



# **ENFORCING A TRIBUNAL ORDER OR SETTLEMENT AGREEMENT**

**A Step-by-Step Guide**

## **SCOPE OF THE GUIDE**

### **What this guide covers**

This guide covers two topics:

1. How to enforce remedies ordered by the Human Rights Tribunal and
2. How to enforce settlement agreements entered into by the parties to resolve a human rights complaint.

### **Getting legal advice**

This guide provides legal information. It is intended for educational purposes. The information in this guide is not intended to replace legal advice. Users of this guide should not rely on the information as a substitute for legal advice.

While we do our best to ensure the accuracy of the information contained in this guide, the law, including statutes, regulations, court rules, court practices, and court precedents can change without warning. Those changes may not be reflected in this guide.

This guide does not cover every possible situation. It covers common situations, and your situation might be different.

If you have a legal problem, including if you plan to represent yourself in court, you should consult a lawyer.

### **Liability Warning**

The Community Legal Assistance Society and its funders, authors, contributors, editors and distributors of this guide are not responsible for:

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## **Introduction**

A Complainant may successfully resolve their human rights complaint through:

1. An order from the Tribunal after a hearing, or
2. A settlement agreement with the Respondent.

If you succeed at a hearing and prove that you were discriminated against, the Tribunal will likely order the Respondent to provide you with some kind of remedy.

If you reach a settlement agreement with the Respondent before a hearing, the Respondent is required to comply with the terms of the settlement agreement.

In either case, **the Tribunal cannot enforce the order or agreement** itself. You must go to the BC Supreme Court to enforce the order or agreement.

This guide is intended to help you enforce a remedy in both of these situations.

## **What is a remedy?**

If a Complainant proves their discrimination case at a hearing, the Tribunal will likely order a remedy.

Remedies are not meant to punish the Respondent. They are meant to compensate the Complainant. The goal is to put the Complainant back in the same position they would have been in if they had not been discriminated against.

The Tribunal can order different types of remedies. They can order the Respondent to:<sup>1</sup>

1. Stop the discrimination;
2. Not commit any similar discriminatory acts;
3. Take steps to address the effects of the discrimination;
4. Implement an employment equity or other special program;
5. Provide you with a right, privilege, or opportunity that was denied to you;
6. Compensate you for lost wages;
7. Compensate you for injury to your dignity, feelings, and self-respect; and
8. Pay costs to you for their improper conduct during the complaint proceedings.

Parties to a human rights complaint can agree to these same kinds of remedies in a settlement agreement. Settlement agreements can also include things the Tribunal cannot order, such as an apology.

Usually, the Respondent complies with the Tribunal's order or the terms it has agreed to in a settlement agreement. However, if the Respondent does not comply, you may need to take steps to enforce the order or agreement.

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<sup>1</sup> *Human Rights Code*, s. 37.

## **How do I enforce my Tribunal order?**

[Section 39 of the Code](#) says that the successful party in a case can enforce the remedies listed above through the BC Supreme Court.

The steps required to enforce an order of the Tribunal are as follows:

1. Obtain a certified copy of the order from the Tribunal.
2. File a Requisition with the BC Supreme Court with the certified copy of the order. There is no fee to do so.
3. Take steps to enforce the order.

### **1. Obtain a certified copy of the order from the Tribunal**

[Rule 34 of the Tribunal's Rules of Practice and Procedure](#) says that to obtain a certified copy of a final order of the Tribunal, a party must file a request.

Write out your request and include your name, the name of the complaint, and the file number.

#### **Example request letter:**

*Dear BCHRT,*

*I am the Complainant in Jane Smith v. John Doe 2019 BCHRT 1234 (BCHRT Case No. 56789). I am writing to request a certified copy of the Tribunal's final order in my complaint, pursuant to Rule 34 of the Tribunal's Rules of Practice and Procedure.*

*Please send the certified copy of the order to my address below:*

*Jane Smith  
#1 – 123 4<sup>th</sup> Avenue  
Vancouver, B.C.  
V1A 2B3*

*Thank you,  
Jane Smith*

Send this request to the Tribunal by mail, fax, or email:

#### **BC Human Rights Tribunal**

1270 - 605 Robson Street  
Vancouver, B.C. V6B 5J3

**Fax:** 604 775 2020

**Email:** [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)

## 2. File a Requisition with the BC Supreme Court (Form 17.2)

Fill out a **Requisition** to the BC Supreme Court (Form 17.2). You can get a copy of this form from the BC Supreme Court's [website](#).<sup>2</sup> You can use the example below as a guide for filling yours out.

Prepare Paper Copy

### FORM 17.2 (RULE 2-2 (3))

Court File No.: \_\_\_\_\_

Court Registry: \_\_\_\_\_

*In the Supreme Court of British Columbia*

Between

[Your name]

Applicant(s)

and

[The Respondent's name]

Respondent(s)

Add Additional Parties

#### REQUISITION

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

Filed by: [Your Name]

*[party(ies)]*

Required: The filing of the attached tribunal award made under the **Human Rights Code**

*[name of Act]*

#### My address for service is:

*[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Address for Service: [Your address]

Fax number address for service (if any) \_\_\_\_\_

E-mail address for service (if any) [Your email address]

Date [Date of signing]

*[dd/mmm/yyyy]*

[Sign here]

Signature of

filing party

lawyer for filing party(ies)

[Your name]

*[type or print name]*

<sup>2</sup> Supreme Court Civil Rules Forms: <https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-civil-forms>

You can file the Requisition form at any BC Supreme Court Registry location. You can find the nearest location to you on [this website](#).<sup>3</sup>

Take the Form and the certified copy of the Tribunal's order to the Registry and ask to file them. There is no fee to do this.

### 3. Take steps to enforce the order

Once you have filed the certified copy of the order with the BC Supreme Court, the order then has the same force and effect as a judgment from the BC Supreme Court ([s. 39\(2\) of the Code](#)).

You can now take any enforcement actions against the Respondent that you would be able to take to enforce a judgment of the BC Supreme Court.

In the BC Supreme Court's language, the enforcement process is called the "execution of a judgment." You are now a "judgment creditor" and the Respondent is a "judgment debtor."

The best way to enforce an order depends on what the Tribunal ordered. It may also depend on whether the other party is able or willing to comply. The court registry staff cannot help you enforce an order, and you cannot hire a court sheriff to help collect any money the Respondent owes you.

It is a good idea to talk to a lawyer about how to enforce your order. The laws about debt collection procedures are not easy to understand.

[This](#) is a very helpful guide for self-represented people who are seeking to enforce court orders.<sup>4</sup> [This resource](#) from Clicklaw may also be helpful.<sup>5</sup>

#### **Examples of possible enforcement measures**

You may be able to take one or more of the following steps to ensure you receive your remedy:

- Requesting further information from the Respondent;
- Requesting that money be paid into court from the Respondent's bank account or their wages;
- Registering your judgment against any real property (land) owned by the Respondent; and
- Requesting that some of the Respondent's personal assets be seized and sold.

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<sup>3</sup> Court Locations and Contacts: [https://www.bccourts.ca/supreme\\_court/court\\_locations\\_and\\_contacts.aspx](https://www.bccourts.ca/supreme_court/court_locations_and_contacts.aspx)

<sup>4</sup> BC Supreme Court, "Enforcing Court Orders": <https://www.supremecourtbc.ca/sites/default/files/web/Enforcing-Court-Orders.pdf>

<sup>5</sup> Clicklaw, "Getting your Judgment Paid": <https://www.clicklaw.bc.ca/resource/1266>

## **How do I enforce my settlement agreement?**

Usually, both parties comply with their obligations under a settlement agreement. A settlement is a binding contract, and parties are expected to do what they promise to do in the agreement.

If a respondent does not comply with the terms of the settlement agreement, the best first step is to write or call them (or their lawyer if they have one) and ask when the terms of the settlement will be complete. Sometimes there is a reasonable explanation for the delay.

The Tribunal does not have the power to enforce a settlement agreement. Settlement agreements can only be enforced by the BC Supreme Court.<sup>6</sup>

### **Consent Order**

The Tribunal can make an order that includes the terms of a settlement agreement, so long as the terms of the agreement are consistent with the *Code*.<sup>7</sup>

When you negotiate your settlement agreement, you and the Respondent can ask for this order, called a Consent Order, from the Tribunal.

The parties must apply for this order.

You can enforce a Consent Order in the same way described above under “How to enforce my Tribunal order.”

### **Petition Proceeding**

If you do not have a Consent Order from the Tribunal, you can still enforce your settlement agreement at the BC Supreme Court. The type of proceeding you would use to enforce a settlement agreement is called a **petition proceeding**. It requires a hearing in front of a judge.

A petition proceeding is not a full trial. You do not call witnesses in this type of hearing. The judge will only be looking at the documents you file and the documents filed by the Respondent.

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<sup>6</sup> *Human Rights Code*, s. 30

<sup>7</sup> *Administrative Tribunals Act*, s. 17(2).



Below is a step-by-step guide for a petition proceeding. For additional general information, [this guide](#) provided by the BC Supreme Court may also be useful.<sup>8</sup>

## 1. Prepare an affidavit that lists all of the relevant facts

An affidavit states the **facts of the events** that have occurred. The affidavit is your evidence at a hearing.

You will not be permitted to file additional affidavits so you should make sure to include any information the judge will need to know about enforcing your agreement. This may include:

- The fact that the agreement was made to settle a human rights complaint;
- What the agreement says the Respondent must do;
- If you were required to do anything, the fact that you have done those things;
- The Respondent has not done what they agreed to do; and
- You are seeking enforcement of the agreement from the Court.

This is a [helpful website](#) which can assist you in preparing a proper affidavit.<sup>9</sup>

You can attach **exhibits** to your affidavit. Exhibits are documents that you refer to in your affidavit. For example, you may want to include a copy of the settlement agreement as an exhibit.

## 2. Take your affidavit to a notary, lawyer, or commissioner for taking affidavits

Affidavits must be sworn before an authorized person. You can go to a notary, a lawyer, or a commissioner for taking affidavits in order to have this done.

You may be able to swear your affidavit at a court registry. Look up the [registry location](#)<sup>10</sup> where you intend to file your petition and call to ask if this is something they can do. The fee for swearing your affidavit at a court registry is currently \$40.

You will be asked to swear an oath that what you have written in your affidavit is true. The person who is taking your affidavit will provide a stamp or other identification of their authority and will identify any exhibits you have attached.

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<sup>8</sup> BC Supreme Court, "Starting a Proceeding by Petition": <https://www.supremecourtbc.ca/sites/default/files/web/Starting-a-Proceeding-by-Petition.pdf#targetText=It%20also%20sets%20out%20the,in%20the%20petition%20are%20true>

<sup>9</sup> Legal Services Society, "How do you write an affidavit?": <https://familylaw.lss.bc.ca/bc-legal-system/legal-forms-documents/affidavits/how-do-you-write-affidavit>

<sup>10</sup> Court Locations and Contacts: [https://www.bccourts.ca/supreme\\_court/court\\_locations\\_and\\_contacts.aspx](https://www.bccourts.ca/supreme_court/court_locations_and_contacts.aspx)

### 3. Fill out a Petition to the Court (Form 66)

Fill out a **Petition** (Form 66). You can get a copy of this form on the BC Supreme Court's [website](#).<sup>11</sup>

You are now the “Petitioner” and the Respondent in your human rights complaint becomes the “Petition Respondent.”

Under Part 4 of the Petition, you must estimate the time it will take to hear your case. If you think it will take more than two hours, you must set a date through the court registry. Call the registry and ask when they have available dates for a petition hearing in front of a judge. It may be awhile before your petition is heard. If you think it will take less than two hours, you can set the hearing for 9:45 AM on any day the Court hears petitions.

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<sup>11</sup> Supreme Court Civil Rules Forms: <https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-civil-forms>

Below is an example of the type of information you need to include on your petition.

### CLAIM OF THE PETITIONER(S)

#### Part 1: ORDER(S) SOUGHT

[Using numbered paragraphs, set out the order(s) that will be sought at the hearing of the petition and indicate against which respondent(s) the order(s) is(are) sought.]

**Add Order** **Delete**

1 That the Court order the Respondent to pay me [\$X] as required by [Clause #] of the Settlement Agreement signed by [your name] and [the Respondent's name] a copy of which Settlement Agreement is attached as Exhibit A to Affidavit #1 of [your name] made on [date affidavit was made].

#### Part 2: FACTUAL BASIS

[Using numbered paragraphs, set out the material facts on which this petition is based.]

1 I filed a human rights complaint against the Respondent on [date complaint filed] (the "Complaint").

2 On [date of settlement], the Respondent and I came to a mutual agreement to settle the Complaint, pursuant to particular terms (the "Settlement Agreement").

3 According to the terms of the Settlement Agreement, I have done [whatever steps, if any, must be completed before the Respondent is required to provide their remedy].

4 I withdrew my Complaint from the Human Rights Tribunal on [date of withdrawal]. The Notice of Withdrawal is attached as Exhibit B to Affidavit #1 of [your name] made on [date affidavit made].

5 Under the terms of the Settlement Agreement, the Respondent is required to pay me [\$X] (the "Settlement Funds") by [date money to be provided].

6 As of today's date [today's date], the Respondent has not paid me the Settlement Funds.

#### Part 3: LEGAL BASIS

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petitioner(s) intend(s) to rely in support of the orders sought.]

1 BC Human Rights Code, section 30 (enforcing a settlement agreement).

2 BC Human Rights Code, section 37 (remedies available to the Human Rights Tribunal).

3 Supreme Court Civil Rules, Rule 2-1(2)(b) (proceedings started by authorization of another enactment).

#### Part 4: MATERIAL TO BE RELIED ON

[Using numbered paragraphs, list the affidavits served with the petition. Each affidavit included on the list must be identified as follows:

"Affidavit #...[sequential number, if any, recorded in the top right hand corner of the affidavit].... of ..... [name]....., made .....[dd mmm yyyy].....". ]

Affidavit # 1 of Name, Your made [date affidavit swor

The petitioner(s) estimate(s) that the hearing of the petition will take 2 hours [time estimate]

Date: [dd/mmm/yyyy]

Signature of  
 Petitioner  Lawyer for petitioner(s)  
Your Name  
[type or print name]

#### 4. Make copies of the documents you will be filing

Make copies of your Petition, your affidavit and any exhibits. You want one set of these documents for each of the following parties:

- a) You;
- b) The court registry;
- c) The Respondent(s); and
- d) For proving service.

#### 5. File your petition, affidavit, and any exhibits at the court registry

File your material at any [court registry location](#).<sup>12</sup>

The **fee** for beginning this type of proceeding is currently \$200. If you cannot afford to pay the fee, you can prepare another application called an **application for indigent status**.

To apply for indigent status, you need to fill out an **affidavit in support of order to waive fees** (Form 80) and a **requisition** (Form 17), which can be found on [this website](#).<sup>13</sup> These forms must also be filed with the registry. This [self-help guide](#) can also help you in completing requisitions.<sup>14</sup>

Once you have paid the fee or you have received an order waiving the fee, the registry will file your petition and stamp the documents you have provided.

#### 6. Serve the Respondent with one set of your stamped and filed documents

You must give the Respondent(s) a copy of the filed documents. This is called **'service'**. You must do this within one year of filing your Petition with the Court.

How to serve the Respondent(s) will depend on who the Respondent is. Usually, the Respondent is either an individual or a corporation:

Respondent	Type of service required
Individual person	Leave a copy of the documents with them <sup>15</sup>
Corporation	<ol style="list-style-type: none"><li>1. Leave a copy with an authorized representative of the corporation; or</li><li>2. Mail the documents by registered mail to the company's mailing address; or</li><li>3. Deliver the documents to the company's delivery address.<sup>16</sup></li></ol>

<sup>12</sup> Court Locations and Contacts: [https://www.bccourts.ca/supreme\\_court/court\\_locations\\_and\\_contacts.aspx](https://www.bccourts.ca/supreme_court/court_locations_and_contacts.aspx)

<sup>13</sup> Supreme Court Civil Rules Forms: <https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-civil-forms>

<sup>14</sup> BC Supreme Court, "Requisitions": <https://www.supremecourtbc.ca/sites/default/files/web/Requisitions.pdf>

<sup>15</sup> Supreme Court Civil Rule 4-3(2)(a).

<sup>16</sup> Supreme Court Civil Rule 4-3(2)(b).

## 7. Prepare an affidavit of personal service

If you think the Respondent may deny receiving the documents, it is useful to prepare an affidavit swearing that you have provided them with the appropriate service.

You do this by swearing an **affidavit of personal service** (Form 15). This form is available on [this website](#).<sup>17</sup> You then file this form with the court registry.

## 8. The Respondent must provide a response

Within 21 days of being served with the documents, the Respondent must file and serve you with their response, called a **Response to Petition** (Form 67).

## 9. Your petition is heard

Your Petition will be heard in the BC Supreme Court. The judge who hears your case will make a decision. If your petition is successful, the judge will make an **Order** in your favour. When an Order has been made and signed by a judge, you can file it with the Court Registry.

## 10. Take steps to enforce the Order

Once your Order has been filed, you can take any enforcement actions against the Respondent that you would be able to take to enforce any judgment of the BC Supreme Court.

In the BC Supreme Court's language, the enforcement process is called the "execution of a judgment." You are now a "judgment creditor" and the Respondent is a "judgment debtor."

The best way to enforce an order depends on what the Tribunal ordered. It may also depend on whether the other party is able or willing to comply. The court registry staff cannot help you enforce an order, and you cannot hire a court sheriff to help collect any money the Respondent owes you.

It is a good idea to talk to a lawyer about how to enforce your order. The laws about debt collection procedures are not easy to understand.

[This](#) is a very helpful guide for self-represented people who are seeking to enforce court orders.<sup>18</sup> [This resource](#) from Clicklaw may also be helpful.<sup>19</sup>

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<sup>17</sup> Supreme Court Civil Rules Forms: <https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-civil-forms>

<sup>18</sup> BC Supreme Court, "Enforcing Court Orders": <https://www.supremecourtbc.ca/sites/default/files/web/Enforcing-Court-Orders.pdf>

<sup>19</sup> Clicklaw, "Getting your Judgment Paid": <https://www.clicklaw.bc.ca/resource/1266>

### **Examples of possible enforcement measures**

You may be able to take one or more of the following steps to ensure you receive your remedy:

- Requesting further information from the Respondent;
- Requesting that money be paid into court from the Respondent's bank account or their wages;
- Registering your judgment against any real property (land) owned by the Respondent; and
- Requesting that some of the Respondent's personal assets be seized and sold.

# Remedy Enforcement Flow Chart

