

RULE 35 – STATED CASE

On consent

- (1) The parties to a proceeding may concur in stating a question of law or fact, or partly of law and partly of fact, in the form of a stated case for the opinion of the court.

By order

- (2) Upon application by filing a notice of stated case in Form 30, the court may order a question or issue arising in a proceeding, whether of fact or law, or partly of fact and partly of law, and whether raised by the pleadings or otherwise, to be stated in the form of a stated case.

Stated case from tribunal

- (3) In subrules (4) and (5), “tribunal” means any statutory board, commission or similar entity that is not a court.
- (4) When there is no proceeding, a tribunal may initiate a stated case by filing a notice of stated case in Form 30 including:
 - (a) a statement of the relevant facts and evidence;
 - (b) the question(s) to be determined by the court;
 - (c) the addresses of all parties participating in the tribunal proceeding.

Notice of hearing of stated case

- (5) The parties to a stated case or the tribunal must file and deliver a notice of hearing in Form 31 at least 14 days before the hearing.

Hearing

- (6) On the hearing of a stated case, the court and the parties may refer to any document mentioned in the stated case, and the court may draw from the stated facts and documents any inference, whether of fact or law, that might have been drawn from them if proved at a trial or hearing.

Powers of Court

- (7) The court may
 - (a) give directions it considers necessary for the proper hearing and determination of the stated case,
 - (b) without limiting paragraph (a), make one or more of the following orders:

- (i) that records, including transcripts and minutes, or other things be produced;
 - (ii) that evidence be adduced by way of affidavit, or that it be given orally;
 - (iii) that sets time limits for taking steps in, and for the hearing of, the stated case;
 - (iv) that the stated case be disposed of summarily;
 - (v) dismiss the action, and
- (c) exercise the powers of the court as on a petition.

Order after hearing

- (8) With the consent of the parties, on any question in a stated case being answered, the court may grant specific relief or order judgment to be entered.