

Investigation and Mediation

The Residential Tenancies Act:

- States that once a landlord or tenant applies to the Director to have a dispute settled, a Residential Tenancy Officer will first investigate and attempt to mediate a settlement. If it appears that the landlord and tenant are unlikely to reach such a settlement, the Officer may issue an Order (see Procedure below).

Reference:

Residential Tenancies Act: Sections 13(1), 16

Details:

Once a Certificate of Service has been received, the Officer may begin to work the file. The Officer will:

- I. Contact the applicant and discuss the application details. The Officer will clarify exactly what the problem is and what remedy is being requested and encourage the applicant to participate in mediation;
- II. Contact the respondent, discuss the response and encourage mediation; and
- III. Gather information about the application from any source that is available to them. Any information obtained will be made available to all parties equally.

Mediation is defined as:

- A method of problem solving that is fast, flexible and informal. It provides a neutral third party (the Officer) who helps the parties to work through their differences by effective communication. The Officer will encourage landlords and tenants to discuss problems, and reach their own mutual agreements. Settlements cannot contain items that violate the terms of the *Residential Tenancies Act*.

Mediated settlement is defined as:

- A written account of what the parties agreed upon during mediation. The settlement must be specific and must be enforceable. Both parties must sign the settlement signifying acceptance or acknowledge their acceptance of the settlement i.e. via email;
- The mediated settlement is a contract between the landlord and tenant and cannot be appealed;
- If either party defaults on the mediated settlement, all or parts of the settlement can be made into an Order of the Director.

Procedure:

Once an Application to Director has been served on a respondent, the Residential Tenancy Officer will attempt to mediate a resolution. If this fails, then a hearing will be held, evidence presented by both parties will be reviewed and a decision will be rendered, within 14 calendar days, in the form of an Order of the Director.

Mediation can take place in any form acceptable and convenient to the parties. It may involve conference calls, separate telephone conversations or other electronic means. A last opportunity to mediate a dispute will be offered at the beginning of the time scheduled for a hearing. As mediator, the Officer will:

- I. Focus on helping parties solve the problem;
- II. Oversee the discussions;
- III. Identify common ground that will help consideration of mutual agreements;
- IV. Ensure any agreement is allowed under the Act; and
- V. Respect confidentiality.

The Officer will not:

- I. Decide who is right or wrong;
- II. Solve the problem;
- III. Offer legal advice;
- IV. Offer an opinion;
- V. Judge either party's guilt or innocence;
- VI. Allow abusive language or actions; or
- VII. Take sides.

The Officer will prepare a written mediated settlement for the parties to sign. The parties' signatures, or acknowledgement of acceptance i.e. via email, signifies their acceptance of the settlement. This settlement must not contain anything that is in violation of the Act.

If one of the parties defaults on a mediated agreement, the terms of the agreement can be turned into an Order of the Director. To do this the party would complete the required form, Convert Mediated Settlement into Order of the Director, file it with the Director and send a copy to the other party. Once turned into an Order of the Director it can then be converted into a Small Claims Court Order. The Small Claims Court Order can be enforced as any other court order.

A Residential Tenancy Officer has the authority to require the parties to meet and provide information before deciding whether to convert a defaulted mediated settlement into an Order of the Director.



Residential Tenancies Program

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