

# Evidence

## The Residential Tenancies Act:

- Provides regulation making authority to state the types and format of evidence for use in a hearing.
- Provides regulation making authority to provide the procedures for participation of witnesses in a hearing.
- Provides regulation making authority to provide the timelines to submit evidence for use at a hearing.

## Reference:

Regulations: Section 25A, 25AA

## Details:

Both applicants and respondents must provide any evidence they intend to use to demonstrate or explain their case at least 2 days before their hearing date.

Evidence submitted should be relevant, reliable, and in a legible format.

- Relevant evidence relates directly to the issues identified in the Application to Director.
- Reliable evidence is an accurate representation of events that has not been distorted.
- Legible evidence should be readable, clear, and easy to understand.

It is at the Residential Tenancy Officer's discretion to determine relevant evidence during the hearing. Early submission of evidence is required to ensure all parties have evidence at the time of the hearing. It is not required for the parties to review evidence submitted before the hearing.

Physical items cannot be submitted and will not be accepted as evidence. A photograph or video of the item is acceptable.

## Procedure:

[www.novascotia.ca/rta](http://www.novascotia.ca/rta)

1-800-670-4357

To ensure the hearing proceeds in an efficient and timely manner, Applicants and Respondents must submit evidence to the other party and to the Residential Tenancies Program no later than **2 days** before the scheduled hearing date. This date is on your Notice of Hearing. However, a Residential Tenancy Officer has the discretion to accept evidence up to or during the hearing in exceptional circumstances.

Exceptional circumstances are solely at the discretion of the Residential Tenancy Officer.

### **Submitting Evidence:**

Each party not less than 2 days before the date of the hearing, must submit the following to all parties of the matter and the Residential Tenancy program:

- Copies of all evidence that the party intends to rely on at the hearing
- A document (evidence log) that identifies the types of evidence served and the number of each type of evidence

Evidence and the evidence log must be submitted to all the parties to the matter by one of the following methods:

- Personal service
- Registered mail
- Courier, provided that a confirmation of delivery is retained by the sender
- Email, provided that the party consents to receiving it by email and provided that a confirmation of delivery is received from the receiving party

Evidence and the evidence log must be submitted to the Residential Tenancy Program by one of the following methods:

- Personal service by delivering a copy to an Access Centre
- Registered mail
- Courier, provided that a confirmation of delivery is retained by the sender
- Email provided that a confirmation of delivery is received from the receiving party

At the hearing, each party must be prepared to demonstrate to the Residential Tenancy Officer that the evidence and evidence log were submitted to the other parties at least 2 days before the date of the hearing.

The Residential Tenancy Officer has the discretion to permit evidence at any time up to and including during the hearing in exceptional circumstances. If evidence is permitted to be submitted later than 2 days before the hearing:

- the other parties must be given an opportunity to review the evidence
- any of the parties may request that the hearing be adjourned and

- the Residential Tenancy Officer may adjourn the hearing if it is necessary for the other parties to receive copies of the evidence being submitted

A party who submits evidence must keep an exact copy of the evidence submitted

- for at least 10 days after a Director's Order is made or
- until a Small Claims Court order has been made if the Director's Order has been appealed.

### **Non-admissible Evidence**

The following types of evidence are **not permitted**:

- Any kind of living/dead specimens i.e. bed bugs, rodents, etc.
- Physical objects, i.e. a piece of carpet or a light bulb

A photograph or video of non-admissible evidence is acceptable provided it is an acceptable format

### **Weighing of Evidence**

A Residential Tenancy Officer will consider the source (credibility, reliability, relation to other evidence) and look for a logical connection between evidence and the fact sought to be proved. Evidence is the material submitted to establish the factual basis against which legal interpretation, policy and logical reasoning will operate. It should be **believable, plausible, and consistent**.

### **Types of Evidence**

#### **Written Documents**

- Any type of written document that is relevant to your hearing is acceptable
- This could include receipts, leases, letters, printed copies of emails, bank statements, etc.
- Parties must submit a copy of written documents when submitting evidence at an Access Centre. (Parties must keep originals for their records)
- Any evidence of communications such as text messages or emails, must be printed out or scanned and emailed. Do not forward text message to the Residential Tenancy Officer
- Digital documents must be sent by email to the Residential Tenancy Officer and other party and they must be in one of the following formats:
  - Microsoft Office Word or PDF

#### **Photos**

- Photographs that are relevant to your hearing are acceptable
  - They can be printed or emailed
  - If sent via email, they must be in one of the following formats: Jpeg, jpg, png, bmp, pdf

### **Video and Audio Recordings**

- Video and audio recordings that are relevant to your hearing are acceptable
  - Digital recordings must be sent by email to the Residential Tenancy Officer and the other party and must be in one of the following formats: windows media/video file (.wmv), mpg, mpeg, m4v, mp4

All digital evidence must be included/attached within an email. Evidence stored on file sharing services such as Google Drive, Microsoft OneDrive, Dropbox etc. will not be accepted.

All digital files must be in an uncompressed format, i.e. no Zip or ARC files.

### **Witnesses**

- Witnesses can provide testimony for telephone hearings
- You must contact the RTO ahead of the hearing to discuss how your witness can participate and provide testimony. Witnesses **will not** call into the conference, they will be called into the conference at the appropriate time by the Residential Tenancy Officer.
- Witnesses **will not** be permitted to listen to the entire hearing, they will only provide their testimony.

**Appendix I – Evidence Log Example**

**Evidence Log  
Residential Tenancy Hearing**

<b>File Number:</b>	201700123
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<b>Name:</b>	Jane Tenant
<b>Date and Time of Hearing:</b>	December 12, 2017 10:00 AM

<b>Quantity</b>	<b>Type of Evidence</b>	<b>Evidence Description (Optional)</b>
1	Witness	Sally Smith
4	Documents	Copies of my lease and bank statements
10	Photographs	Pictures of damages