

# Board Rules Concerning Procedure in Hearings Before the Surface Rights Board of Arbitration

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Rule SRBA001

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Governing Legislation:

Act: *The Surface Rights Acquisition and Compensation Act*

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## 1. Introduction

This document (the “Board Rules”) sets out procedural rules which apply to hearings before the Surface Rights Board of Arbitration (the “Board”). The Board Rules are approved pursuant to section 13 of *The Surface Rights Acquisition and Compensation Act* (the “Act”). It is the responsibility of parties appearing before the Board to be aware of all legislative requirements and rules in effect at the time of a hearing.

The Board Rules are meant to address certain common procedural matters that arise in hearings before the Board. However, the Board necessarily controls its own procedure and, as such, may be required to decide other procedural matters that are not specifically addressed in the Board Rules.

## 2. Definitions

**Applicant:** means any person or entity who has initiated an application with the Board.

**Document:** means a report, document, paper, book, map, plan, drawing, photograph, audio recording, video footage, electronic storage device, or any other item, device or mechanism upon which information is recorded and stored.

**Electronic Service:** means the delivery by email or fax at the email address or fax number provided by the other party or, at the most recent email address or fax number provided to the Board by the other party, as confirmed by the Board Secretary.

**Hearing:** means any hearing held by the Board pursuant to the Act, including compensation hearings or right of entry hearings.

**Party/Parties:** means either an Applicant or a Respondent or, when used in the plural form, more than one of them.

**Respondent:** means any person or entity responding to an application before the Board.

**Service:** means any of the methods of delivery of documents as set out in Rule 6(1).

### **3. Hearing Formats**

- (1) A hearing before the Board may be conducted in any of the following formats:
  - (a) In-person hearing;
  - (b) Video hearing;
  - (c) Telephone hearing;
  - (d) Written hearing; or
  - (e) Any combination of (a), (b), (c) and (d).
  
- (2) The Board retains the discretion to determine the appropriate format in which to hear an application, taking into account:
  - (a) The nature of the application;
  - (b) The efficiency of the proceeding;
  - (c) Fairness to the parties; and
  - (d) Any other relevant circumstances.
  
- (3) The Board may seek further information from the parties before determining the appropriate hearing format and notifying the parties of same.
  
- (4) The Board may publish guidelines meant to assist parties in participating in hearings conducted in any particular format.

### **4. Scheduling a Hearing**

- (1) As a courtesy, and in the interests of efficiency, the Board strives to consult with parties before scheduling a hearing.
  
- (2) However, the Board retains the ability to fix the date of any hearing without the necessity of consulting with the parties or obtaining their agreement to same.
  
- (3) Parties who do not cooperate with efforts on the part of the Board to schedule mutually convenient hearing dates risk the matter proceeding on dates which may not be convenient to them.

### **5. Timelines for Service and Filing**

- (1) Subject to the possibility that the Board may need to set alternate timelines for filing submissions in the circumstances of a particular case, the following timelines apply to the service and filing of documents in a hearing before the Board:

- (a) the applicant must serve and file any documents intended to be relied on for the purposes of the hearing, as well as a list of witnesses intended to be called to testify at the hearing, no later than 14 days prior to the scheduled date of the start of the hearing; and
  - (b) a respondent must serve and file any documents intended to be relied on for the purposes of the hearing, as well as a list of witnesses intended to be called to testify at the hearing, no later than 7 days prior to the scheduled date of the hearing.
- (2) Notwithstanding Rule 5(1), the Board may, upon the request of a party to a hearing, accept any document despite non-compliance with the applicable timelines, under any terms and conditions specified by the Board, if, in the opinion of the Board:
- (a) the party filing the document has a reasonable explanation for failing to comply with the applicable timeline;
  - (b) accepting the document does not prejudice the interests of any other party to the proceeding; and
  - (c) the document is relevant to the just and equitable determination of the matter before the Board.
- (3) Notwithstanding Rule 5(1), the Board may, upon the request of a party to a hearing, agree to hear the testimony of a witness despite that witness not appearing on the party's list of intended witnesses, under any terms and conditions specified by the Board, if, in the opinion of the Board:
- (a) the party calling the witness has a reasonable explanation for failing to include that individual on the list of intended witnesses;
  - (b) hearing from the witness does not prejudice the interests of any other party to the proceeding; and
  - (c) the testimony is relevant to the just and equitable determination of the matter before the Board.

## **6. Service and Filing of Documents**

- (1) For the purposes of Rule 5, documents and lists of intended witnesses must be served upon other parties to the hearing using one of the following methods:
- (a) personal service;
  - (b) electronic service;
  - (c) registered or certified mail; or
  - (d) courier.
- (2) All documents filed with the Board must be submitted in an acceptable electronic format, as set out in Rule 7, and must be sent to the Board by email at [surfacerrightsboard@gov.sk.ca](mailto:surfacerrightsboard@gov.sk.ca).

- (3) If it is not practical or possible to submit the documents to the Board by email, a party may submit the documents by:
  - (a) placing the documents on electronic media or on an internet data storage service acceptable to, and accessible by, the Board Secretary; and
  - (b) in the case of electronic media, delivering the electronic media to the office of the Board at the mailing address shown on the Board's website.
- (4) Notwithstanding Rule 6(2), the Board may accept documents filed in paper form at the Board office, if, in the opinion of the Board Secretary, it is not practical or reasonably possible for the party to submit documents in an electronic format.
- (5) Where a document is submitted to the Board in paper form, the Board Secretary may convert the document to one of the acceptable electronic formats set out in Rule 7 for the purposes of the hearing.

## **7. Acceptable Electronic File Formats**

- (1) The following file formats are acceptable electronic formats for filing documents with the Board in accordance with Rule 6(2):
  - (a) Portable Document Format (PDF);
  - (b) Microsoft Word (doc, docx);
  - (c) Microsoft Excel (xls, xlsx);
  - (d) Tagged Image File Format (tiff, tif);
  - (e) Joint Photographic Experts Group (jpeg);
  - (f) Portable Network Graphics (png); and
  - (g) Moving Picture Experts Group (mpeg, mpg, mp3).
- (2) Notwithstanding Rule 7(1), the Board Secretary may accept documents filed in another electronic format provided the document can be retrieved and is accessible by the Board for the purposes of the hearing.

## **8. Power to Compel Evidence**

- (1) Subject to Rule 8(2), where a party to a hearing requires the attendance of a witness or the production of documents, the party may apply to the Board for the issuance of a summons.
- (2) The application mentioned in Rule 8(1) must be submitted to the Board no later than 7 days prior to the scheduled hearing date.
- (3) The application must include:
  - (a) the name and address of the witness to be summoned and/or of the person or entity that has control of the documents, as applicable;

- (b) a summary of the evidence that the party intends to obtain from the witness or the nature of the documents, as applicable; and
  - (c) an explanation of the relevance of the evidence to the proceeding.
  
- (4) Upon review of the application, the Board may:
  - (a) issue the summons; or
  - (b) refuse to issue the summons if, in the opinion of the Board, the evidence is not required for the just and equitable determination of the matter before the Board.
  
- (5) Where the Board requires the attendance of a witness or the production of documents for the purpose of the just and equitable determination of a matter before it, the Board may issue a summons without the necessity of an application from a party.