

Appealing an ODSP or Ontario Works Decision

What you need to know.

You are on or applying for either ODSP (Disability) or Ontario Works (Welfare). One of these two organizations has recently made a decision in your case, that you strongly disagree with. What do you do now?

With either organization, you will have received a letter denying your request for whatever you were asking for. If you intend to fight the decision, you will need to request an “internal review” before you can place an appeal before the Social Benefits Tribunal. An internal review is basically a reconsideration of your original request by an official other than the person who originally denied your request. An internal review seldom reverses the original decision unless you include new information that may sway the reconsideration in your favour.

The actual request for an internal review is where the OW/ODSP recipient writes a letter to the appropriate organization, stating that they want an internal review of the situation currently in dispute. The request for an internal review **MUST** be sent **IN WRITING** within ten (10) days of receiving their decision. Personally, I either hand deliver my request for an internal review, and ask for a dated and signed photocopy of it, or I send it by registered mail. I deliver requests for internal reviews and appeals by these two means, so that OW or ODSP cannot say that they never received the documents! My delivery methods force ODSP to sign for receipt of my internal review requests or appeals. On several occasions OW and ODSP have “conveniently” lost documents that I have sent them by Canada Post! Be advised that ODSP will likely balk at having to photocopy, sign, and date the copy of your request for an internal review. Be persistent though, and if necessary have an ODSP supervisor sign and date the document. **DO NOT** leave the ODSP office without obtaining a signed and dated copy of your request for the internal review!

Once OW or ODSP receives your request for an internal review, they have 10 days to complete the review, and to inform you of the results. If you do not receive a response regarding your internal review within 10 days, or if you disagree with the results of your internal review, you may then appeal the decision directly to the Social Benefits Tribunal.

If you decide to appeal the decision to the Social Benefits Tribunal, you **MUST** complete an **APPEAL FORM**. The Appeal form **MUST** be sent to the Tribunal within thirty (30) days of the date your internal review was completed. Note that the time frame here is within thirty days from the date your internal review was completed, and not thirty days from when you received it.

**Excuse me, but filing an internal review or
appeal is complicated, time consuming,
and lots of work! WHAT GIVES?**

The long and short of it is that OW and ODSP want to deny you whatever it is that you are requesting! They don't want to give any more benefits (money) or other resources than they absolutely have to. These organizations make internal reviews and appeals time limited, difficult, and labor intensive, so the recipient will become confused, discouraged, tired, stressed out and then simply give up and quit.

DO NOT QUIT, no matter how bleak your situation may appear. KEEP FIGHTING, and MAKE SURE YOUR DOCUMENTS ARE FILED WITHIN THE GIVEN TIME LIMITATIONS. Failure to file your documents within the prescribed time limits will in all probability end your appeal process, whether you want it to or not!

THE SOCIAL BENEFITS APPEAL PROCESS

WHAT TO EXPECT?

So you disagree with OW or ODSP about your case and have now filed an appeal with the Social Benefits Tribunal. So what happens now? Eventually, you will receive a letter from the SBT naming a date and a location that your hearing will be held. The hearing is usually held in the town or city the recipient lives in. The hearings are often held in large Hotel chains such as Holiday Inn or similar. You need to appear at the hearing on the proper date and proper time, so that you can state your case, and have the SBT adjudicator make a decision about your case. **IMPORTANT:** ODSP or Ontario Works should send you (or your Lawyer) copies of all it's documentation at least a month or so BEFORE your SBT hearing. If you do not receive all of their documentation well before your SBT hearing, **REQUEST SUCH DOCUMENTATION IMMEDIATELY, both by telephone and in writing!** Should you go to the SBT hearing, and do not have a copy of the OW/ODSP documents, or have not read and understood the Government documents, **YOUR ODSP HEARING can be IMMEDIATELY cancelled and rescheduled for a later date. USUALLY this later date is six to eight months or even longer down the road!**

What should I bring to the SBT hearing?

You need to bring all documentation, forms, letters, evidence or witnesses that will assist you in proving your case. If you have retained a lawyer, he may come with you to represent you. If you are attempting to initially obtain ODSP, are trying to keep your benefits from being reduced, or have a similarly important case to fight, you probably SHOULD have a lawyer to represent you, since ODSP or OW will likely have their lawyer in attendance to fight against you!

THE ACTUAL SBT APPEAL

With BOTH parties at the SBT hearing, the SBT adjudicator will carefully listen to both sides of the story. The SBT adjudicator will take numerous notes, so they can be re read at a later date, and a decision then rendered. Lawyers for either side may ask questions of the recipient or ODSP/OW representative. The SBT adjudicator may also ask questions of the recipient or ODSP/OW representative. When the SBT adjudicator has enough information, the hearing will be ended, and all parties may then leave. The SBT adjudicator will, at a later date consider all evidence given, and will create a written and binding decision. A decision can take several months to be completed, and both parties will receive copies.

Hopefully, the SBT adjudicator found in your favour and you won your case. If so, whatever the Government denied you originally, must now be given to you, as per the SBT adjudicator's decision.

ADDITIONAL IMPORTANT INFORMATION ABOUT INTERNAL REVIEWS AND APPEALS

If you are experiencing financial hardship while waiting for your appeal to be heard, you may ask the Tribunal to order INTERIM ASSISTANCE. (Interim assistance is basically emergency funds to tide the recipient over until the Social Benefits Tribunal renders a decision in your case.) The application for interim assistance is included on the Tribunal's Appeal Form.

IMPORTANT: If you receive interim assistance, and you lose your appeal, withdraw your appeal, or fail to attend an appeal hearing, you will be required to **pay back the full amount of interim assistance you received!**

POSSIBLE ALTERNATIVES TO AN SBT HEARING

Usually, it is in a person's best interest to request and attend a proper (face to face) SBT hearing. Any hearing where it might help your case to have an SBT adjudicator see you, talk to you, and hear your side of the story should be implemented as a physical, face to face meeting, with all involved parties in attendance.

Telephone Hearing

A telephone hearing is an almost unknown and seldom used alternative to a "proper" face to face SBT hearing. Basically, a telephone hearing is conducted over the telephone using conference call technology. All parties involved phone into a common telephone conference call number and can talk with any of the involved parties. A telephone hearing is useful for recipients with profound or severe physical disabilities, or recipients that have provided most of the information they feel is necessary to win their case. The telephone hearing still allows questions to be asked and answered by any and all parties involved. A telephone hearing **MUST** be agreed to by **ALL** parties involved, Or **MUST be authorized by the SBT Director in the District head office.** In South Western Ontario the contact information is as follows:

Ms. Susan Croft, Director
Social Benefits Tribunal
1075 Bay St. 7th Floor
Toronto, Ontario
M5S 2B1

Paper Hearing

A paper hearing is another essentially unknown and seldom used alternative to a “proper” face to face SBT hearing. It is basically a form of “non participant” hearing where a decision is made in a recipient’s case, based solely on all the written documentation provided by both parties. A Paper Hearing **MUST** be agreed to by ALL parties involved, Or **MUST be authorized by the SBT Director in the District head office.** In South Western Ontario the contact information is as follows:

Ms. Susan Croft, Director
Social Benefits Tribunal
1075 Bay St. 7th Floor
Toronto, Ontario
M5S 2B1

Main contact information for the Social Benefits Tribunal are:

By Mail: Social Benefits
1075 Bay Street, 7th Floor
Toronto ON M5S 2B1
Telephone: Toronto and area: 416-326-0978
Toll-free: 1-800-753-3895
TTY: 416-325-3408
TTY (toll free): 1-800-268-7095
TTY (Ottawa): 613-566-2235
Fax: 416-326-5135
Website: www.sbt.gov.on.ca

Should the reader have any questions regarding internal reviews, or appeals, you may contact me at: glennsmga@operamail.com with your questions. I will do my best to answer any such questions.

Glenn.