

# Format of Hearings

## The Residential Tenancies Act:

- Allows the Director to hold a hearing in person, in writing or by telephone, video conference or other electronic means, or by any combination of the foregoing;
- Allows the Director to conduct a hearing in any manner the Director considers appropriate.
- The powers and duties of the Director of Residential Tenancies are delegated to Residential Tenancy Officers.

## Reference:

*Residential Tenancies Act: Section 17*

## Details:

Where a party applies to resolve a dispute by submitting Form J – Application to Director form, hearings are scheduled as telephone hearings. Applications submitted using Form K and Form N are decided through a written submission process.

Any request to schedule a hearing in an alternate format must be evaluated using the criteria outlined in the procedure section. All requests will be evaluated on an individual basis.

## Procedure:

### Written Hearing

The written hearing process is limited to a Form K – Application to Director and Form N – Application to Director.

The landlord’s Form K – Application to Director is an application for vacant possession of a unit and for unpaid rent. A Form K can be filed after a tenant has been given a 15 day notice using Form D and has neither disputed the notice nor paid the rent in full within 15 days of receiving the notice. In this circumstance, a decision is based only on the landlord’s written evidence.

The landlord’s Form N – Application to Director is an application to increase rent in land-lease community by an amount greater than Annual Allowable Rent Increase Amount(AARIA). Landlords are also required to file Form O – Financial Information in Support of Rent Increase Greater than AARIA and

supporting documentation. Tenants can review the landlord's submissions and make their own written submission to the Residential Tenancy Officer to consider. In this circumstance, the decision is based on the landlord's applications, and any written submissions and supporting documentation by either landlord or tenants.

**Request of Hearing Format other than Telephone Hearing:**

An applicant must submit a request **in writing** to the assigned Residential Tenancy Officer with supporting documentation **within three days** of filing an Application to the Director.

A respondent must submit such a request **in writing within three days** of receiving a notice of hearing or being deemed to have received the notice of hearing.

The Residential Tenancy Officer may consider requests for hearings in an alternate format in limited circumstances including when:

- A party has a documented medical condition that creates a barrier to participation in a telephone hearing;
- There are physical, geographical or language barriers for which a telephone hearing would result in prejudice to one or both parties;

When considering a request for a hearing in a format other than telephone conference call, the officer will consider the reason for the request based on the supporting documentation provided and why the party is unable to participate in a telephone conference call or be represented by someone who could.

If one party requests a hearing in a specific format, the officer will provide the other party an opportunity to make submissions on the hearing format to ensure procedural fairness.

**Medical Condition:**

The assigned Residential Tenancy Officer may consider holding a hearing in writing, in person or by other electronic means where a party provides evidence that they have a medical condition that will limit their ability to participate in a teleconference hearing. In most instances, if an individual would have a representative or support person at an in person hearing they would have this representative or support person during a telephone hearing.

Examples include:

- for a person whose speech has been impaired by a stroke or other significant event, a letter from their doctor, speech-language pathologist, specialist or other medical professional stating the party's medical condition and how it limits their ability to participate in an oral hearing; and

- for a person whose hearing is impaired, a letter from their doctor, audiologist, speech-language pathologist, specialist or other medical professional stating the party's medical condition and how it limits their ability to participate in an oral hearing.

**Physical, geographical or language barriers:**

The assigned Residential Tenancy Officer may consider holding a written hearing where a party provides evidence that there is a physical, geographical or language barrier that will limit their ability to participate in a teleconference hearing.

Physical barrier examples include:

- a party is incarcerated and unable to access a telephone at the time of the hearing; and
- a party is outside of telephone service areas.

Geographic barrier examples include:

- a party is a member of the Armed Forces and is stationed in an active war zone; and
- a party is on a humanitarian mission in an active war zone.

Language barrier examples include:

- a situation where a party is not fluent in English and provides evidence of their unsuccessful attempts to obtain interpreter assistance for an oral hearing.

**Criteria to consider when evaluating an alternate hearing format at the request of a party:**

Without restricting the authority of the assigned Residential Tenancy Officer to consider other factors, the officer must apply the following criteria when considering a party's request for alternate hearing format:

- The views of the parties;
- Whether the alternate format is necessary to provide a fair opportunity to be heard; and
- The possible prejudice or harm to each party.