



## **OVERVIEW OF THE LICENSING HEARING PROCESS**

A credentials or licensing hearing will be held if the Credentials Committee has concerns about the character or fitness of an applicant for enrolment, call and admission, or reinstatement. A hearing is mandatory if the applicant is a former lawyer who is suspended or disbarred, or who, as a result of disciplinary proceedings, resigned from membership or otherwise ceased to be a member as a result of disciplinary proceedings.

A person who is the subject of a credentials hearing must submit a deposit as security for costs. In setting the amount to be deposited, the Credentials Committee may take into account the circumstances of the matter including, but not limited to, the applicant's ability to pay and likelihood of success.

Licensing hearings before the LSBC Tribunal generally consist of six steps:

1. Commencement of the proceeding,
2. Scheduling the hearing and other pre-hearing matters
3. Hearing,
4. Panel decision and reasons for decision,
5. Review, if any.

Set out below is a brief overview of a licensing hearing process. For your convenience, a table setting out the standard steps and timelines in a licensing proceeding is attached.

### **1. COMMENCEMENT OF THE PROCEEDING**

The Credentials Committee of the Law Society will issue and send a written notice to an applicant advising that their application has been referred to a hearing before the LSBC Tribunal to determine whether their application for enrolment, call and admission or reinstatement should be granted. The referral notice will also be sent to counsel appointed by the Law Society and Law Society counsel will send a written notice to the applicant in accordance with the requirements of Rule 2-91. This notice will outline the “circumstances to be inquired into at the hearing” and the amount of security for costs set by the Credentials Committee, as required by Rule 2-92.

Once the Credentials Committee has referred the application for hearing, either the applicant or Law Society commence a licensing proceeding before the LSBC Tribunal by filing with the LSBC Tribunal Office a Requisition (Form \*) attaching a copy of the Notice of Referral for Hearing

issued by the Credentials Committee. Under Rule 2-102, if the applicant takes no steps to bring their application for enrollment, call and admission or reinstatement to a hearing for one year from the date the Credentials Committee referred the application to hearing, the application is deemed abandoned.

## **2. SCHEDULING THE HEARING AND OTHER PRE-HEARING MATTERS**

### **Scheduling the Hearing**

After the Notice of Referral to Hearing is filed, the Hearing can be scheduled by the parties by agreement at any time or by a motions adjudicator at a pre-hearing conference. If the parties cannot agree to a scheduled hearing date or if the date has not been set within four months of filing the Notice of Referral to Hearing, the date will be set at a prehearing conference.

### **Security for Costs**

Under Rule 2-92, the Credentials Committee will set an amount for security for costs that must be deposited with the Law Society by the applicant prior to the commencement of the Hearing. The applicant must file confirmation of payment of the amount deposited with the Tribunal Office at least 15 days prior to the scheduled hearing date. Failure to pay the deposit will result in the hearing being adjourned.

### **Pre-hearing conferences and Comprehensive Pre-hearing conferences**

At the time of filing the Notice of Referral to Hearing, the filing party may request that the LSBC Tribunal schedule a pre-hearing conference. Either party may request a pre-hearing conference any time after the Notice of Referral to Hearing is filed. If neither party requests a pre-hearing conference, the Tribunal may set a pre-hearing conference on its own initiative. Pre-hearing Conferences are usually held by a Zoom conference on a Thursday but either party may request a different date or method of hearing.

The purpose of the conference is to assist with case management, including to:

- confirm payment of the security for costs or discuss the need to apply for a variation of the amount ordered;
- simplify the issues so that the hearing will proceed efficiently;
- discuss the need to clarify any of the circumstances to be inquired into at the hearing related to the applicant's character or fitness;
- ensure all documents are available and that both parties have disclosed the evidence they intend to introduce at the hearing;
- set a date for the hearing to begin;
- discuss any other matters that may aid in the fair and expeditious disposition of the proceedings.

The motions adjudicator conducting the conference may make appropriate orders on preliminary matters.

If required, a further pre-hearing conference or comprehensive pre-hearing conference may be scheduled at the request of the applicant, Law Society counsel, or on the LSBC Tribunal's own initiative.

### **Adjourning a hearing**

Before a hearing begins, the applicant or Law Society counsel can apply in writing to adjourn the hearing. A motions adjudicator appointed by the LSBC Tribunal Chair will decide whether to allow the application for adjournment. Once the hearing has started, only the chair of the panel may adjourn the hearing.

## **3. HEARING**

Credentials hearings take place virtually or at the LSBC Tribunal's office in Vancouver and are similar to court hearings, with both the Law Society and the applicant usually represented by a lawyer. Hearings are open to the public, subject to limited exceptions primarily to preserve confidentiality between lawyers and clients.

The hearing panel is chaired by a lawyer, and usually includes at least one Bencher who is a lawyer, a non-Bencher who is a lawyer, and a member of the public who is not a lawyer.

Licensing hearings have three possible outcomes. The panel may:

- grant the application for enrollment, call and admission or reinstatement,
- grant the application subject to conditions, or
- reject the application.

Hearing panels issue written reasons for their decisions.

## **4. PANEL DECISION AND REASONS**

The hearing panel may give an oral decision at the hearing with reasons to follow or will issue their order and give a written decision setting out its findings and reasons at some point after the end of the hearing. The decision is sent to the parties. The decisions are posted to the LSBC Tribunal website shortly thereafter. A copy of the decision is also sent to CanLII.

Credentials decisions do not identify the applicant, unless the applicant consents in writing or if the subject matter of the application, including the identity of the applicant, is already known to the public. Former lawyers applying for reinstatement who were disbarred are identified.

## **5. REVIEW OF DECISION**

Both the Credentials Committee and the applicant have the right to apply for a review of a hearing panel's decision. Such reviews are heard by a review board comprising five adjudicators: two Benchers, including the chair, two non-Bencher lawyers and one non-lawyer. The applicant also has the right to appeal the decision to the BC Court of Appeal. The Credentials Committee has a right of appeal only on questions of law. Under section 47 of the *Legal Profession Act*, the Notice of Review must be filed within 30 days of being notified of the credentials decision.

### **LICENSING PROCEEDING: TABLE OF STEPS AND TIMELINES**

Attached for your convenience is a table setting out the standard steps and timelines in a licensing proceeding.

**LICENSING/CREDENTIALS PROCEEDING: STANDARD STEPS AND TIMELINES**

<b>Dates</b>	<b>Tribunal</b>	<b>Law Society/Respondent</b>
Promptly after Credential’s Committee Orders Hearing		Applicant is served with Notice of Referral. Applicant is given written notice of matters under Rule 2-91, including purpose of hearing, the circumstances to be inquired into at the hearing, and the amount of security costs to be deposited by applicant
Within one year of the Credentials Committee’s decision to Order hearing	Requisition and Notice of Referral to Hearing filed with Tribunal Office	
Promptly after filing Notice of Referral	Notice of Referral to Hearing posted on LSBC Tribunal website.	
1-4 months of service on Applicant of Notice of Referral		Applicant and Law Society exchange evidentiary disclosure
Within 4 months of filing of Notice of Referral if hearing not already scheduled	Prehearing conference held to set date of hearing	
Within 8 months of filing of Notice of Referral if hearing not scheduled or hearing scheduled for more than 5 days	Comprehensive prehearing conference set	
Any time after filing of Notice of Referral		Law Society/Applicant bring any preliminary motions
At least 45 days prior to the scheduled hearing date		Law Society/Applicant prepare agreed statements of facts or notices to admit and provide it to the other side
At least 30 days prior to the scheduled hearing date		Parties confirm presumptive hearing format (zoom hearing) and inform Tribunal Office of any accommodation needs
At least 30 days prior to the scheduled hearing date	Notice of Hearing delivered	

At least 15 days prior to scheduled hearing	Applicant deposits security for costs and files receipt of payment with the Tribunal Office	
Usually 1 week prior to the scheduled hearing date	Tribunal office sends email advising names of assigned adjudicators	
Usually within 9 months of filing of Notice of Referral	Hearing commences	
Usually within 90 days of the date of last submission	Hearing decision issued	
Within 30 days of being notified of decision	Notice of review filed (if any)	
Within 60 days of filing the notice of review	Review record prepared and filed	
Between 90-120 days of filing notice of review	Submissions (written Legal Argument) exchanged and filed	
Usually within 4-6 months of review record being filed	Review hearing held	
Usually within 90 days of the date of last submission	Review Decision issued	