



Residential Tenancies Program

Policy and Procedure Guide

Policy Number: 11-001
Subject: Affidavits
Chapter: Hearings

Legislation	
Definitions	<p>Affidavit: A signed, written statement, supported by the oath or affirmation of the person who made the statement, administered and signed by a commissioner for oaths, or some other person authorized to administer oaths or affirmations.</p> <p>Affidavit of Service: An affidavit certifying that a document had been given to another party.</p> <p>Affiant: a person who makes an affidavit.</p>
Purpose	The purpose of this policy is to provide guidelines for the proper use and preparation of affidavits.
Policy	<p>Witness Affidavits</p> <p>During hearings, where there is a dispute about a particular matter, applicants and respondents may present evidence to support or corroborate their version of events. This evidence may include the testimony of the applicant or respondent, the testimony of witnesses who have been called to answer questions, or real evidence such as physical objects, documents, photographs, videos, etc.</p> <p>In cases where a party to the hearing is unable to participate, or where a witness is not available to answer questions, or where it would be impractical to have a witness attend a hearing, an affidavit may be submitted instead.</p> <p>Affidavits are preferable to mere written statements because they are sworn or affirmed in front of a commissioner for oaths, or some other person authorized to administer oaths or affirmations. By so swearing or affirming, the affiant attests to the truthfulness of the information provided in the affidavit and acknowledges that the contents of the affidavit may be used as evidence in a hearing, with the same force as if the affiant were testifying in person, under oath. Furthermore, by swearing or affirming, the affiant is legally bound to tell the truth under penalty of perjury if they knowingly make false statements.</p> <p>Preparing the Witness Affidavit</p>



A sample [Witness Affidavit](#) can be found on this Section's website.

The affiant's name and address are to be entered at the top of the form.

With respect to the body of the affidavit, the following points should be considered before signing the affidavit and having it sworn or affirmed in front of a commissioner.

- A. Affidavits should be prepared with care and the affiant should strive to be accurate and truthful, attesting only to what the affiant had personal knowledge of or had witnessed. An affidavit should not contain opinions, speculation or hearsay.
- B. In writing the affidavit, the affiant should use clear and concise language and in describing events, the description should be specific and detailed. The affidavit should only contain information relevant to the particular matter under dispute. Each statement of fact should be contained in a separate paragraph, and the paragraphs should be numbered.
- C. If the affidavit concerns a description of an event or an incident that took place over a period of time, it is preferable that the description of the event should be written in chronological order. Additionally, when making reference to an event, the affidavit should state the date and time the event took place. When making reference to people, the affiant should use that person's full name and should avoid using too many pronouns, especially if the event being described concerns numerous individuals.

Affidavits of Service

As evidence that a document had been served on, or given to, another party, the person who served the document may complete and sign an affidavit of service in front of a commissioner for oaths, or another person authorized to administer oaths or affirmations.

A sample [Affidavit of Service](#) can also be found on this Section's website.

An affidavit of service must contain the following information:

- The full legal name and address of the person or party who served the documents



- The full legal name and address of the party who was served
- A description of the documents that were served
- The date and time that the documents were served
- A description of the method used to serve the documents
- If the documents were sent by registered mail or Xpresspost, the associated tracking number
- If the document was sent by courier, a copy of the bill of lading should accompany the affidavit
- If the document was sent electronically, the electronic address where the document was sent
- Proof that the recipient had provided to the server the address of service

An affidavit of service must be completed by an applicant prior to a hearing, showing that they had served the respondent with the Application for Dispute Resolution as well as the Notice of the Hearing. (See [Service of Application](#), policy 05-001 of this manual).

An affidavit of service is also required to be completed and submitted to this Section where a party to a hearing has issue a subpoena. (See [Service of Subpoena](#), policy 05-004 of this manual).

An affidavit of service may also be used by a landlord or tenant as evidence they had served a termination notice, a notice for repairs, a notice of a material breach, a notice to enter the rented premises, a notice of abandonment, etc. Where a hearing is held, and where the person who had served a document is not attending the hearing, it is recommended that an affidavit of service be completed by that person before the hearing.

Assessing the Credibility of Affidavits

Although an affidavit is afforded more evidentiary weight than a mere written statement, it should generally be afforded less weight than the sworn testimony of an attending witness, as such a witness can be questioned, can provide elaborations, and their credibility can be tested by observing their demeanor or manner in answering questions or when cross-examined.

When deciding whether to accept the contents of an affidavit, or deciding the weight that it should be afforded, some of the following considerations should also be taken into account:

- Are the statements in the affidavit consistent with each other?
- Are the statements consistent with other pieces of evidence



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	<p>on offer?</p> <ul style="list-style-type: none">• Do the statements in the affidavit contain sufficient detail (dates, times, names, locations, etc.)?• Are the descriptions vague or precise?• Does the affiant have an interest in the outcome of the hearing? Is the affiant biased?• Are all the important facts included in the affidavit?• Why wasn't the affiant at the hearing to answer questions?• Are the statements believable?
Procedure Overview	<p>Residential Tenancies Officers (RTO) at this Section are commissioners for oaths and may witness affidavits.</p> <p>The RTO should review the affidavit before it is signed to make sure that it is complete and that all supporting documentation is included.</p> <p>If the RTO does not know the affiant, they should ask for picture identification.</p> <p>The standard question to ask the affiant, before signing the affidavit, is:</p> <p>“Do you swear that the information contained in this document is true to the best of your information, knowledge and belief?” [Affiant to place hand on Bible]</p> <p>or</p> <p>“Do you solemnly affirm that the information contained in this document is true to the best of your information, knowledge and belief?”</p> <p>Once the affiant swears or affirms, they should affix their signature to the affidavit in the presence of the RTO. Then the RTO will affix their commissioner stamp, and then sign and date the affidavit.</p> <p>A copy of the affidavit shall be placed in the case file.</p>
Forms & Form Letters	<u>Affidavit of Service</u> <u>Witness Affidavit</u>
X-Reference	<u>Service of Application on Respondent</u> , policy 05-001 of this manual <u>Service of Subpoena</u> , policy 05-004 of this manual
Policy	September, 2000



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