



# Discrimination & Human Rights Human Rights Board of Inquiry

## Contents

The Board Chair .....	1
Types of Hearing .....	1
Evidence .....	1
The Decision .....	2
Restorative Board of Inquiry .....	2
Remedies.....	2
Damages .....	3

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<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

## The Board Chair

Should a complaint proceed to a Board of Inquiry a chair will be appointed to oversee it. The Chair is responsible for conducting the Board of Inquiry as well as writing the decision. Their role is similar to that played by a judge.

Board of Inquiry chairs are appointed by the Chief Justice of the Nova Scotia Supreme Court from a roster established by an independent selection committee. The minimum requirements to be appointed as a Board Chair are:

- A law degree;
- At least 5 years of experience in their professional field;
- Demonstrated experience in weighing conflicting information/evidence to arrive at a fair decision;
- Demonstrated experience in chairing hearings, meetings, or consultations where there are conflicting interests;
- Experience with human rights legislation or human rights issues; and
- A resident of Nova Scotia.

## Types of Hearing

Once a complaint has been referred to a Board of Inquiry there are two types of hearings that can be held:

1. A traditional Board of Inquiry; or
2. A restorative Board of Inquiry.

A traditional Board of Inquiry resembles a civil (i.e. non-criminal) trial.

Often times before traditional Boards of Inquiry the complainant(s) and respondent(s) will be represented by legal counsel, although it is not strictly necessary.

## Evidence

The rules of evidence before a traditional Board of Inquiry are not strictly enforced like in court. The Chair will determine whether evidence can be introduced. The most basic criteria is that evidence must be relevant to the matter before the Board of Inquiry.

Evidence before a Board of Inquiry will usually always consist of oral testimony from the complainant(s), respondent(s) and any witnesses. It may also consist of documentary evidence relevant to the human rights complaint.

The Human Rights Commission is also represented by its lawyer at a Board of Inquiry. The role of the Commission's lawyer is to protect the public interest as well as the interests of the Human Rights Commission. They cannot provide legal advice to any of the other parties before the Board of Inquiry.

## The Decision

A Board of Inquiry is open to the public, and decisions are reported and available to the public. Decisions, organized by topic, can be found here:

<http://humanrights.gov.ns.ca/board-of-inquiry-decisions>

Following the conclusion of a Board of Inquiry the Chair has 6 months to issue their decision.

A Board of Inquiry decision can be appealed to the Nova Scotia Court of Appeal. This is a complicated process, and anyone wishing to appeal a decision **should** consult with a lawyer.

## Restorative Board of Inquiry

Restorative Boards of Inquiry aim to create a safe non-adversarial space where parties can come together, and focus on sharing their perspectives on what occurred with the goal of understanding the harms done and to create a plan for repairing the harm, and preventing it from occurring in the future.

A restorative Board of Inquiry has two stages. The first stage is facilitated by a restorative facilitator who prepares the parties to meet one another and come up with an agreement to resolve the matter.

The second stage is facilitated by the Chair of the Board of Inquiry. The Chair will either confirm the settlement/plan reached between the parties, or will assist the parties to resolve any outstanding issues. If the parties cannot come to an agreement on an issue the Chair can make a finding of fact and issue a written decision on any outstanding issues.

The second stage of a restorative Board of Inquiry is open to the public.

Detailed information on the restorative Board of Inquiry model can be found here:

<http://humanrights.gov.ns.ca/sites/default/files/files/RestorativeBOI.pdf>

The restorative Board of Inquiry policy of the Nova Scotia Human Rights Commission can be found here:

[http://humanrights.gov.ns.ca/sites/default/files/files/Policy/RBOIPolicy\\_Dec\\_2012.pdf](http://humanrights.gov.ns.ca/sites/default/files/files/Policy/RBOIPolicy_Dec_2012.pdf)

## Remedies

Remedies for a violation of the *Human Rights Act* may be provided either via the terms of a settlement agreement, or in a decision issued by a Board of Inquiry.

Some of the more common remedies include:

- A cessation of the activity that was in contravention of the *Human Rights Act*;
- Development of policies/practices to ensure that further contraventions of the *Human Rights Act* do not occur;
- Training for the respondents' organization regarding its obligations pursuant to the *Human Rights Act*; and
- Monetary damages payable to the complainant.

## Damages

General damages are often awarded to successful human rights complainants.

General damages are meant to compensate complainants for emotional harm done to them. In Nova Scotia general damage awards in successful human rights' complaints which resulted in the loss of the complainant's employment generally range between \$2,500.00 to \$10,000.00 depending upon the severity of the emotional harm done to the complainant.

The other category of damages that can be ordered are what are known as 'special damages'. Special damages cover things such as out-of-pocket expenses, and if the discrimination resulted in job loss – lost wages due to termination.

The general goal of damage awards in the human rights context is to place the complainant in the same situation they would otherwise have been in had the discrimination not occurred in the first instance.

## Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

## Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

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