

FEES, RETAINERS AND PAYMENTS

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DISCLAIMER: Please note that nothing in this document shall be considered as legal advice.
Parties to disputes are advised to consult a lawyer to clarify their legal rights.

1. Introduction

After an Adjudicator consents to conduct an adjudication, the Adjudicator will contact the Parties to negotiate the Adjudication Fee. The Adjudication Fee may consist of a flat fee, or an hourly rate (times the number of hours spent by the Adjudicator). If the Adjudicator and the Parties cannot agree on an Adjudication Fee, the Adjudicator will ask ODACC to set the fee. ODACC will set the fee in accordance with the [Schedule of Fees](#) approved by the Attorney General for Ontario.

In addition to the Adjudication Fee, the following fees may apply to the adjudication:

- An Adjudication Referral Fee (please refer to the [Schedule of Fees](#) for further information). The Referral Fee is payable by the Claimant;
- A Certification Fee (please refer to the [Schedule of Fees](#) for further information). Each Party will pay half of the Certification Fee; and
- Disbursements and taxes.

This guide outlines how the Parties can formalize the fee agreement with the adjudicator, view and pay the retainer and download invoices.

2. Negotiating the Adjudication Fee

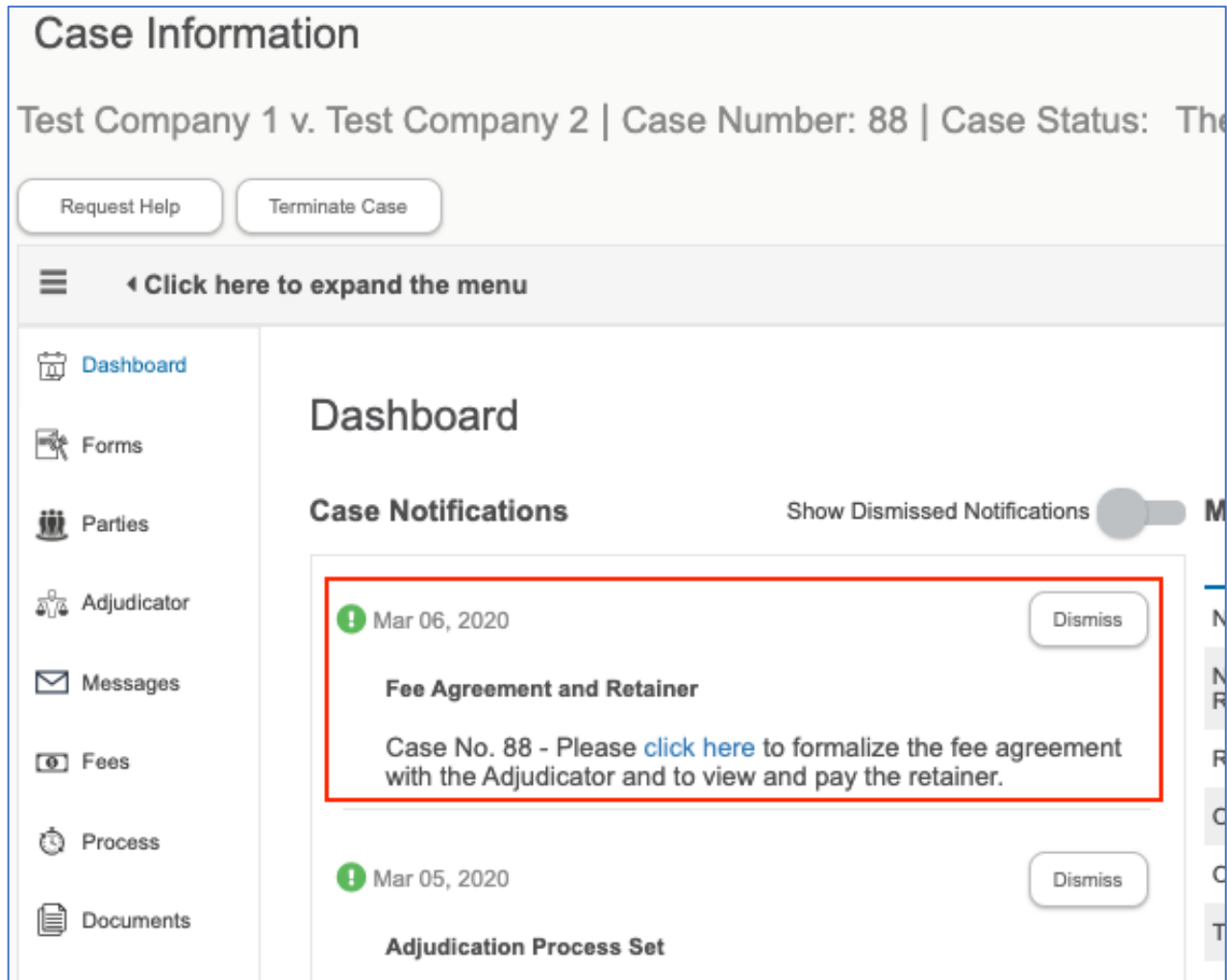
After an Adjudicator consents to conduct an adjudication, the Adjudicator will contact the Parties to negotiate the Adjudication Fee. The Adjudication Fee may consist of a flat fee, or an hourly rate (times the number of hours spent by the Adjudicator). Once the Adjudicator and the Parties agree on an Adjudication Fee, the Adjudicator will enter the amount on ODACC's Custom System, and the Parties will have an opportunity to formalize the fee agreement through the system.

2.1 Viewing the Adjudication Fee and the Retainers

After negotiating the Adjudication Fee with the Parties, the Adjudicator will enter the Adjudication Fee on ODACC's Custom System and the Parties will receive an email from communications@odacc.ca with the subject line "ODACC Custom System Notification," asking the Parties to log in to ODACC's Custom System (for instructions on how to log in, please visit <https://odacc.ca/en/odacc-custom-system/>).

The Parties will have a new notification stating, "Please click here to formalize the fee agreement with the Adjudicator and to view and pay the retainer" (as shown at Figure 1).

Figure 1: Notification After Adjudicator Communicates the Adjudication Fee to the Parties



The Parties should click on the notification link to open the “Fees” tab, where the Adjudication Fee will be listed inside the white box, as shown at Figure 2. Where applicable, the Adjudication Referral Fee and Certification Fee will also be listed inside the white box (these two fees are calculated automatically based on the Schedule of Fees).

Comments submitted by the Adjudicator will be visible at the bottom of the Fees tab, as shown at Figure 2.

The chart titled “Retainers” will contain a breakdown of the fees that will be collected for the adjudication, and the amount that each Party will be responsible for paying. If the Adjudication Fee is based on an hourly rate, the retainer will be calculated based on sixty hours of work times the Adjudicator’s hourly rate.

The Parties to an adjudication are responsible for an equal share of the Adjudication Fee unless the Adjudicator orders otherwise (s. 13.10(3) of the [Construction Act](#)). The Certification Fee is also shared equally among the Parties (See the schedule of Fees). The Adjudication Referral Fee is payable by the Claimant (See the schedule of Fees).

Each Party to an adjudication will be responsible for their own costs, regardless of the outcome (s. 13.16 of the [Construction Act](#)). Pursuant to s. 13.17 of the [Construction Act](#), an Adjudicator has the discretion to order a party to pay all or a portion of the other Party's costs where the Party acted in a manner that was "frivolous, vexatious, an abuse of process or other than in good faith".

Figure 2: Fees Tab

Forms
Parties
Adjudicator
Messages
Fees
Process
Documents
Financials

Adjudication Fees, Disbursement and Retainer

Adjudication Fee Set by Adjudicator

Adjudication Fee is
☐ Hourly Rate
☒ Flat Fee

Adjudication Fee
\$3,000.00
Certification Fee 2*
\$0.00
Referral Fee 3*
\$0.00

1 Disbursements will be charged to the Parties at cost.

2 The Certification Fee is \$100 (plus HST) where the amount claimed in the Notice of Adjudication is over or equal to \$50,000.

3 The Referral Fee is payable to ODACC by the Claimant. The Adjudication Referral Fee is \$500 (plus HST) where the amount claimed in the Notice of Adjudication is over or equal to \$50,000.

All fees and costs are in Canadian Dollars and are subject to 13% HST.

All fees for adjudication as set out above are payable to ODACC. The retainer is due within seven calendar days of the date each Party consents to the fees. Any additional fees and costs related to the adjudication are due fourteen calendar days from the date the Determination is sent to the Parties.

The Parties to the adjudication will pay an equal amount as a retainer of the Adjudication Fee, Disbursements and Certification Fee.

For further information visit [ODACC's Fee Schedule](#) and [Payments and Retainer](#).

Consent to Fees
Reject

Retainers

Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status
183		Mar 06, 2020	\$1,500.00	\$0.00	\$0.00	\$0.00	\$1,500.00	\$195.00	\$1,695.00	Outstanding
184		Mar 06, 2020	\$1,500.00	\$0.00	\$0.00	\$0.00	\$1,500.00	\$195.00	\$1,695.00	Outstanding
Total Fees and Costs			\$3,000.00	\$0.00	\$0.00	\$0.00	\$3,000.00	\$390.00	\$3,390.00	

Adjudicator's Comments

John Smith
Mar 06, 2020 11:23 AM

As agreed via teleconference on March 5, 2020, the adjudication fee is \$3,000.

2.2 Approving the Adjudication Fee Amount and Paying the Retainer

If the Adjudicator entered the Adjudication Fee amount that was negotiated with the Parties, then the Parties should click on “Consent to Fees,” as shown at Figure 2. After consenting to the Adjudication Fee, the status of the retainer chart will read “Ready to Pay”, and there will be a link to pay the retainer (refer to Figure 3).

Figure 3: Retainers Chart Updated After Party Consents to Adjudication Fee Amount

Forms
Parties
Adjudicator
Messages
Fees
Process
Documents
Financials

Adjudication Fees, Disbursement and Retainer

Adjudication Fee Set by Adjudicator

Adjudication Fee is

☐ Hourly Rate ☒ Flat Fee

Adjudication Fee
\$3,000.00

Certification Fee 2*
\$0.00

Referral Fee 3*
\$0.00

1 Disbursements will be charged to the Parties at cost.

2 The Certification Fee is \$100 (plus HST) where the amount claimed in the Notice of Adjudication is over or equal to \$50,000.

3 The Referral Fee is payable to ODACC by the Claimant. The Adjudication Referral Fee is \$500 (plus HST) where the amount claimed in the Notice of Adjudication is over or equal to \$50,000.

All fees and costs are in Canadian Dollars and are subject to 13% HST.

All fees for adjudication as set out above are payable to ODACC. The retainer is due within seven calendar days of the date each Party consents to the fees. Any additional fees and costs related to the adjudication are due fourteen calendar days from the date the Determination is sent to the Parties.

The Parties to the adjudication will pay an equal amount as a retainer of the Adjudication Fee, Disbursements and Certification Fee.

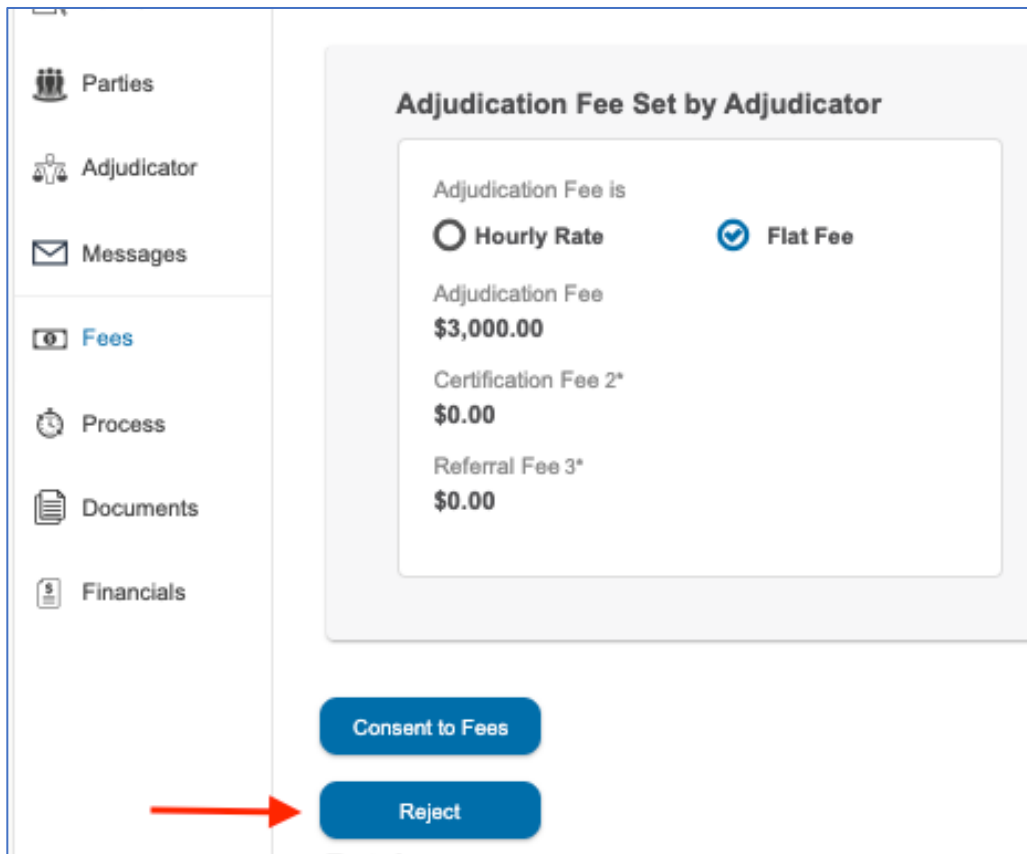
For further information visit [ODACC's Fee Schedule](#) and [Payments and Retainer](#).

Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status
183		Mar 06, 2020	\$1,500.00	\$0.00	\$0.00	\$0.00	\$1,500.00	\$195.00	\$1,695.00	Ready to Pay Pay Retainer
184		Mar 06, 2020	\$1,500.00	\$0.00	\$0.00	\$0.00	\$1,500.00	\$195.00	\$1,695.00	Outstanding
Total Fees and Costs			\$3,000.00	\$0.00	\$0.00	\$0.00	\$3,000.00	\$390.00	\$3,390.00	

2.3 Rejecting the Adjudication Fee

If the Adjudicator did not enter the Adjudication Fee that was negotiated with the Parties, the Parties can click on “Reject”, as shown at Figure 4.

Figure 4: Buttons to Consent or Reject Adjudication Fee



If a Party clicks on “Reject”, the Adjudicator will be notified that the Adjudication Fee was not approved and the Adjudicator will ask ODACC to set the Adjudication Fee. The Retainers chart will be updated to show that the Adjudication Fee was rejected, as shown at Figure 5.

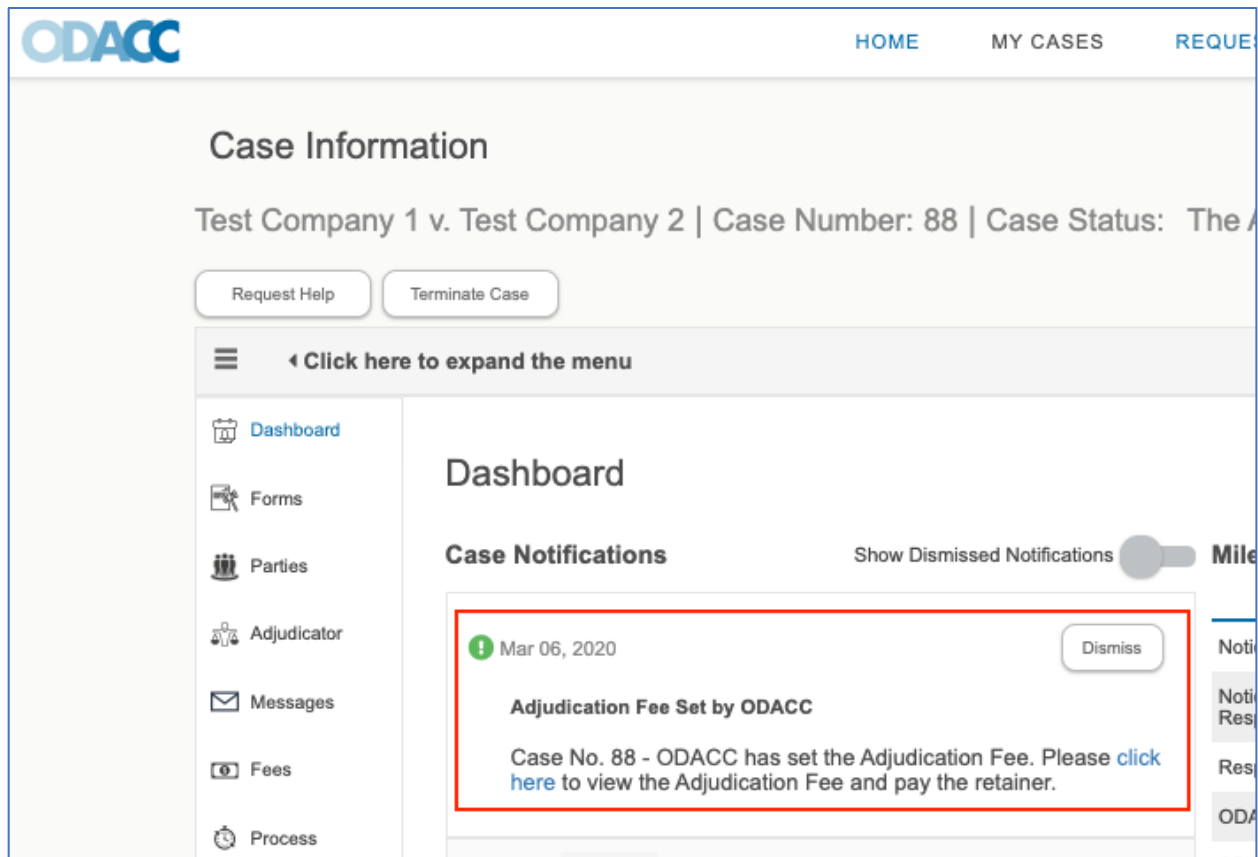
Figure 5: Retainers Chart After a Party Rejects the Adjudication Fee

Retainers										
Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status
183		Mar 06, 2020	\$1,500.00	\$0.00	\$0.00	\$0.00	\$1,500.00	\$195.00	\$1,695.00	Ready to Pay Pay Retainer
184		Mar 06, 2020	\$1,500.00	\$0.00	\$0.00	\$0.00	\$1,500.00	\$195.00	\$1,695.00	Rejected
Total Fees and Costs			\$3,000.00	\$0.00	\$0.00	\$0.00	\$3,000.00	\$390.00	\$3,390.00	

2.4 Adjudication Fee Set by ODACC

If the Adjudicator asks ODACC to set the Adjudication Fee, ODACC will set the Adjudication Fee in accordance with the Schedule of Fees, available at <https://odacc.ca/en/claimants/fees/>. ODACC will communicate the Adjudication Fee to the Parties on ODACC's Custom System. The Parties will receive an email from communications@odacc.ca with the subject line "ODACC Custom System Notification," asking the Parties to log in to the system. On ODACC's Custom System, the Parties will have a notification that states, "ODACC has set the Adjudication Fee. Please [click here](#) to review the Adjudication Fee and pay the retainer" (refer to Figure 6).

Figure 6: Notification After ODACC Sets Adjudication Fee



The Parties should open the “Fees” tab to view the Adjudication Fee that ODACC set. As shown at Figure 7, the Fees tab will indicate that the Adjudication Fee was set by ODACC. The Parties can pay the retainers by clicking on “Pay Retainer,” as indicated at Figure 7.

Figure 7: Fees Tab After ODACC Sets Adjudication Fee

Dashboard

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Initial Fee

Adjudication Fees Approved by ODACC

Adjudication Fee is
Flat Fee
Adjudication Fee
\$2,000.00
Certification Fee
\$0.00
Referral Fee
\$0.00

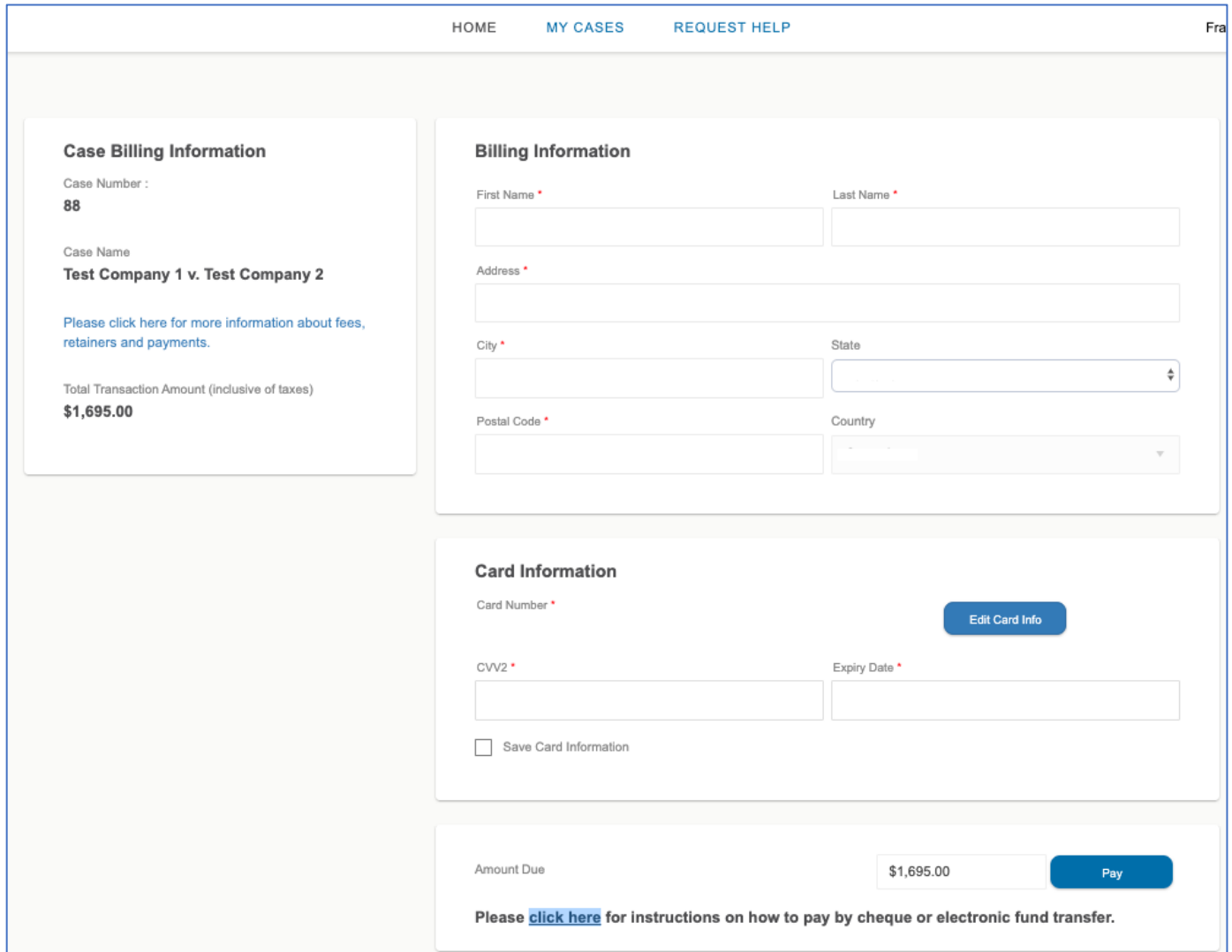
Retainers

Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status	
185		Mar 06, 2020	\$1,000.00	\$0.00	\$0.00	\$0.00	\$1,000.00	\$130.00	\$1,130.00	Ready to Pay	Pay Retainer
186		Mar 06, 2020	\$1,000.00	\$0.00	\$0.00	\$0.00	\$1,000.00	\$130.00	\$1,130.00	Ready to Pay	Pay Retainer
Total Fees and Costs			\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00	\$260.00	\$2,260.00		

3. Paying Retainers

To pay a retainer, a Party should open the Fees tab and click on “Pay Retainer” in the Retainers chart (refer to Figure 7). After clicking on “Pay Retainer,” the Party will be directed to the payment screen – where payment can be made by credit card (refer to Figure 8). For information on paying by cheque or electronic fund transfer, please visit <https://odacc.ca/en/claimants/payments/>.

Figure 8: Payment Screen



The screenshot displays the Payment Screen with the following sections:

- Case Billing Information:**
 - Case Number : **88**
 - Case Name: **Test Company 1 v. Test Company 2**
 - Please click here for more information about fees, retainers and payments.
 - Total Transaction Amount (inclusive of taxes): **\$1,695.00**
- Billing Information:**
 - First Name * [Text Field]
 - Last Name * [Text Field]
 - Address * [Text Field]
 - City * [Text Field]
 - State [Dropdown Menu]
 - Postal Code * [Text Field]
 - Country [Dropdown Menu]
- Card Information:**
 - Card Number * [Text Field] [Edit Card Info](#)
 - CVV2 * [Text Field]
 - Expiry Date * [Text Field]
 - ☐ Save Card Information
- Payment Summary:**
 - Amount Due: **\$1,695.00** [Pay](#)
 - Please [click here](#) for instructions on how to pay by cheque or electronic fund transfer.

After a retainer is paid, the retainer chart will be updated and the status will state “Paid”, as shown at Figure 9.

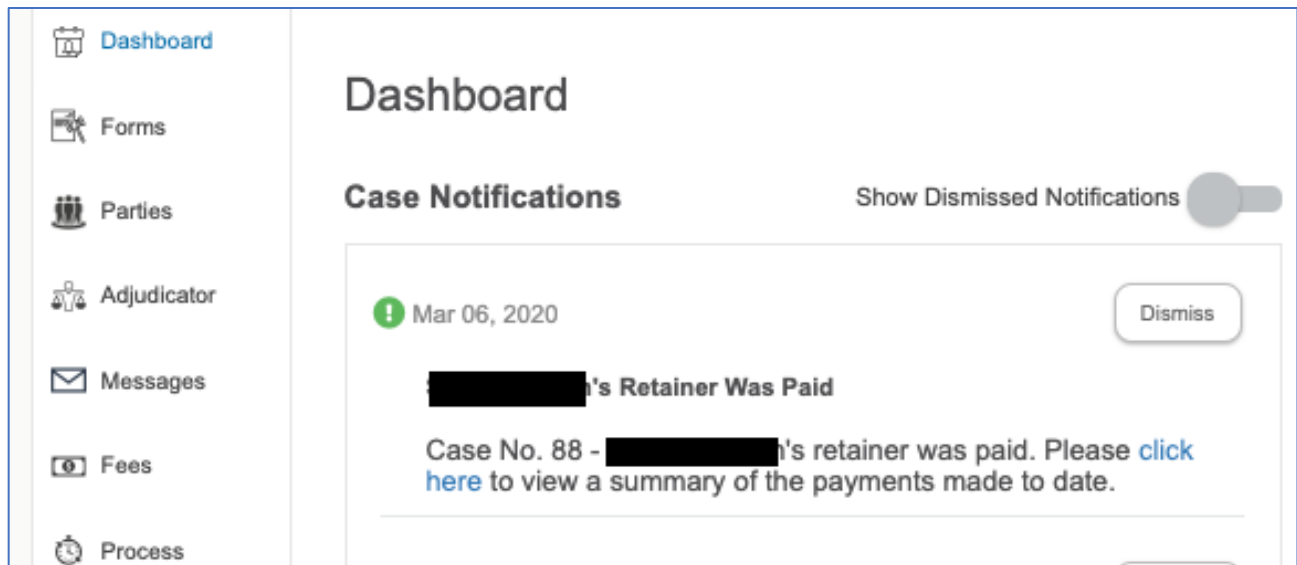
Figure 9: Fees Tab Showing Paid Status

Initial Fee										
Adjudication Fees Approved by ODACC										
Adjudication Fee is Flat Fee Adjudication Fee \$2,000.00 Certification Fee \$0.00 Referral Fee \$0.00										
Retainers										
Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status
185		Mar 06, 2020	\$1,000.00	\$0.00	\$0.00	\$0.00	\$1,000.00	\$130.00	\$1,130.00	Paid
186		Mar 06, 2020	\$1,000.00	\$0.00	\$0.00	\$0.00	\$1,000.00	\$130.00	\$1,130.00	Ready to Pay Pay Retainer
Total Fees and Costs			\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00	\$260.00	\$2,260.00	

3.1 Notice of Payment

After a retainer is paid, either by the Claimant or the Respondent, the Adjudicator and the Party that did not issue the payment will receive an email from communications@odacc.ca with the subject line “ODACC Custom System Notification,” asking the Party to log in to the system. On ODACC’s Custom System, there will be a notification stating that a retainer was paid (refer to Figure 10).

Figure 10: Notification of Paid Retainer



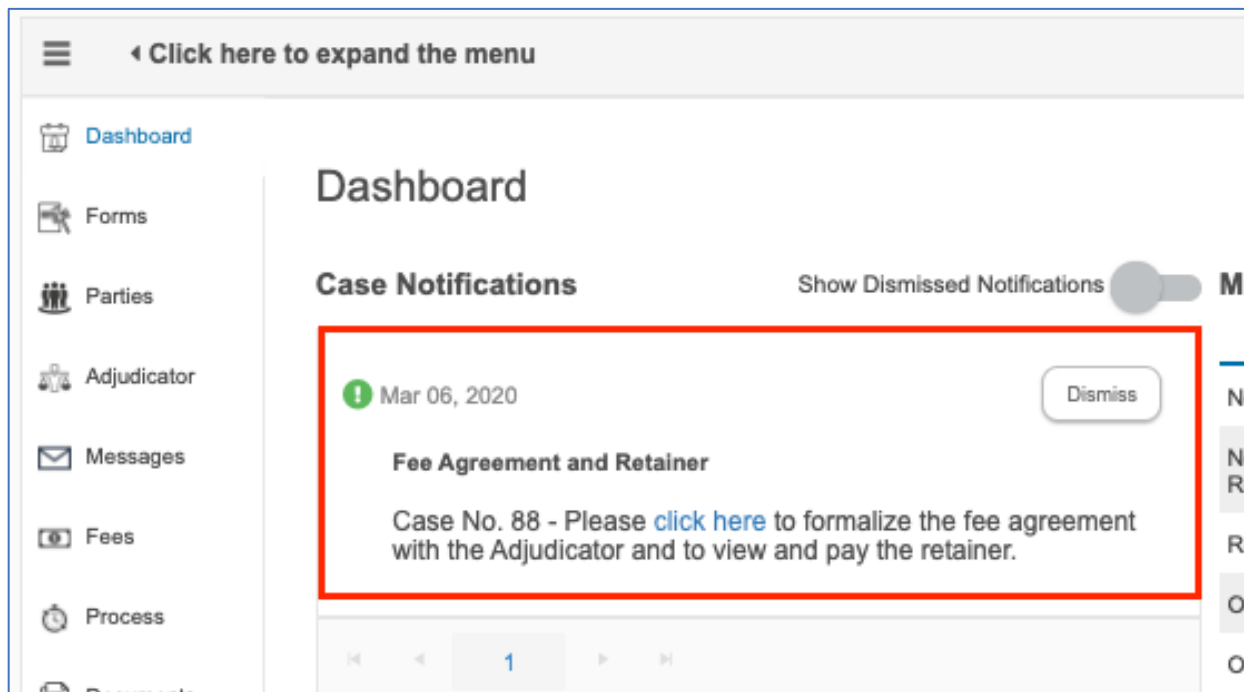
4. Additional Retainers

In some cases, where the Adjudicator is of the view that the standard amount usually requested for a retainer will not cover the expected fees of the adjudication, the Adjudicator may request an additional amount for the retainer.

For example, where the retainer is calculated based on the Adjudicator's hourly rate times sixty hours, if the Adjudicator believes that he or she will spend over sixty hours on the adjudication, then the Adjudicator may wish to request (and collect) an additional amount for the retainer. As another example, where the Adjudicator had set a Pre-Designed Adjudication Process for the adjudication, and where the Adjudicator and the Parties later determined that the process requires more work than was contemplated, the Parties and Adjudicator may agree to a higher fee, requiring a higher amount for the retainer.

If the Adjudicator requests an additional retainer, the Parties will receive an email from communications@odacc.ca with the subject line "ODACC Custom System Notification." When the Parties log in to ODACC's Custom System, they will see a new notification, as shown at Figure 11. The notification will state "Please click here to formalize the fee agreement with the Adjudicator and to view and pay the retainer."

Figure 11: Notification of Additional Retainer



The Parties should open the "Fees" tab, where they will see an "Additional Retainer", as shown at Figure 12. The Parties can review the Adjudication Fee and press on



Règlement des différends en matière de contrats de construction de l'Ontario

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tél: 416 307-0008 | sans frais: 1 888 221-3721
téléc: 416 362-8825 | sans frais: 1 877 862-8825
www.odacc.ca

“Consent to Fees” or “Reject,” as instructed at [Approving the Adjudication Fee Amount](#) and [Rejecting the Adjudication Fee](#).

Figure 12: Additional Retainer

Request Help Terminate Case Request Determination Extension

Click here to expand the menu

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+ Initial Fee

- Additional Retainer

Adjudication Fee Set by Adjudicator

Retainers

Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status
187	[REDACTED]	Mar 06, 2020	\$7,500.00	\$50.00	\$0.00	\$0.00	\$7,550.00	\$981.50	\$8,531.50	Outstanding
188	[REDACTED]	Mar 06, 2020	\$7,500.00	\$50.00	\$0.00	\$0.00	\$7,550.00	\$981.50	\$8,531.50	Outstanding
Total Fees and Costs			\$15,000.00	\$100.00	\$0.00	\$0.00	\$15,100.00	\$1,963.00	\$17,063.00	

Consent to Fees

Reject

Adjudicator's Comments

John Smith Mar 06, 2020 15:15 PM

Additional retainer submitted March 6, 2020, as discussed via teleconference.

Once all Parties click on “Consent to Fees,” the Parties will be able to pay the additional retainers by clicking on “Pay”, as shown at Figure 13.

For information on making payments, please refer to [Paying Retainers](#).

If a Party does not approve the Adjudication Fee, ODACC will set the Adjudication Fee, as discussed at [Adjudication Fee Set by ODACC](#).

Figure 13: Additional Retainers Approved and Pay Link is Available

Dashboard

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+ Initial Fee

— Additional Retainer

Adjudication Fee Set by Adjudicator

Retainers

Retainer No.	Party	Retainer Date	Adjudication Fee	Disbursement	Certification Fee	Referral Fee	Subtotal	Tax	Total Amount	Status
187		Mar 06, 2020	\$7,500.00	\$50.00	\$0.00	\$0.00	\$7,550.00	\$981.50	\$8,531.50	Ready to Pay Pay
188		Mar 06, 2020	\$7,500.00	\$50.00	\$0.00	\$0.00	\$7,550.00	\$981.50	\$8,531.50	Ready to Pay Pay
Total Fees and Costs			\$15,000.00	\$100.00	\$0.00	\$0.00	\$15,100.00	\$1,963.00	\$17,063.00	

Adjudicator's Comments

John Smith

Mar 06, 2020 15:15 PM

Additional retainer submitted March 6, 2020, as discussed via teleconference.

5. Financials and Invoices

The Financials tab, reproduced at Figure 14, contains a list of all the invoices issued in the adjudication, the status of each invoice, and links to PDFs of the invoices. After an invoice is Paid, if the PDF is re-downloaded, it will contain a watermark stating “PAID”.

Figure 14: Financials Tab

Request Help

Resignation

Click here to expand the menu

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Resignation

Retainers & Invoices

Document No	Transaction	Invoiced Party	Party Role	Payment Due Date	Amount Due	Payment Received	Payment Status
183	Retainer No - 183		Claimant	Mar 17, 2020	\$1,695.00	\$0.00	Cancelled
184	Retainer No - 184		Respondent	Mar 17, 2020	\$1,695.00	\$0.00	Cancelled
185	Retainer No - 185		Claimant	Mar 17, 2020	\$1,130.00	\$1,130.00	Paid Download Retainer
186	Retainer No - 186		Respondent	Mar 17, 2020	\$1,130.00	\$1,130.00	Paid Download Retainer

Transactions

Payment Transactions

Document No	Description	Invoiced Party	Paid By Party	Amount	Payment Method	Date
185	Retainer No - 185		Sophie Amran	\$1,130.00	Credit Card	Mar 06, 2020
186	Retainer No - 186		Emma Amran	\$1,130.00	Credit Card	Mar 06, 2020

Refund Transactions

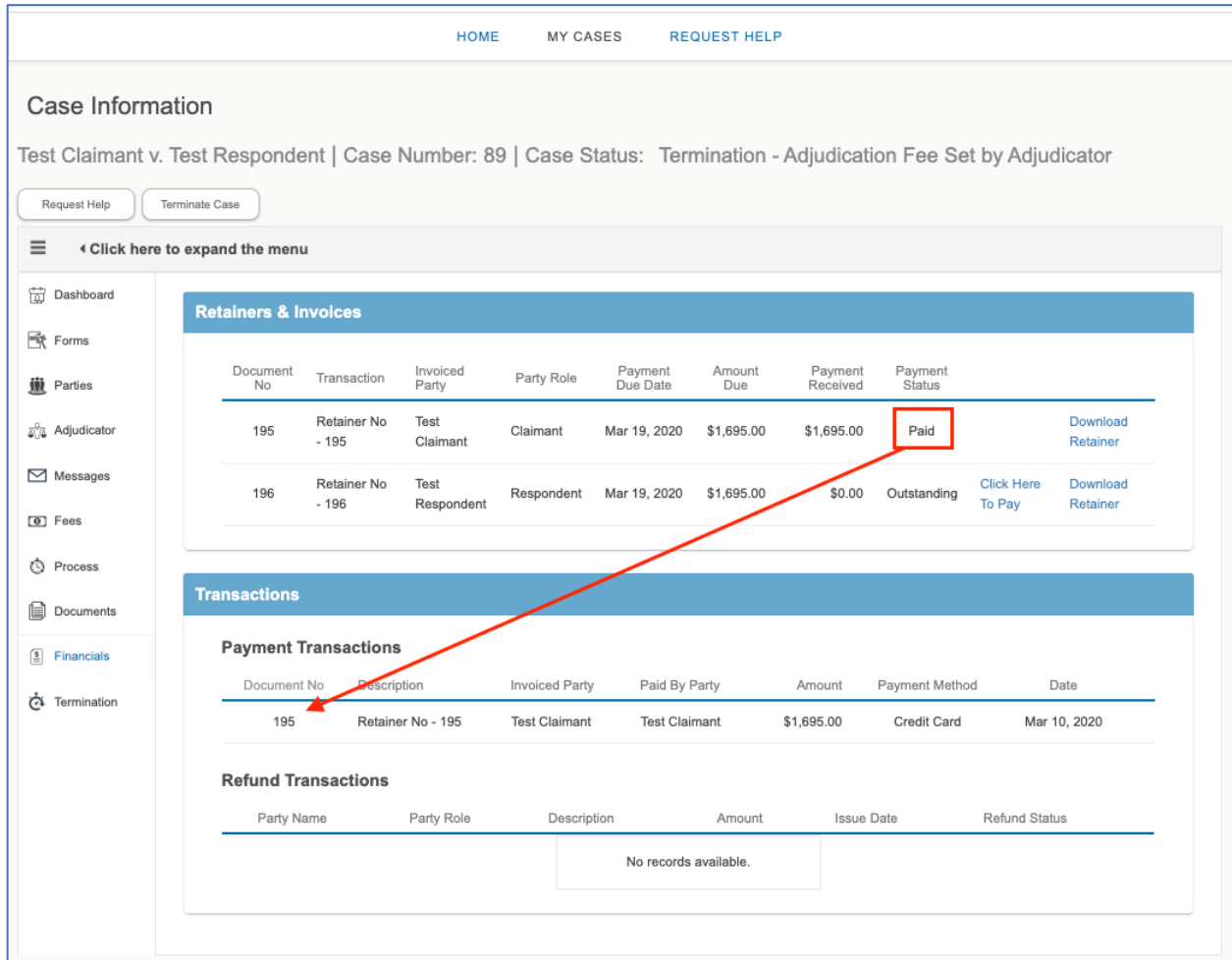
Party Name	Party Role	Description	Amount	Issue Date	Refund Status
No records available.					

ADRC 20200506 – Fees, Retainers and Payments

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The “Payment Transactions” chart, which is reproduced at Figure 15, lists all the payments made to date, the amounts paid, and the name of the Party who made the payment.

Figure 15: Payment Transactions Chart



Case Information
 Test Claimant v. Test Respondent | Case Number: 89 | Case Status: Termination - Adjudication Fee Set by Adjudicator

Request Help Terminate Case

Click here to expand the menu

Retainers & Invoices

Document No	Transaction	Invoiced Party	Party Role	Payment Due Date	Amount Due	Payment Received	Payment Status	
195	Retainer No - 195	Test Claimant	Claimant	Mar 19, 2020	\$1,695.00	\$1,695.00	Paid	Download Retainer
196	Retainer No - 196	Test Respondent	Respondent	Mar 19, 2020	\$1,695.00	\$0.00	Outstanding	Click Here To Pay Download Retainer

Transactions

Payment Transactions

Document No	Description	Invoiced Party	Paid By Party	Amount	Payment Method	Date
195	Retainer No - 195	Test Claimant	Test Claimant	\$1,695.00	Credit Card	Mar 10, 2020

Refund Transactions

Party Name	Party Role	Description	Amount	Issue Date	Refund Status
No records available.					

5.1 Refunds

If ODACC issues a refund, the Party who received the refund will receive an email from communications@odacc.ca with the subject line “Refund Issued Successfully”. On ODACC’s Custom System, the Party will have a notification stating “A refund of [\$] has been issued to your account. Please [click here](#) to check your balance”. The “Refund Transactions” chart on the “Financials” tab will list all the refunds.