



Licence Appeal Tribunal

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

How to Appeal a Motor Vehicle Impoundment Order

**Under section 50.2 of the Highway Traffic Act
(driver driving while licence under suspension)**

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.

Table of Contents

Purpose of this Booklet	4
Glossary of Terms	4
About the Licence Appeal Tribunal	4
Who Can Make an Appeal	4
Starting the Appeal Process	4
Appeal Requirements	5
Completing the Notice of Appeal Form	5
Keeping Everyone Informed	8
Disclosure of Information	8
Scheduling the Hearing	8
What Happens at the Hearing	9
General Information about Hearings	9
Results from a Hearing	10
Appeal	10
Reminder	10
More Information	11
Contact Us	11
Included: Notice of Appeal Form	

Purpose of this Booklet

The Licence Appeal Tribunal (Tribunal) has prepared this booklet to assist those who want to appeal a vehicle impoundment order made by the Registrar of Motor Vehicles (Registrar). The vehicle owner received the impoundment order because the licence of the driver of the vehicle was then believed to be under suspension due to a Criminal Code conviction. The right of an appeal to the Tribunal comes from section 50.2 of the Highway Traffic Act.

Please read this booklet carefully because there are specific documents and timelines that may affect your appeal 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 vehicle owner who received the impoundment order
Registrar:	The Registrar of Motor Vehicles who issued the impoundment order; also known as the Respondent
Order:	The impoundment order issued by the Registrar of Motor Vehicles to impound the subject vehicle
Owner:	The person whose name appears on the subject vehicle's certificate of registration, either on the vehicle portion or the plate portion of the certificate.
Party:	Refers to either the Applicant or Registrar
Parties:	Refers to both the Applicant and Registrar
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 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 two parts: the vehicle portion and the plate portion. If there are different names on these two portions (such as a leased vehicle where the lessor's name is on the vehicle portion and the lessee's name is on the plate portion), both parties may appeal the Order to the Tribunal as an "owner." If the Applicant is a company, the person signing a request for a hearing on the behalf of that 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 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 motor vehicle certificate of registration (ownership permit).
5. Two copies of all written material you intend to use as evidence supporting the appeal.
6. A separate page setting out the complete reasons for the appeal.
7. A separate page setting out reasons **if** an electronic or written pre-hearing or hearing has been requested.

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 within **fifteen (15) days** of the issuance of the Order impounding the vehicle. If any of these items are missing, you may not be able to appeal the Order. If you file your appeal after the **15-day** period, depending on the circumstances, the Tribunal may grant you an extension.

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 form and separate pages required to the Registrar who issued the Order.

To help you complete the form, a step-by-step description of the form's sections are outlined here. Remember that you must file two copies of all the documents that you will be referring to in the hearing with the Notice of Appeal before a hearing date will be set.

1. Applicant's Information
Fill in all the information requested.
2. Impounded Vehicle Information
You must provide the Vehicle Identification Number (VIN) and related information about the impounded vehicle. As well, please provide the name of the person that appears on the plate section of the vehicle's certificate of registration.
3. Incident Information
Your motor vehicle may be impounded for 45, 90 or 180 days. Select one of these options and include the other information found in the impoundment order.
4. Grounds for Appeal
The Highway Traffic Act permits an appeal of the Registrar's impoundment order on only **four specific grounds**. You must identify **one or more** of these grounds in the Notice of Appeal form. Section 50.2 of the Act states that the only grounds on which an Applicant may appeal and the only grounds on which the Tribunal may set aside the order to impound are:
 - (a) that the motor vehicle that is subject to the order was stolen at the time in respect of which the order was made;
 - (b) that the driver's licence of the driver of the motor vehicle at the time in respect of which the order was made was not then under suspension;
 - (c) that the owner of the motor vehicle exercised due diligence in attempting to determine that

- the driver's licence of the driver of the motor vehicle at the time in respect of which the order was made was not then under suspension; or
- (d) that the order will result in exceptional hardship.

Due Diligence

If you are appealing on the ground of “**due diligence**”, (c) above, you must bring evidence to the Tribunal that establishes as more likely than not (i.e. a balance of probabilities) that:

- (i) you took all reasonable steps to attempt to determine that the driver's licence of the person driving your vehicle was not then under suspension, so as to prevent your motor vehicle from being driven by a suspended driver, and
- (ii) at the time the person whose licence was suspended was driving your motor vehicle, you had an honest and reasonable belief that the person's driver's licence was not suspended; or
- (iii) if you are a corporation, those in the corporation who are the directing mind and will of the corporation established a proper system to try to determine that the licence of the employee was valid and to prevent suspended drivers from operating company vehicles, and that reasonable steps were taken to ensure the system was effectively operating.

Exceptional Hardship

There are limits as to what the Tribunal can consider if your appeal is that the impound will result in “**exceptional hardship.**” Section 22 of R.R.O. 1990, Regulation 574, as amended by Ontario Regulation 632/98, provides that in determining if there will be exceptional hardship, the Tribunal shall consider whether no alternative to the impounded motor vehicle is available and, if no alternative is available, whether the impoundment will result in,

- (a) a threat to the health or safety of any person ordinarily transported by the motor vehicle; or
- (b) a threat to the public health and safety or to the environment or property of a community in whose service the motor vehicle is ordinarily used.

Subsection 22(2) provides that the Tribunal shall **not**, subject to subsection 22 (3), consider whether the impoundment will result in,

- (a) inconvenience to any person;
- (b) financial or economic loss to any person;
- (c) loss of employment or employment opportunity to any person; or
- (d) loss of education or training or of an educational or training opportunity to any person.

Under subsection 22(3), the Tribunal may consider the criteria set out above if the owner demonstrates that,

- (a) no alternative to the impounded motor vehicle is available;
- (b) the loss will be immediate, significant and lasting;
- (c) the impact of the loss will be upon a person ordinarily transported by the motor vehicle; and
- (d) the impact of the loss,
 - (i) will be upon a person other than the person whose driving while his or her driver's licence was under suspension resulted in the order to impound the motor vehicle, and
 - (ii) will not be a result of a loss by the suspended driver of the type set out in clause

(2)(b), (c) or (d). (Financial or economic loss, loss of employment opportunity or loss of education or training or loss of such an opportunity).

In order to show that no alternative to the impounded motor vehicle is available, the owner must demonstrate that every reasonable option has been considered and inquired into that could eliminate or adequately mitigate any threat or loss to the person, including using another vehicle to replace the impounded motor vehicle and making arrangements to do without the impounded motor vehicle or using a replacement vehicle during the impound period.

In addition, where different names appear on the vehicle and plate portions of a **certificate of registration**, the plate holder **cannot use** exceptional hardship as a ground for appeal if there has been a previous impoundment of a motor vehicle owned by that plate holder.

5. 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. The Registrar is usually represented by a lawyer, paralegal or agent. You may find a representative licensed by the Law Society of Upper Canada by following this link - www.lsuc.on.ca. 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.

6. 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. Generally a written hearing does not lend itself to these appeals because of the short time limits. 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.

7. Scheduling Information

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

8. 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 the 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.

9. Reasons for Appeal and Supporting Materials.

You have already chosen your ground(s) of appeal on the Notice of Appeal form. On a separate page, you must set out the Applicant’s position on the appeal. In this section you must explain why you are appealing to the Tribunal and why the Tribunal should set aside the impoundment order. This should not be a restatement of the ground(s) of appeal. The owner is responsible for establishing the merits of the appeal at the hearing. 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 ten (10) days before the hearing, you 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 you at least five days before the hearing. The parties must also file a copy of these documents with the Tribunal. While it is unusual to have an expert’s report, if you have such a report, it must be filed within these time limits.

Scheduling the Hearing

The Tribunal usually schedules a hearing within 18 to 21 days from the date it receives the completed Notice of Appeal form and related documents. The Tribunal sets the hearing date. Hearing dates are set on a first come/first served 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. The Applicant presents his or her case first. The Applicant, or the Applicant's representative, briefly outlines why the Tribunal should set aside the impoundment order. 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 not be set aside, and its witnesses, if any, will give evidence in support of its position. The Applicant may call witnesses in reply to the Registrar's 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 decide to withdraw or cancel your appeal, you must notify the Tribunal and the Registrar in writing as soon as possible.

Results from a Hearing

The Tribunal will send the parties its written decision quickly after the hearing. The Tribunal may agree with (confirm) or set aside the vehicle impoundment order. If the impoundment order is set aside, the Registrar must release the vehicle 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. The Tribunal cannot order an interim release of a vehicle while the appeal is unresolved. 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 decision of the Tribunal is final and binding and cannot be appealed. You can, however, have the decision reviewed by the Divisional Court of the Ontario Superior Court of Justice under the Judicial Review Procedure Act, R.S.O.1990, c. J.

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**).
- Two copies of all written material the Applicant intends to use as evidence supporting the appeal (**required**).
- Separate page setting out the complete reasons for the appeal (**required**), **and**
- Separate page setting out reasons **if** an electronic or written pre-hearing or hearing has been requested.

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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