



Residential Tenancies Program

Policy and Procedure Guide

Policy Number: 09-001
Subject: Application Refusal
Chapter: Application for Dispute Resolution

Legislation	s. 3.(4), 42, 43, 44
Definitions	N/A
Purpose	The purpose of this policy is to identify situations where this Section may refuse to accept or hear an application, and to outline the process of refusing an application.
Policy	<p>Applications may be refused or dismissed in the following circumstances:</p> <p>1. Residential Tenancies Act, 2018 does not apply Where the application concerns a living accommodation which the Residential Tenancies Act, 2018 does not apply to by operation of s. 3.(4), the application may be refused.</p> <p>2. Time Limit Exceeded A landlord or a tenant may make application to the director within 1 year after the termination of the rental agreement. No application should be accepted after that 1-year time-period has elapsed.</p> <p>3. Vexatious or Frivolous The director may refuse to accept an application under section 43 or may dismiss an application at any time where, in the director's opinion, the matter is trivial, frivolous, or vexatious, or where the application has not been initiated in good faith, and the Director may issue an order to that effect.</p> <p>4. Where Tenants have an Ownership Interest in the Property Where a tenant has an ownership interest in the property, acquired through a lease-to-own agreement, or acquired when a purchase option in a lease has been exercised, the relationship between the parties becomes one of vendor and purchaser, and no longer that of landlord or tenant. This division can only hear applications where there is a relationship of landlord and tenant and it does not have the authority to make a ruling on the ownership of property.</p>



	<p>5. Future Rent</p> <p>A landlord cannot make a claim for rent that has not yet come due. After a hearing has been conducted, an adjudicator may only award rent up to the date of that hearing.</p> <p>E.g., if a tenant moves out before the expiry date in a fixed-term lease, that tenant may be responsible for paying the rent for the remainder of the term if the landlord is unable to find new tenants. A landlord may only make a claim for a payment of the rent owing for the full remainder of the term if the hearing is held after the expiry date of the lease. If the hearing is held prior to that date, the landlord would only be awarded rent to the date of the hearing. A second application would have to be filed if the landlord seeks to recover any rent owing after that first hearing.</p>
Procedure Overview	After accepting an Application for Dispute Resolution, the officer will review the application to ensure it is legible and complete and that it meets the requirements of the division.



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	<p>Applications will not be processed until the filing fee, if required, is paid.</p> <p>Unsigned applications, or applications that do not include the applicant's address and other contact information, cannot be processed and should be returned to the applicant for completion.</p> <p>An application that does not set out the details of the claim, or where the required accompanying documents have not been submitted (e.g., a breakdown of damages, a copy of a termination notice, etc.), should also be refused and returned to the applicant for completion.</p> <p>Where the application is refused because it is substantially incomplete, the intake officer should inform the applicant, where time is a factor, of the 1-year time-limit for filing an application.</p> <p>If the officer believes that an application should be refused on other grounds (e.g., the officer believes it is frivolous, or the officer believes that the living accommodation is exempt by operation of s. 3.(4)), the officer should refer the application to the director or designate for review.</p> <p>If there is insufficient information to make a determination as to whether the application should be refused, or where there is a disagreement between the parties concerning the grounds for which the application may be refused (e.g., the landlord and tenant dispute whether they had entered into a rental agreement or a rent-to-own agreement, etc.), the application may be processed and the matter can be determined by the adjudicator based on evidence presented at the hearing. If the adjudicator is satisfied that the application should have been refused, that adjudicator may dismiss the application.</p>
Forms & Form Letters	<u>Application for Dispute Resolution</u>
X-Reference	<u>Exempted Living Accommodations, section 01-005 of this manual.</u> Claims and Counterclaims, section 09-002 of this manual. Claims for Physical Damage, section 09-003 of this manual. Claim Against a Security Deposit, section 10-001 of this manual. Requirements for Application, section 09-006 of this manual. Costs, section 12-001 of this manual.



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Other Resources	<u>Civil Rules, Practice Notes and Forms - Appeals</u>