

# Mediation and Hearings



## Participating in Mediation or Hearings

When conflicts arise between landlords and tenants, the Residential Tenancies Act provides for 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. It can take place over the telephone in advance of the hearing. It can also take place in person right before the hearing itself. If a mediated settlement is reached, the hearing can be cancelled.

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 that is enforceable by the courts.

### Preparing for Mediation

Think about what your priorities are. Are there compromises you would be 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. 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 not accept evidence after the hearing is over.

The Officer will issue an order within 14 days of the hearing. This order will be based on the evidence provided at the hearing. It can only address issues that are 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 bring to the hearing

Evidence includes such things as leases, letters, sworn statements, receipts, photographs, or invoices. If you decide to provide videotaped evidence, it is your responsibility to ensure equipment is available to view the videotape at the hearing. Evidence will not be accepted after the hearing.

**You must submit 3 copies of all documentary evidence at the time of the hearing.**

## **During the Hearing**

The applicant must state their side of the story and the basis for their complaint. This can be supported by providing the Officer with any documents or evidence that support the claim.

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

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 appear on their behalf.

## **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, then you must authorize them in writing to represent you. Your representative must bring this with them to the hearing.

You have the right to submit a counterclaim. 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.

**All hearing rooms are scent-free. Thank you for your cooperation.**