

Appeal to court of appeal – proposed requirement for leave to appeal decisions of rent and lease tribunals

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A proposal was recently presented on how the administration and hearing of cases in rent and lease tribunals can be improved.¹ The starting point for the committee was that proceedings in the tribunals should continue to be simple, flexible and cheap but are to gain from further efficiencies. A significant change is the proposed requirement for leave to appeal to the court of appeal – something that was not previously required meaning that some matters will be tried in only one instance. Currently some of the tribunals' rulings cannot be appealed. The committee proposes that more rulings will be appealable.

Requirement for leave to appeal to court of appeal

A party that wishes to appeal a ruling of a tribunal is currently able to have the matter heard by the court of appeal without leave to appeal. The committee proposes the introduction of a requirement for leave to appeal, which means that certain matters will only be heard in one instance. The tribunal's ruling will state that leave to appeal is required and the circumstances in which such leave can be given.

Having a case heard in the tribunals will continue to be free of charge and the parties are to bear their own costs. However, a tribunal can order a party to compensate a counter party's costs if the party has been negligent in its litigation. It may be presumed that this opportunity will be used sparingly by the tribunal and only in situations where it would otherwise have appeared directly offensive.

Partial repeal of restriction on appeals

Today, certain rulings of the tribunals cannot be appealed. The committee proposes that this restriction should be removed. It will be possible also to appeal rulings on dispensation under leasehold legislation, on reservations in block letting and waiver of rights of tenure.

More opportunities for the tribunals to determine matters on the papers

The opportunity to determine matters on the papers alone is to be expanded somewhat. If a tribunal deems that no meeting is necessary and neither of the parties request one, the matters can be determined on the papers. This may involve, for example, summary dismissal of an application on formal grounds where a time limit has been passed, or if there are reasons to assume that a party will not attend a meeting. If a party requests a meeting, special circumstances will still be necessary for a tribunal to determine the matter on the papers alone.

Sound and video recording of examinations

It is not currently possible for the tribunals to document examinations with sound and video recordings. This means that the court of appeal must conduct re-examinations in the matter of evidence pertaining to credibility. This procedure is time-consuming and it is proposed therefore that examinations are documented in the same way as in the district courts. In the matter of surveys, it will continue to be the tribunal that determines how observations from a survey are to be documented.

¹ Ds 2016:4 – Effektivare hyres- och arrendenämnder (paper on efficiencies in the rent and lease tribunals)

Composition rules and the meeting

The main rule is that matters in the rent and lease tribunals are determined by the chairperson and two further members. The participation of the members is a valuable component of the work of the tribunal, particularly when it concerns assessment of reasonableness and the mediation role of the tribunals. The committee proposes, however, that a tribunal can consist solely of a chairperson in the hearing of matters that do not concern arbitration, if this is sufficient with regard to the nature of the matter.

Increased delegation

The committee proposes that certain duties previously carried out by the chairman are delegated to other employees. This may relate to summary matters (respite and time limit rulings) management and determination of simpler matters regarding dispensation under leasehold legislation and waiver of rights of tenure.

Centralised information function

The informative function of the tribunals fulfils an important function in providing the general public with information on the content of substantive law. To make the information more consistent, the committee proposes that the information function be coordinated for all tribunals through centralised operations in Stockholm. The tribunals' website is also to be expanded with more detailed information on substantive law and case management issues and supplemented with texts in other common languages.

Administrative coordination of the larger tribunals with a district court

To make administration more efficient, the tribunals in Stockholm, Gothenburg and Malmö will be coordinated with a district court in each city with a judge as head of court.