

Licence Appeal Tribunal

12th Floor, 1 St. Clair Avenue West
Toronto ON M4V 1K6



How to Appeal Your Commercial Vehicle/Trailer Impoundment and Suspension Order

**Under section 50.3 of the Highway Traffic Act
(operation of commercial motor vehicle/trailer with a critical defect)**

There are a number of types of appeal that may be heard by the Tribunal, and there is a Tribunal booklet available for each. You may obtain copies from the Tribunal's office at the address and phone numbers show at the end of this booklet.

The booklets are also downloadable from the Tribunal's website at www.lat.gov.on.ca.

This booklet is intended to provide general information to Applicants and other parties. It does not constitute legal advice and is specific to the time when it is first issued. If you wish to obtain legal advice, you should consult a person licenced by the Law Society of Upper Canada (www.lsuc.on.ca) for representation.

The statutes are available at www.e-laws.gov.on.ca.

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Purpose of this Booklet

The Licence Appeal Tribunal (Tribunal) has prepared this booklet to assist those who are considering an appeal to the Tribunal from an impoundment and suspension order issued by the Registrar of Motor Vehicles (Registrar) on a commercial vehicle or trailer. Depending on the owner's impoundment history, the impoundment may be for 15, 30 or 60 days.

This booklet only applies where the Registrar issued the order because the vehicle or trailer was believed to have one or more critical defects. For impoundments because of a driver's licence suspension, refer to the booklet, "How to Appeal a Motor Vehicle Impoundment Order, under section 50.2 of the Highway Traffic Act (driver driving while licence under suspension)."

Please read this booklet carefully because there are specific documents and timelines that may affect your hearing before the Tribunal. **This booklet is for informational purposes only. The applicable Act and its regulations are the official sources of information and should be read for definitive information.**

Glossary of Terms

- Applicant:** The owner of the vehicle or trailer who received the impoundment order
- Registrar:** The Registrar of Motor Vehicles who issued the impoundment and suspension order; also known as the Respondent
- Order:** The impoundment and suspension order issued by the Registrar of Motor Vehicles on a vehicle or trailer
- Owner:** The person whose name appears on the vehicle's certificate of registration or on the vehicle portion of the certificate
- Party:** Refers to either the Applicant or Registrar
- Parties:** Refers to both the Applicant and Registrar
- Vehicle:** Refers to either the impounded vehicle or trailer.
- Rules:** Refers to the Tribunal's Rules of Practice.

About the Licence Appeal Tribunal

The Licence Appeal Tribunal is an independent quasi-judicial administrative tribunal. The Tribunal receives appeals, conducts hearings, resolves disputes and renders decisions on compensation claims and licensing activities across Ontario.

An appeal before the Tribunal is a court-like process but less formal. The Tribunal hears an appeal and issues a written decision based on the evidence presented by both parties. The decision by the Tribunal will be to agree with (confirm) or set aside the impoundment and suspension order.

Who Can Make an Appeal

The vehicle owner, whose name appears on the **certificate of registration** for the vehicle, can appeal the impoundment order. The **certificate of registration** consists of the vehicle portion and the plate portion. The person whose name appears on the vehicle portion can also appeal the Order. If the Applicant is a company, the person signing a request for a hearing on the behalf of the company must have the company's authority to do so.

Starting the Appeal Process

If you want to appeal the Order, you must request a hearing before the Licence Appeal Tribunal. To request a hearing, you need to send the Tribunal the following items:

1. A completed Notice of Appeal form (attached to this booklet).
2. A **\$100 non-refundable filing fee payable** by certified cheque or money order **to the Minister of Finance**. If you file the appeal in person at the Tribunal's office, the filing fee may also be paid by credit card, debit, or in cash.
3. A copy of the impoundment order
4. A copy of the vehicle certificate of registration (ownership permit).
5. A separate page setting out the complete reasons for the appeal.
6. A separate page setting out reasons **if** an electronic or written pre-hearing or hearing has been requested,
7. A copy of all written material supporting the appeal.
8. Proof that a copy of the Notice of Appeal and other documents have been sent to the Registrar of Motor Vehicles.

The Tribunal will schedule a hearing when it receives the completed package of materials.

Appeal Requirements

Send all the required documents and the filing fee to the Tribunal during the impoundment period.

Completing the Notice of Appeal Form

The Notice of Appeal form is a two-page document that you must complete, sign and deliver to the Tribunal along with the filing fee and all the other information related to your case. You must also send a copy of your completed Notice of Appeal and documents to the Registrar who issued the decision.

To help you complete the form, a step-by-step description of the form's sections are outlined here.

1. Applicant's Information
Fill in all the information requested.
2. Operator's Information
You must provide the name, address and contact information for the operator of the impounded vehicle or trailer.
3. Impounded Vehicle Information
You must provide the Vehicle Identification Number (VIN) and related information about the impounded Vehicle. As well, please provide the Commercial Vehicle Operator's Registration Number.
4. Incident Information
The vehicle may be impounded for 15, 30 or 60 days. Select one of these options and include the other information found in the impoundment order.

5. Interim Release (Available only if an appeal is commenced)

Under the Highway Traffic Act, the owner of an impounded vehicle or trailer may apply to the Ontario Superior Court of Justice for an order directing the Registrar to release the vehicle and reinstate the vehicle portion of the permit. If you decide to apply to the Court for an interim release of the vehicle, you must notify the Registrar in writing and check the box in the Notice of Appeal form. The Court will also ask the owner for a security deposit to release the vehicle.

6. Grounds for Appeal

The Highway Traffic Act permits an appeal of the Registrar's impoundment order on only **two specific grounds**. You must identify **one** of these grounds in the Notice of Appeal form:

- i. The commercial motor vehicle or trailer that is subject to the order was stolen at the time the order was made;
- ii. The commercial motor vehicle or trailer had no critical defects at the time of the inspection under section 82.1.

7. Representation

You may represent yourself or you may hire a lawyer or a paralegal. Sometimes an agent may be allowed to represent you. If you are represented by a lawyer or a paralegal or an agent (in compliance with the requirements of the Law Society of Upper Canada), please provide their name, address, telephone and fax numbers, and for lawyers and paralegals, their Law Society Registration number (LSUC#). The Tribunal does not arrange or pay for your representation. You are responsible for all costs related to your case, including legal, expert and witness fees, travel, postage, etc. You may find a representative licensed by the Law Society of Upper Canada by following this link – www.lsuc.on.ca. The Registrar is usually represented by a lawyer or agent. Once you have indicated that you will be represented by a lawyer, paralegal or agent, the Tribunal will, from that point onward, send all communications related to your appeal to that person.

8. The Hearing

The Tribunal may communicate with you in either English or French. Indicate your preference in the Notice of Appeal form.

The hearing can be held in person, by teleconference or in writing. An **oral (in-person) hearing** is the most common hearing held by the Tribunal, which requires the parties or their designated representatives to meet with the Tribunal at a specified location. An **electronic hearing** is similar to an oral hearing, but by teleconference with all parties participating by telephone (prearranged by the Tribunal). A **written hearing** requires both parties to file written documentation, evidence and arguments by set deadlines. The Tribunal decision will be based solely on what is contained in the written documents and the law. To use the written format, you must be able to receive and send documents quickly using fax or alternatively you must have easy access to courier facilities for pick up and delivery of documents.

Please indicate the reasons for your requesting a written or electronic hearing on a separate sheet of paper and include it with the Notice of Appeal. The other party may oppose the type of hearing you have requested. The Tribunal will decide the hearing format.

9. Scheduling Information

Specify the number of days or hours (if less than a day) needed to present your case.

10. Witnesses

You can have witnesses attend the hearing.

If you would like a witness to attend a hearing, but that witness will not come unless he or she is subpoenaed, you can request a subpoena from the Tribunal. A subpoena is also called a “Summons to Attend.” Make your request for a summons in writing to the Tribunal at least ten (10) days before the hearing. The request should explain why the witness and the summons are necessary, and include the witness’s name and address. After you receive the signed subpoena from the Tribunal, you must serve the witness with the subpoena and attendance money within a reasonable time prior to the hearing. You are responsible for paying the witness’s attendance money, which is set out in the Rules of Civil Procedure of the Ontario Superior Court of Justice (Tariff A, Part II, Rules of Civil Procedure R.R.O. 1990 Regulation 194). You can access this information through e-laws.

11. Reasons For Appeal and Supporting Materials

On a separate attached page, you must explain why you are appealing to the Tribunal and why the Tribunal should set aside the Order. Please note that in some instances, the Tribunal may turn down your application for a hearing if it believes your request is frivolous or vexatious or is not within its powers.

Keeping Everyone Informed

If any of the contact information provided in the Notice of Appeal for you or your representative changes, you must provide the updated information to the Tribunal and the other party. A copy of any correspondence sent to the Tribunal must be sent to the other party.

It is important that you continue to share information throughout the appeal process so that both parties can review the documents before the hearing begins. When written material is not disclosed to the other party, that material may only be used with the Tribunal’s permission.

Disclosure of Information

At least twenty (20) days before the hearing, the Applicant must disclose the documents and things to be used in evidence to the Registrar, who must, in turn, disclose the evidence to be relied on to the Applicant at least ten (10) days before the hearing. The parties must also file a copy of these documents with the Tribunal at the hearing or in the case of an electronic hearing, prior to the hearing. If you are relying on expert witness, the Expert Witness Report must be disclosed in these time limits and the witness should attend the hearing. If the witness does not attend the hearing, the Tribunal may refuse to accept the report or give it little weight.

Scheduling the Hearing

The Tribunal usually schedules a hearing within 28 to 30 days from the date it receives the completed Notice of Appeal form and related documents. The Tribunal sets the hearing date. Hearings are set on first come first serve basis. Once the date is set, the Tribunal will send the parties the Notice of Hearing and its Rules of Practice. The Notice sets out the date, time and place of the hearing. The Rules of Practice set out the Tribunal’s procedures.

What Happens at the Hearing

Usually, a one-member panel conducts the Tribunal's hearings. The Tribunal member begins the hearing by asking those in attendance to introduce themselves. The Tribunal member will then explain how the hearing will proceed and answers any preliminary questions. For example, if you have concerns about the disclosure of documents, you may ask the Tribunal to address the issue at this time.

The Tribunal member will then ask the parties to present their cases. Where the appeal ground is that the **vehicle or trailer was stolen**, the Applicant presents his or her case first. The Applicant, or the Applicant's representative, briefly outlines why the Tribunal should release the Vehicle from the impoundment. The Applicant and/or any witnesses will then testify in support of the Applicant's position. Following this, the representative of the Registrar will outline why the Applicant's impoundment order should continue, and its witnesses, if any, will give evidence in support of the Registrar's position. The Applicant may call witnesses in reply to the Registrar's case.

Where the appeal ground is that the **vehicle or trailer had no critical defect**, the Registrar will present its case first, rather than the Applicant, and has the right to call reply evidence.

Each witness is asked to take an oath or affirmation to tell the truth before giving his or her testimony. Immediately after giving evidence, each witness may be questioned by the other party or its representative.

After all the witnesses have testified, the parties will then make their final arguments. The oral (in person) hearing ends then.

For more information about the procedures at hearings, please consult the Tribunal's Information Sheets, Rules of Practice and Practice Directions.

General Information about Hearings

- **Preparing your case.** Be well prepared. As a first step, refer to the Tribunal's **Rules of Practice** which set out the Tribunal's procedures. You can request a copy from the Tribunal or access them on the Tribunal's website. If you are relying on an expert's report as evidence, with the exception of a doctor's report as to an individual's medical condition, the author of the report should attend the hearing to answer questions. If the author of the report is not available, the Tribunal may give the report little weight when deciding the appeal.
- **Location.** The Tribunal will hold an oral (in person) hearing in Toronto or the closest major centre to where the Applicant resides, or at a location agreed to by the Tribunal and the parties.
- **Open to the public.** The hearing is open to the public unless the Tribunal decides otherwise. Rule 7 of the Tribunal's Rules of Practice explains the circumstances when you can ask that the hearing not be open to the public
- **Attendance.** Each party, each party's representative (such as a lawyer or paralegal or agent), and any witnesses must attend an in-person (oral) hearing or participate by telephone for an electronic hearing.
- **If you do not attend.** If you do not attend the hearing, the Tribunal may proceed in your absence, and you will not be entitled to any further notice about the proceedings.

- **Recording of Testimony.** These hearings are not audio recorded.
- **Requests for Adjournments.** You may request a change in a hearing date but such a change is only granted in accordance with the Tribunal's Rules of Practice and Practice Direction.
- **Withdrawal of Appeals.** If you settle your appeal, both parties should notify the Tribunal in writing as soon as possible. If you decide to withdraw or cancel your appeal, you must notify the Tribunal and the other parties in writing as soon as possible.

Results from a Hearing

The Tribunal will release its decision quickly after the hearing. The Tribunal may agree with (confirm) or set aside the Registrar's Order. If the Order is set aside, the Registrar must release the vehicle, reinstate the vehicle portion of the permit, and pay certain costs related to the impoundment. If the Tribunal agrees with the impoundment order, the vehicle remains impounded. The vehicle will be released after the impoundment order expires and after you pay for the removal and impound costs. Remember that all motor vehicle impoundment decisions are final and binding.

If the parties resolve the issues before the hearing or you decide to withdraw or cancel your appeal, you must notify the Tribunal in writing as soon as possible. The Tribunal's decision may also be posted on its website (www.lat.gov.on.ca) approximately three weeks after you receive the decision. The decision may also be available on an Internet site that publishes tribunal or court decisions, such as Quicklaw.

Appeal

The Tribunal decision is final and binding. You may not appeal the Tribunal decision but you may ask the Divisional Court of the Ontario Superior Court of Justice to review the decision under the Judicial Review Procedures Act R.S.O. 1990 c.J.1.

REMINDER

AN APPLICANT WHO WISHES TO APPEAL THE IMPOUNDMENT ORDER TO THE TRIBUNAL MUST FILE THE FOLLOWING MATERIAL WITH THE TRIBUNAL:

- [] Completed Notice of Appeal form (**required**).
- [] \$100 non-refundable filing fee payable by certified cheque or money order to the Minister of Finance (**required**). If you file the appeal in person at the Tribunal's office, the filing fee may also be paid by credit card, debit, or in cash.
- [] Copy of the Registrar's order impounding the vehicle (**required**).
- [] Copy of the Applicant's motor vehicle certificate of registration (ownership permit) (**required**).
- [] Separate page setting out the complete reasons for the appeal (**required**).
- [] Separate page setting out reasons **if** an electronic or written pre-hearing or hearing has been requested.
- [] A copy of all written material the Applicant intends to use as evidence supporting the appeal (**required**), **and**
- [] Proof that a copy of the Notice of Appeal and other documents have been sent to the Registrar of Motor Vehicles (**required**).

To help us provide you with better service, be sure to provide a telephone number where you can be reached during the day and your current full address, and a fax number where you can receive documents from the Tribunal, if you have one.

More Information

The Licence Appeal Tribunal has produced booklets, information sheets and answers to frequently asked questions to help the public with the appeal process. You may obtain copies of these materials directly from the Tribunal or online at www.lat.gov.on.ca.

Contact Us

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