancelled) or postponed. If only the applicant or his authorized mandatary is present, the commissioner may render a decision. When only the defendant is present, the commissioner may strike, dismiss or postpone the case.

At the hearing, the applicant must file into evidence:

- Proof that his application and any amendments were served;
- The lease and any changes to it;
- The mandate if a mandatary is allowed by law to represent him.

5.2.1 PRELIMINARY APPLICATIONS

Before and at the beginning of the hearing, special requests called "preliminary applications" can be made to the commissioner, such as a request to postpone the hearing.

5.2.2 PRESENTATION OF THE EVIDENCE

At the hearing, each party takes turn presenting his evidence. The party who filed the application presents his evidence first.

You will explain your version of the facts when presenting your evidence. Your evidence may be made up of documents and testimonies. The commissioner may refuse any evidence that is presented to him.

➲ Present your evidence coherently and in chronological order.

➲ Make sure that the evidence you submit is relevant and presented according to the applicable rules.

Sometimes the commissioner intervenes to make sure the parties don't abuse their right to speak. For example, if you repeat yourself, the commissioner may interrupt you and ask you to move on to another aspect of your case. He may also ask you questions about the facts you're explaining; listen carefully and answer to the best of your knowledge.

Testimony plays an essential role since it is often a decisive factor in the final decision.

➢ **The examination in chief**

The party who initiated the proceeding has his **witnesses** heard first. If you have more than one witness, it's up to you to choose the order in which your witnesses will be heard.

You must call them one by one, in the order you have determined, to explain their version of the facts. You must ask direct questions which do not suggest an answer. If you suggest answers to your own witnesses, your opponent might object to your question.

Other than an **expert** witness, no witness may give an opinion on the issues raised by the case; he can only testify as to facts about which he has personal knowledge.

Always refrain from making comments or expressing your opinion or disagreement while testimony is being given.

➢ **The cross-examination**

When you have finished your **examination** of a witness, it's the other party's turn to examine him. This is the **cross-examination**. If you testified, the other party may cross-examine you also. During cross-examination, suggestive questions are allowed.

Always keep in mind that you don't have to cross-examine the other party's witnesses. The best proof is often that which you make using your own witnesses.

In many cases, it's better to refrain from cross-examining a witness; that way you'll avoid being taken by surprise by answers that could strengthen your opponent's evidence.

Writing out the questions you have for the witnesses will make sure you don't forget any;

When you examine a witness, limit yourself to asking questions and avoid making comments on what he says or arguing with him.

5.2.3 THE ARGUMENTS (PLEA)

When the parties have finished presenting their evidence, they will take turns presenting their arguments. You will have to summarize the facts presented to the commissioner and explain why he should rule in your favour.

During your **arguments**, there's no need to repeat everything that has been said. You should only stress the important facts. You can also mention any contradictions you noticed that are in your favour.

Be sure you make the connection between the evidence and the legal principles that support your arguments. This is the point where you can submit **jurisprudence** and legal texts (laws or **doctrine**). ▶ See 4.3

Writing down your arguments is a good way to be sure you don't forget important points during the hearing.

In certain cases the commissioner may render his decision immediately. He may also take the case **under advisement**, which means that he will render his decision after the hearing. The decision is in writing giving reasons and it is sent to you by mail or any other appropriate means within 3 months of the date the case is taken under advisement. In the interim, you may not communicate with the commissioner. You may not provide other documents unless the commissioner gave you permission to do so during the hearing.

REMEMBER

- Make sure you know what points you have to make to the Régie.
- Identify your documents and put them in chronological order so you can find them easily during the hearing. This will make it easier to present your evidence.
- Make sure you have enough copies of the various documents you want to submit at the hearing.

STEP 6
WHAT HAPPENS AFTER THE RÉGIE MAKES ITS DECISION

6.1 EXECUTING THE DECISION

A decision by the Régie must be complied with within the time prescribed by law. If any of the parties does not abide by the Régie's decision, he can be forced to by the filing of a certified copy of the decision at the **Court** of Québec **office** where the dwelling is located. After that, **proceedings** to have the decision **executed** may be taken.

KEEP IN MIND

The deadlines for executing a decision by the Régie vary depending on the nature of the application.

6.2 CONTESTING THE DECISION

There are different recourses against a decision by the Régie. In some cases the decision may be corrected, revoked or reviewed by the Régie itself. Also, some decisions can be appealed, with permission, before the Court of Québec. In rare cases, a decision may be submitted to the Superior Court for judicial review.

6.2.1 SPECIAL RECOURSES BEFORE THE RÉGIE

➢ Correction

The commissioner who rendered a decision may correct it if it contains a spelling, calculation or any other clerical error, such as the date.

When the decision contains such an error, a party can ask the Régie in writing to correct it. The party will have to pay the costs associated with his **motion**; they will be reimbursed if the tribunal allows the correction.

A decision may be corrected by the commissioner as long as it has not been appealed or reviewed or before the decision becomes executory.

➢ Revocation

In certain circumstances provided for by law, a decision can be revoked. If that is allowed, a **hearing** will be set before the Régie with the possibility of obtaining another decision.

Revocation is possible in the following cases:

- A party was prevented from attending the hearing for serious reasons;
- A party attended the hearing but was prevented from providing **evidence** due to surprise, fraud or any other reason considered sufficient by the commissioner;
- The Régie did not rule on part of the demand or ruled beyond the application.

An application for revocation must be made in writing within 10 days after the decision is known or from the time the cause of prevention ceases. The application suspends the **execution** of the decision.

If the defendant applies for revocation, he must state the grounds of defence he would have made at the original hearing.

If a party abuses his right in order to delay the execution of a decision, the commissioner can prohibit him from instituting a new application without the consent of the President of the Régie or another commissioner.

➢ Review

The Régie may review a decision when its purpose is to fix or revise the rent or change a condition of the lease. The application must be made by a party within one month of the date of the decision.

6.2.2 APPEAL OF THE DECISION BEFORE THE COURT OF QUÉBEC

A decision by the Régie is final and cannot be appealed in the following cases:

- When the decision involves the fixing of the rent, the changing of a term of the lease or the review of the rent;
- When the sole object of the decision is the recovery of a debt not exceeding the jurisdiction of the Court of Québec for the recovery of small claims;
- When the decision involves the alienation of part of a housing complex, conversion to divided co-ownership or demolition;
- When the application involves authorization to deposit the rent.

In other cases, a decision by the Régie may be appealed to the Court of Québec with a judge's permission.

The application for leave to appeal must be made at the office of the Court of Québec of the place where the dwelling is situated. It must be presented by motion along with a copy of the decision and the documents filed with the Régie within 30 days of the date of the decision.

6.2.3 JUDICIAL REVIEW OF A DECISION BEFORE THE SUPERIOR COURT

In certain exceptional cases, an application for "judicial review" can be made before the Superior Court. This complex proceeding must generally be brought within 30 days of receipt of the Régie's decision.

REMEMBER

If you want to contest a decision by the Régie, you have to do so within the time limits, which are very short and strict.

AVAILABLE RESOURCES

ADMINISTRATIVE LABOUR TRIBUNAL
www.tat.gouv.qc.ca/menu-utilitaire/english-content/

ADMINISTRATIVE TRIBUNAL OF QUÉBEC
www.ATQ.gouv.qc.ca/en

BARREAU DU QUÉBEC (QUEBEC BAR)
www.barreau.qc.ca/en
The web site of the professional order for lawyers which provides information for both the public and lawyers as part of its mission to protect the public.

CANADIAN LEGAL INFORMATION INSTITUTE
www.canlii.org
A web site providing free access to legal information.

CENTRE D'ACCÈS À L'INFORMATION JURIDIQUE (CAIJ)
www.caij.qc.ca/en
A site which provides, among other things, a variety of research tools available online, such as doctrine and jurisprudence.

CHAMBRE DES HUISSIERS DE JUSTICE DU QUÉBEC
www.chjq.ca
A web site giving access to a list of bailiffs in Quebec.

COMMISSION DES NORMES, DE L'ÉQUITÉ, DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL
www.cnesst.gouv.qc.ca

COURT OF QUÉBEC
www.tribunaux.qc.ca

COURT OF QUÉBEC, SMALL CLAIMS DIVISION
www.justice.gouv.qc.ca/en/your-disputes/small-claim

COURT OFFICES
www.justice.gouv.qc.ca/en/join-us/find-a-courthouse/court-office-numbers-of-courthouses-and-service-points
A web site giving the telephone numbers of several courts and organizations.

ÉDUCALOI
educaloi.qc.ca/en
A web site which makes legal information available to the public in easy-to-understand language and lists other resources which may be useful in various areas of the law.

LAWS
See *Publications du Québec*.

LEGAL AID
www.csj.qc.ca
A government legal service offered free of charge or with a contribution to people who meet certain financial eligibility criteria.

LEGAL INSURANCE
www.legalinsurancebarreau.com
Some household or automobile insurance policies provide legal insurance allowing you to be compensated in certain circumstances.

MINISTÈRE DE LA JUSTICE DU QUÉBEC

www.justice.gouv.qc.ca/en

A web site that provides sample proceedings, pamphlets and brochures to make it easier to understand laws and regulations.

PUBLICATIONS DU QUÉBEC

www.publicationsduquebec.gouv.qc.ca

A web site that gives access to the laws of Quebec and most regulations.

REFERRAL SERVICE

www.barreau.qc.ca/en/directory-lawyers/#!/search

A web site that lets you find the name and contact information of a lawyer by area of practice in several regions of Quebec.

RÉGIE DU LOGEMENT

www.rdl.gouv.qc.ca/en

RETRAITE QUÉBEC

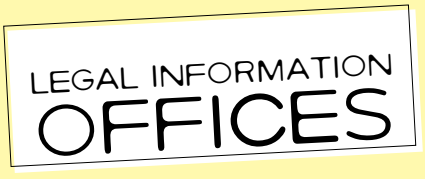
www.retraitequebec.gouv.qc.ca/en/Pages/accueil.aspx

Retraite Québec administers the Quebec Pension Plan, public-sector pension plans and the child assistance measure. It also oversees supplemental pension plans and voluntary retirement savings plans.

THE QUEBEC LAW NETWORK

www.avocat.qc.ca/english/

A web site that publishes legal texts in layman's terms written by lawyers, judges or other legal professionals. It also contains a "Frequently Asked Questions" section.



Legal Information Offices are non-profit organizations normally located in law faculties at universities across the province. To obtain general information on the law and your rights, you may meet with law students, who volunteer their services. However, please note that students can give you information but they cannot advise you. They do not replace the services of a lawyer. Find out from the universities how to contact the legal information office closest to you. You can contact the following offices:

LAVAL UNIVERSITY

bijlaval.ca or 418 656-7211

LEGAL INFORMATION CLINIC AT MCGILL

licm.mcgill.ca/?page=legalclinic or 514 398-6792

UNIVERSITÉ DU QUÉBEC À MONTRÉAL (UQAM)

www.cliniquejuridique.uqam.ca or 514 987-6760

UNIVERSITY OF MONTREAL

droit.umontreal.ca/en/services-and-resources/legal-aid-clinic/ or 514 343-7851

UNIVERSITY OF OTTAWA COMMUNITY LEGAL CLINIC

commonlaw.uottawa.ca/community-legal-clinic/ or 613 562-5600

UNIVERSITY OF SHERBROOKE

www.usherbrooke.ca/etudiants/vie-etudiante/cles/cle-de-vos-droits/
or 819 821-8000, ext. 65221

GLOSSARY

ADMINISTRATIVE FILE – Set of documents held by the agency, department or municipality that issued the decision being contested.

ARGUMENTS (PLEA) – A statement usually made verbally at the end of the hearing to convince the tribunal that the person's claims are well-founded.

BAILIFF – A legal officer whose role is to serve legal proceedings and enforce judgments.

CASE – Refers to all the stages of a legal proceeding, from beginning to end.

COURT OFFICE – A secretariat (office) which provides administrative services for one or more courts and which looks after the issuance of court orders and record-keeping, among other things.

CROSS-EXAMINATION – Examination of the other party or his witnesses.

DISPUTE – A dispute between two or more parties.

DOCTRINE – Legal texts containing opinions, written by legal writers.

EVIDENCE (PROOF) – The demonstration of a fact or legal act using means authorized by law.

EXAMINATION – An examination conducted by the party who called the witness.

EXECUTION (ENFORCEABLE) – The giving of effect to a decision.

EXPERT – A person who, due to his skills and particular knowledge about a subject, gives his opinion on that subject. Whether or not an expert witness' testimony is admissible is up to the judge and follows specific rules of procedure.

HARM – Bodily injury, physical damage or moral damages a person suffers for which he can ask to be compensated. Serious harm is that which has significant consequences for a person.

HEARING – A session during which the parties make their representations before the judge and sometimes call witnesses.

IN CAMERA – An expression which means that the public is prohibited from attending a hearing or conciliation session.

INTRODUCTORY MOTION (ORIGINATING PLEADING) – The document through which a legal proceeding is usually instituted.

JURISPRUDENCE – A set of decisions rendered by the courts which constitute a compilation of legal precedents.

MOTION – An application to the court to obtain an order or a decision on a point of law or procedure.

NOTIFICATION – A formality through which a person is officially notified of a complaint, a summons to appear before the court or another proceeding.

ORIGINATING PLEADING (INTRODUCTORY MOTION) – The document through which a legal proceeding is usually instituted.

POSTPONEMENT – The rescheduling of a hearing before the tribunal to a later date.

PROCEDURE (RULES OF PROCEDURE) – The organizational and jurisdictional rules of tribunals, and the rules governing the handling of a legal proceeding until it is decided by a tribunal and the decision is enforced.

PROCEEDING (PROCEEDINGS) – A set of actions leading to a decision by a tribunal, such as the originating pleading, appearance, defence, reply, etc.

REPRESENTATIVE (MANDATARY) – A person who performs an action for and on behalf of another person.

SERVICE (SERVED) – A formality according to which a written document, often a proceeding, is brought to the knowledge of a third party. Service of civil proceedings is very important and must be carried out according to specific rules.

SUMMONS (SUBPOENA) – A proceeding ordering a person to appear before a tribunal on the date and at the time and place indicated.

SWORN STATEMENT (*AFFIDAVIT*) – Written statement that is sworn by the person making it, the declarant, which is received and certified by a person authorized by law to do so.

UNDER ADVISEMENT – Step following the hearing during which the judge gives himself time to think about the case before making a decision.

WITNESS – A person who relates under oath facts he personally saw, heard or otherwise felt or observed.

NOTE: Certain words may be added to the glossary even though they do not appear in the guide since they are frequently used in legal language and documents.

REPRESENTING YOURSELF BEFORE AN ADMINISTRATIVE TRIBUNAL

Given the increasing number of individuals choosing to represent themselves in court without a lawyer, the Fondation du Barreau du Québec presents Representing Yourself in Court, a series of publications to provide such individuals with general information to help them better understand what is involved in the legal process and make informed choices about the steps to be taken.

The Fondation du Barreau du Québec is a non-profit organization which plays an important role in legal research. By supporting work of benefit to legal professionals and providing the public with tools for finding information, the Fondation contributes to the advancement of knowledge and helps build a better future.

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