



Residential Tenancies Program

Policy and Procedure Guide

Policy Number: 01-007

Subject: Mediation

Chapter: General Issues

Legislation	s.42, 45
Definitions	<p>Mediation: a confidential process used to assist landlords and tenants to discuss problems, identify solutions and reach their own agreement. Mediation may take place through in-person meetings, conference calls or separate telephone conversations prior to the hearing. Mediation agreements are binding and enforceable.</p> <p>Mediator: a neutral third person, who does not take sides or pass judgment, but helps the tenant and landlord reach their own agreement.</p> <p>A mediator does:</p> <ul style="list-style-type: none">• set ground rules (no shouting, arguing, etc.);• keep the parties focused on solving the problem;• oversee the discussion; identify common ground; and ensure that the agreement is enforceable;• keep the discussion going;• maintain control at all times and can stop the mediation at the mediator's discretion or at the request of either party;• permit all parties to take a copy of the draft agreement for review; and maintain the original draft on file.• If agreement is reached, ensures all information obtained is accurate and is sufficient to draft agreement. <p>A mediator does not:</p> <ul style="list-style-type: none">• decide who is right or wrong;• solve the problem, but helps the landlord and tenant reach their own agreement;• judge guilt or innocence;• take sides or show any sign of bias;• allow parties to badger or intimidate each other in any way.
Purpose	The purpose of this policy is to provide guidance on how the Residential Tenancies Program may help landlords and tenants work together to solve their own problems. When people reach their own agreement, instead of having a decision made for them, they are more likely to comply with the terms and conditions. Mediated



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	<p>agreements are legally binding and eliminate the need for a formal hearing.</p>
Policy	<p>Mediation services may be provided when:</p> <ul style="list-style-type: none">• an application for dispute resolution is received, processed and the applicant consent to mediation is checked “Yes” on the application form; and• the respondent, after receiving a copy of the Application for Dispute Resolution and Notice of Hearing, provides notice of consent to mediation to the Residential Tenancies Office <p>Mediated agreements are legally binding. Should either party fail to comply with the mediated agreement, the other party may request the mediated agreement be converted to an Order. This order is not subject to appeal.</p> <p>Mediation services may be provided by the Residential Tenancies Officer or the Adjudicator.</p> <p>Immediately prior to the start of a hearing, the adjudicator may ask whether or not the parties would like to participate in mediation and if the response for all parties is affirmative, request a residential tenancies officer to conduct the mediation; or in the absence of a residential tenancies officer, provide mediation services directly. It should be emphasized that mediation is: (i) voluntary; (ii) confidential; (iii) legally binding and (iv) enforceable. Once consent is received from both the applicant and the respondent, the mediation process may begin.</p>
Procedure Overview	<p>The officer explains both the mediation and decision making process to the landlord and tenant. If they agree to try mediation, various approaches may be used, depending on the dispute. For example, if the disagreement is for a small amount of money, mediation can be done over the telephone or by mail. In cases where the tenancy will continue or the issues are more complex, more formal mediation is held.</p> <p>Mediation, whether in person or on the telephone, has four basic stages.</p> <p>Stage 1 - the mediator:</p> <ul style="list-style-type: none">• makes introductions;• explains that mediation is:



voluntary (either party or mediator can stop mediation at any time),

confidential (anything discussed in mediation is not available to an adjudicator should a hearing become necessary)

binding (parties will be required to sign a written agreement which is binding and enforceable through the Sheriff's Office).

- sets the ground rules for the discussion (no shouting, etc.);
- encourages a commitment to mediation.

Stage 2 - the mediator:

- reviews the file and verifies names and addresses of the parties;
- provides the parties with any available information regarding the issues of the claim. Distributes information sheets on various sections of the Act when applicable;
- gets a basic or better understanding of the details of the claim one issue at a time by letting each person briefly describe their situation;
- lets the landlord and tenant hear each other's explanation, as it's told to someone else;
- summarizes the issues that need to be dealt with;

Stage 3 - the mediator:

- asks the landlord and tenant if they need clarification on any issue;
- emphasizes areas of agreement and reminds the parties as often as necessary on their commitment to mediation;
- lets the participants comment on any information they hear;
- ensures that the possible solutions are enforceable.

Stage 4 - the mediator

- makes sure everyone has a common understanding of how the issues have or will be dealt with;
- writes down what the parties agreed to. Includes dates and deadlines;
- ensures everyone is clear on who will do what, where, when, how and why; and that the agreement is binding and enforceable;
- reads the agreement out loud and gets everyone's approval;



	<p>If mediation is done by postal mail the officer;</p> <ul style="list-style-type: none">• mails the agreement to the parties to sign and have signatures witnessed;• informs the parties that the agreement must be returned to the Division within 15 days; (the mediator must KIV the file);• sets a new hearing date (if there's not time for the agreement to be returned prior to the hearing); <p>If not returned within 15 days, the division must contact the applicant and offer a new hearing date. The division is responsible to serve all parties with the new hearing date.</p> <p>If mediation is done in person the officer;</p> <ul style="list-style-type: none">• has the landlord and tenant sign the agreement; includes the mediator/officer as witness. <p>If the parties can't reach an agreement or refuse to mediate, the hearing will proceed.</p> <p>If an agreement is met, it must be put in the form of a mediation agreement, signed by all parties and witnessed. An original copy of the mediation agreement must be kept in the file and a copy provided to all parties. When drafting the mediation agreement, it is important to keep in mind that it may result in an order. Once the agreement is drafted, it be reviewed by the Director (or Manager).</p> <p>If a landlord or tenant does not comply with the mediation agreement, the other party may apply to the decision for an Order based on the mediated agreement.</p> <p>If an application for certification of a mediation agreement is made, an order must be drafted by the mediation officer and be reviewed by the Director (or Manager) prior to certification.</p>
Forms & Form Letters	
X-Reference	See mediation agreement converted to an order. For more details on enforcing an Order, see Certification of Orders Section
Policy Developed	September, 2000
Policy Revised	January, 2002 September, 2021



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Other Resources	
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