

RESIGNATION – PAYING THE ADJUDICATION FEE

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Ontario Dispute Adjudication for Construction Contracts

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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

An Adjudicator may resign from an adjudication pursuant to s. 23 of *Ontario Regulation 306/18*.

23.(1) An adjudicator may at any time resign from an adjudication of a matter if the adjudicator determines that,

(a) the matter is not eligible for adjudication under section 13.5 of the Act; or

(b) he or she is not able or competent to conduct the adjudication.

(2) The adjudicator shall promptly give written notice of the resignation to the parties.

Adjudicators will be deemed to have resigned following the consolidation of an adjudication, pursuant to s. 19.(2) of *Ontario Regulation 306/18*.

19.(2) An adjudicator of an adjudication that is consolidated under subsection 13.8 (1) or (2) of the Act is deemed to have resigned from the adjudication,

(a) on the day on which the adjudicator receives notice that the parties to the adjudication have agreed to consolidation under subsection 13.8 (1) of the Act; or

(b) on the day on which the adjudicator receives a notice of consolidation in accordance with subsection 18 (1) of this Regulation.

If an Adjudicator resigns, the Adjudicator will (a) notify the Parties of the resignation, and (b) negotiate the Adjudication Fee with the Parties, in accordance with s. 24.(4) of *Ontario Regulation 306/18*.

24.(4) If an adjudicator fails to complete an adjudication, other than in the circumstances set out in section 13.14 of the Act, the adjudicator's entitlement to be paid a fee under section 13.10 of the Act and the amount of any such fee shall be determined,

(a) by agreement between the parties to the adjudication and the adjudicator; or

(b) if no agreement is reached, by the Authority, on the adjudicator's request.



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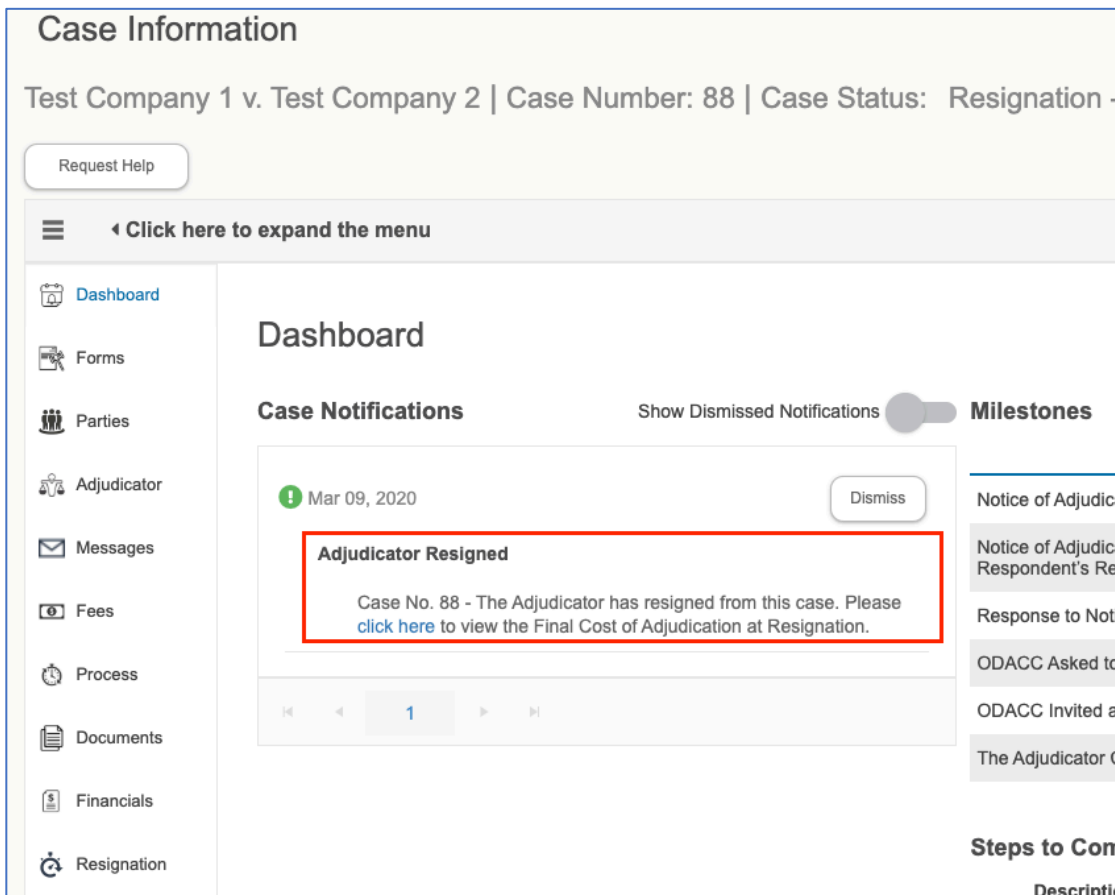
If the Parties and the Adjudicator do not agree on an Adjudication Fee, the Adjudicator can ask ODACC to set the Adjudication Fee. ODACC will set the Adjudication Fee in accordance with the [Schedule of Fees](#) and s. 24.(5) of *Ontario Regulation 306/18*, which states:

24.(5) In determining the amount of a fee under clause (4)(b), the Authority shall determine an amount that is, in the Authority's view, appropriate given the work completed by the adjudicator and the circumstances in which the adjudicator failed to complete the adjudication.

2. Adjudication Fee Negotiated Between the Adjudicator and the Parties

After the Parties and the Adjudicator negotiate the Adjudication Fee, the Parties will receive an email asking them to log in to ODACC's Custom System to view the Adjudication Fee. On the system, the Parties will have a notification with a link to the Resignation page (refer to Figure 1).

Figure 1: Notification with Link to Resignation Page



The screenshot displays the 'Case Information' section for 'Test Company 1 v. Test Company 2 | Case Number: 88 | Case Status: Resignation'. A 'Request Help' button is visible. Below this is a navigation menu with options: Dashboard, Forms, Parties, Adjudicator, Messages, Fees, Process, Documents, Financials, and Resignation. The main content area is titled 'Dashboard' and features 'Case Notifications'. A notification dated 'Mar 09, 2020' is highlighted with a red box. The notification text reads: 'Adjudicator Resigned' followed by 'Case No. 88 - The Adjudicator has resigned from this case. Please [click here](#) to view the Final Cost of Adjudication at Resignation.' A 'Dismiss' button is located to the right of the notification. To the right of the notification area, there are sections for 'Milestones' and 'Steps to Complete', both containing a list of items with descriptions.

When the Parties open the Resignation page, they will be land on the “Review & Respond” page (refer to Figure 2). On the Review and Respond page, the Parties will be instructed to review the Adjudication Fee by clicking on the number one in the progress bar (above Submit Resignation), and to provide their consent to the Adjudication Fee by clicking on “Approve Amount”.

Figure 2: Resignation - Review and Respond Page

Party Name	Party Role	Respond Date	Adjudication Fee Approved
[REDACTED]	Claimant		<input type="checkbox"/>
[REDACTED]	Respondent		<input type="checkbox"/>

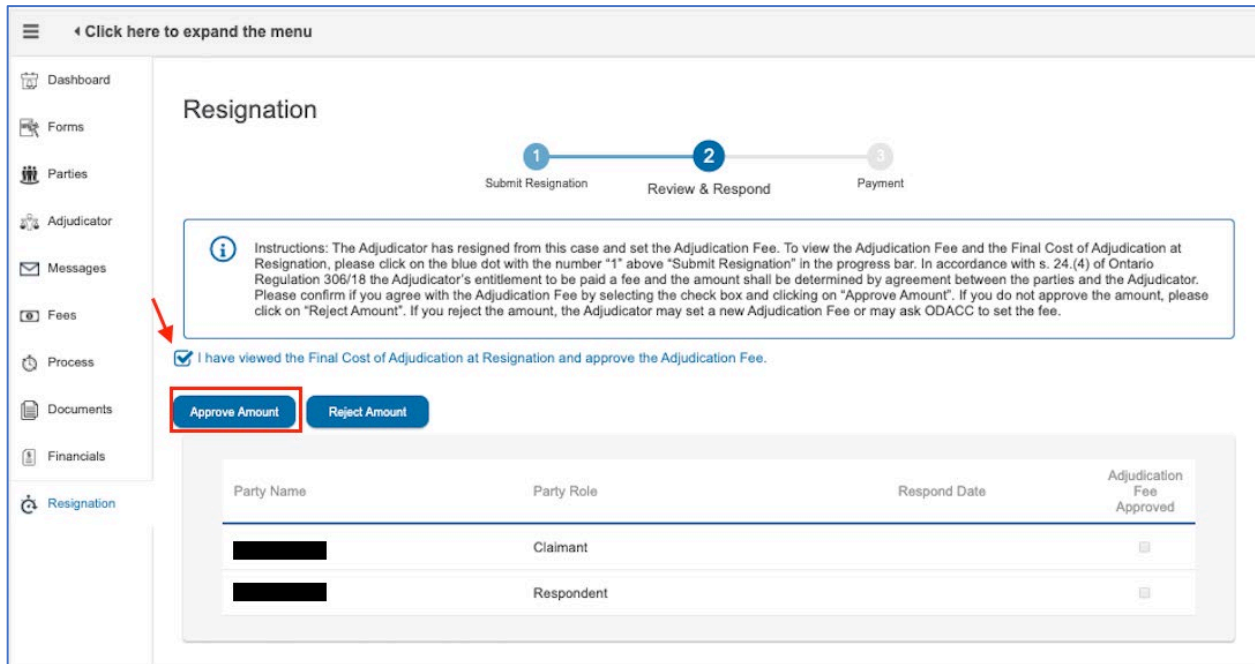
When the Parties click on “Submit Resignation”, the Resignation page will contain two charts that display the Adjudication Fee, disbursements, Referral Fee and Certification Fee that (a) were approved and/or paid to date, and (b) are owing at resignation (refer to Figure 3).

Figure 3: Submit Resignation Page

2.1 Approving the Adjudication Fee

If the Parties and the Adjudicator agreed on an Adjudication Fee, the Parties will be asked to indicate their consent to the Adjudication Fee amount (on the “Review & Respond” page, as shown at Figure 4).

Figure 4: Review & Respond Page - Approving the Adjudication Fee



Once all the Parties approve the Adjudication Fee amount, the chart on the "Review & Respond" page will be updated and the case status will state the Adjudication Fee was approved (refer to Figure 5). The Parties and the Adjudicator will be notified via email that the Adjudication Fee was approved.

Figure 5: Resignation Page after the Adjudication Fee is Approved

Request Help

Case Number: 72 | Case Status: Resignation - Adjudication Fee Approved

Click here to expand the menu

Resignation

1 Submit Resignation | 2 Review & Respond | 3 Payment

Party Name	Party Role	Respond Date	Adjudication Fee Approved
[Redacted]	Claimant	Mar 09, 2020	<input checked="" type="checkbox"/>
[Redacted]	Respondent	Mar 09, 2020	<input checked="" type="checkbox"/>

Once the Adjudication Fee is approved, the Parties will be required to pay the fee through the “Payment” page (refer to Figure 6).

Figure 6: Resignation - Payment Page

Resignation

1 Submit Resignation | 2 Review & Respond | 3 Payment

i To pay by credit card, please click on the “Click Here to Pay” link. Please visit the following page for instructions on paying by cheque or EFT: [Fees, Retainers and Payments](#). Please refer to the “Financials” tab to request an invoice.

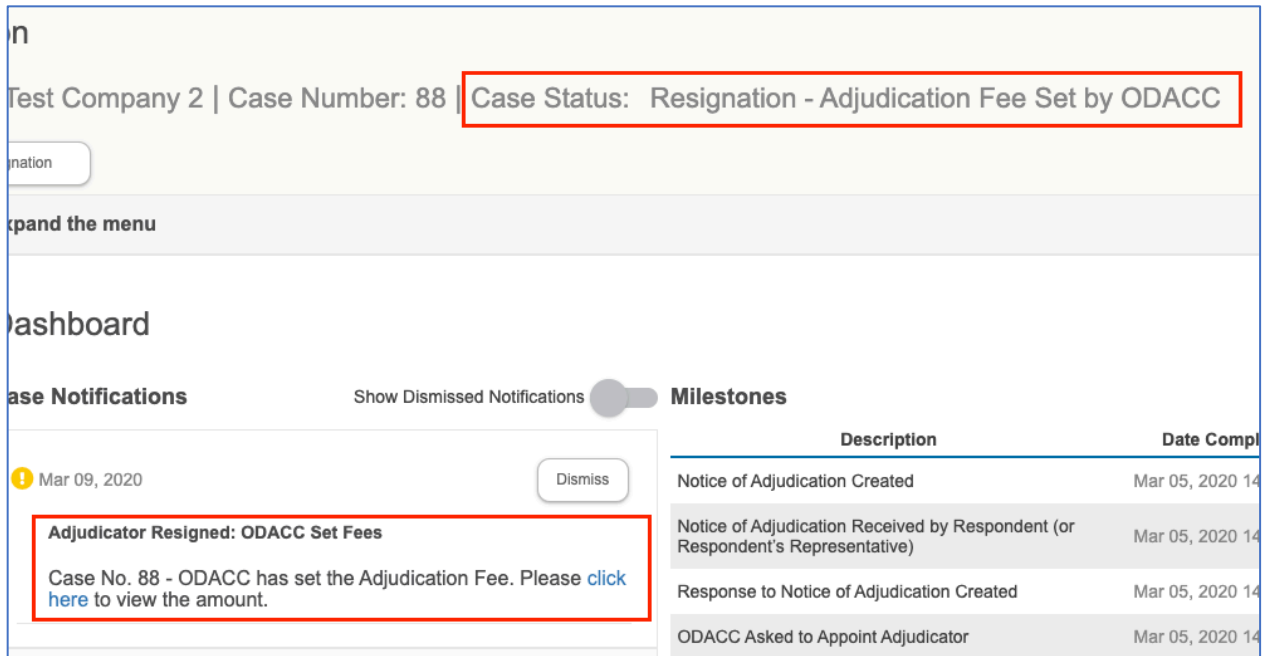
Payments and Refunds

Description	Party Name	Party Role	Resignation Fee	Amount
Invoice No : 193	[Redacted]	Claimant	\$141.25	\$141.25 Click here to pay
Invoice No : 194	[Redacted]	Respondent	\$141.25	\$141.25 Click here to pay

3. Adjudication Fee Set by ODACC

If the Parties and the Adjudicator are unable to negotiate an Adjudication Fee, the Adjudicator will ask ODACC to set the Adjudication Fee. ODACC will set the Adjudication Fee in accordance with the [Schedule of Fees](#) and s. 24.(5) of *Ontario Regulation 306/18*. After ODACC sets the Adjudication Fee, the Parties and the Adjudicator will be notified via email and asked to log in to ODACC’s Custom System to view the amount. On the system, the Parties will have a notification stating “ODACC has set the Adjudication Fee” and the case status will state “Resignation – Adjudication Fee Set by ODACC” (refer to Figure 7).

Figure 7: Notification After ODACC Sets Adjudication Fee



The screenshot shows a user interface for a case. At the top, it displays "Test Company 2 | Case Number: 88" and "Case Status: Resignation - Adjudication Fee Set by ODACC". Below this is a "Dashboard" section with a "Case Notifications" area. A notification is shown for "Mar 09, 2020" with the text: "Adjudicator Resigned: ODACC Set Fees" and "Case No. 88 - ODACC has set the Adjudication Fee. Please [click here](#) to view the amount." To the right, there is a "Milestones" table.

Description	Date Compl
Notice of Adjudication Created	Mar 05, 2020 14
Notice of Adjudication Received by Respondent (or Respondent's Representative)	Mar 05, 2020 14
Response to Notice of Adjudication Created	Mar 05, 2020 14
ODACC Asked to Appoint Adjudicator	Mar 05, 2020 14

If ODACC set the Adjudication Fees, the Parties will be required to pay the fee by clicking on the “Click Here to Pay” link on the Resignation page (refer to Figure 6).



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4. Closing the Adjudication File

Once all fees have been paid, ODACC will close the adjudication file.