

Residential Tenancies Guides

Mediation and Hearings

Participating in Mediation or Hearings

When conflicts arise between landlords and tenants, the Residential Tenancies Act provides an efficient and effective dispute resolution process that can involve mediation and hearings (adjudication).

Mediation

Mediation is possible once both parties are served with a notice of hearing and if both parties are interested in mediation. Mediation is completely voluntary, so if one of the two parties is not interested in mediation, the process will go directly to a hearing. Mediation can take place over the telephone in advance of the telephone hearing, and it can also take place right before the telephone hearing. If a mediated settlement is reached, a telephone hearing will not take place.

Mediated solutions are usually preferable because both sides can potentially achieve their goals. 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.

Preparing for Mediation

Think about what your priorities are – are there compromises you are willing to make to achieve these priorities? It is also helpful to examine the issue from the other party's perspective. Do you know what their priorities are?

Hearings

Hearings are conducted by a Residential Tenancy Officer by telephone, using a toll-free telephone number. The toll-free number and conference code are assigned at the time an application is made. They are less formal than regular court procedures. During the hearing, the officer will need to hear the facts of the case. The officer will issue an order within 14 days of the hearing.

This order can only address issues contained in the original Application to Director. For instance, an applicant cannot decide at the hearing that they are seeking a larger amount of money than is recorded on the Application to Director. This order may be appealed to Small Claims Court.

Preparing for a Hearing

You can prepare for a hearing in two ways:

- Arrange for any necessary witnesses to attend the hearing.
- Gather important papers, documents, and other evidence to submit at least two days prior to the hearing.
 - Be sure to submit evidence to all parties named in the Application to Director and to the Residential Tenancies Program.

During the Hearing

The applicant must state their side of the story and the basis for their complaint. This can be supported with any documents or evidence that were previously submitted.

At the hearing, both parties will have the opportunity to present evidence previously submitted. Evidence can include such things as leases, letters, sworn statements, receipts, photographs, or invoices. Evidence will not be accepted after the hearing.

The respondent also has an opportunity to present their arguments about the case and present any documents or other evidence previously submitted.

All individuals giving evidence must be sworn in or affirm their testimony. Each side has an opportunity to question or rebut the evidence provided by the other party, and can have witnesses participate on their behalf.

The Residential Tenancies Program is here to help both tenants and landlords resolve disputes. Please see any of our other guides available that may help you along the process: novascotia.ca/snsmr/access/land/residential-tenancies/guides.asp

Notes for the Respondent

It's important to carefully review the documentation that has been served on you.

If you do not attend the hearing, the officer may proceed in your absence and issue an order.

If you are unable to attend, you have two choices:

- Request in writing that the officer reschedule the hearing to a different day or time. Your request may or may not be granted.
- Appoint someone to attend the hearing on your behalf. If you appoint someone, you must authorize them in writing to represent you. Your authorization must be forwarded to the Residential Tenancy Officer prior to the hearing.

You also have the right to submit a counterclaim. In a counterclaim, you can raise additional claims against the applicant that you would otherwise not be able to address in the original hearing (such as monetary claims against the applicant). A counterclaim can also result in a hearing, which will be heard at the same time as the original hearing. To do this, you must file your own Application to Director. The counterclaim must be processed and served before the scheduled hearing if it is to be heard at the same time as the original application.