

Rules of Procedure

Office of Residential Tenancies (ORT) September 2023

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Part 1 - General Information

Objective and Disclaimer:

The Rules of Procedure are established by the authority of the Director pursuant to subsection 15(3) of The Residential Tenancies Act, 2006 (Act).

The Rules of Procedure are designed to provide a set of consistent, efficient, fair, and transparent procedures for resolving disputes between landlords and tenants within the jurisdiction of the Office of Residential Tenancies (ORT).

The Act and The Residential Tenancies Regulations, 2007 (Regulations) govern the relationship between a landlord(s) and a tenant(s), and the process through which residential tenancy disputes in Saskatchewan are resolved. If any section of the Rules of Procedure conflicts with a provision in the Act or the Regulations, the provision in the Act or the Regulations will prevail.

Contact the ORT:

The ORT is available to answer questions via phone, email, and in-person.

ORT General Inquiries: 1-888-215-2222

ORT Email: ORT@gov.sk.ca

Online Portal Support: 306-519-6662

Regina Office: 304 – 1855 Victoria Avenue, Regina, SK S4P 3T2

Saskatoon Office: 105 – 122 3rd Avenue N., Saskatoon, SK S7K 2H6

Terms and Definitions

Act	<i>The Residential Tenancies Act, 2006</i> , also referred to as the Act.
Adjournment	Occurs when the hearing officer decides to continue the hearing at a later date either by the request of one of the parties at the hearing or when the hearing officer deems necessary.
Appeal	A party may file an appeal with the Court of King's Bench if they feel there is an error in law or jurisdiction in a decision of a hearing officer. A party may further appeal a decision of the Court of King's Bench to the Court of Appeal.
Applicant	The party who applies for a hearing by completing an application and paying the application fee or obtaining a fee waiver certificate.
Application	Filed by an applicant with the ORT in the prescribed manner according to the Act to begin a claim.
Business Day	A day other than a Saturday, Sunday, or a holiday.
Certificate of Service	Document outlining the date(s) and method(s) of service of any notice required under the Act, completed by the individual who served the document(s).

Decision	Written record of the findings of a hearing officer following a hearing. Outlines the facts and conclusions of a claim, the evidence presented by all parties, and any order(s) made by the hearing officer.
Director	The Director of Residential Tenancies appointed pursuant to section 14 of the Act and including any deputy directors as relevant.
Evidence	Any type of proof presented by the parties for a hearing in support of their claim or defense including, but not limited to: <ul style="list-style-type: none"> • Written documents (e.g., tenancy agreement, letters, receipts, photographs, electronic communication, signed witness statements, etc.); • Video and audio recordings.
Ex Parte	A decision made by a Deputy Director in the absence of a hearing between the parties. This is most common with property disposition applications or security deposit applications where a landlord does not pay the security deposit to the ORT to be held in trust.
Fee Waiver Certificate	A certificate granted to an applicant who meets the criteria pursuant to <i>The Fee Waiver Act</i> allowing for the \$50 application fee to be waived.
Hearing	The procedure in which parties are called together and given an opportunity to present evidence, give testimony, submit arguments, and question the evidence and testimony of the other party or parties before a hearing officer.
Hearing Notice	Documents required to be served by the applicant on the respondent in the prescribed manner to make the respondent aware of the hearing.
Hearing Officer	The individual appointed by The Lieutenant Governor in Council to conduct a hearing that may result in an order pursuant to the Act.
Jurisdiction	The authority given by the Act and Regulations for the ORT to hear an application.
Landlord	A person who grants to another person the exclusive right of tenancy to a residential rental unit.
Party	The applicant(s) or respondent(s) listed on an application and any agent(s) representing an incorporated business named in the application. This does not include witnesses, family members and other persons not named on the application or appointed as a representative.
Personal Information	Information submitted to the ORT about an identifiable individual including: <ul style="list-style-type: none"> • name, mailing and electronic addresses, or telephone numbers; • medical, financial and employment information; • age, gender, gender identity, gender expression, race, national or ethnic origin, religious or political beliefs, sexual orientation, marital status or family status.
Power of Attorney	A resident of Saskatchewan appointed by a non-resident landlord or tenant (or a resident landlord or tenant) to be the representative in Saskatchewan for the purpose of receiving service of notices and applications pursuant to the Act.

Pre-hearing Adjournment	Occurs when the hearing officer decides to grant the rescheduling of a hearing in advance of the hearing either by the request of one of the parties or when the hearing officer deems necessary.
ORT	The Office of Residential Tenancies, including employees, hearing officers, Deputy Directors, and the Director.
Regulations	<i>The Residential Tenancies Regulations, 2007</i> , also referred to as the Regulations.
Re-hearing	Re-hearings occur at the discretion of the hearing officer or when ordered by the Court of King's Bench.
Respondent	The party an application has been made against.
Schedule	When the ORT decides a time and date for a hearing.
Serve	The formal legal manner of giving a party required documents as set out in the Act.
Summons	Document issued by the ORT at the request of the applicant or respondent to compel a person to appear as a witness at a hearing.
Subpoena	The ORT may request files from a police (or other) agency when deemed necessary by a hearing officer.
Tenant	The person who is granted exclusive right of tenancy to a residential rental unit. Includes the estate of a deceased tenant and, when the context requires, a former or prospective tenant.
Testimony	Oral statements of the parties or witnesses.
Withdrawal	Discontinuance of an application by the applicant in advance of the hearing. The hearing officer may also issue a decision dismissing the application.
Witness	An individual who provides direct testimony of events or produces documents at a hearing.

Introduction

The ORT is an agency independent of government that provides information about the rights and responsibilities of residential landlords and tenants in Saskatchewan. When landlords and tenants cannot resolve disputes on their own, both have the right to apply to the ORT to make rulings and settle the dispute. The ORT is independent, free from outside influence, and impartially decides applications without favour to either landlords or tenants.

By law, the ORT must provide a fair hearing and comply with the rules of natural justice. The rules of natural justice may be summarized as follows:

- Prior notice of hearing – parties need to know when and where the hearing will be conducted and what it is about;
- An impartial and unbiased adjudicator (hearing officer);
- An opportunity to see and to respond to everything considered by the hearing officer;
- An opportunity to be heard, that is, to present evidence and to advocate for an outcome that they seek;
- A decision with reasons that explain the outcome;
- A complete record of the hearing for the purpose of review by a court, including records of contact with the parties.

Mandate

The ORT is responsible for the administration of the Act and the Regulations. Under this mandate the ORT may:

- Provide information to landlords and tenants about their rights and obligations pursuant to the Act;
- Help landlords and tenants resolve any dispute that can be or is the subject of an application made to the ORT;
- Publish, or otherwise make available to the public, decisions or summaries of decisions made from a hearing.

Jurisdiction

The jurisdiction of the Act, Regulations, and the ORT to hear applications is limited to residential tenancy agreements. Under the Act a residential tenancy agreement means an agreement, whether written or oral, that is between a landlord and a tenant respecting possession of a rental unit and the use of any common areas and services or facilities that are subject to the agreement where the tenant agrees to pay rent to possess the rental unit and use any common areas and services or facilities included in the agreement.

Pursuant to section 5 of the Act and section 3 of the Regulations, the jurisdiction of the Act, Regulations, and the ORT does not apply to any of the following:

- Living accommodation included with premises that are occupied for business purposes;
- Living accommodation in a hotel, a motel, a motor hotel, a resort, a lodge or tourist camp, a cottage, a cabin, a trailer, a tourist home, a bed and breakfast establishment, a farm vacation home or a hostel, if a person resides there for less than six consecutive months;
- Living accommodation provided for crisis or emergency shelters;
- Living accommodation in a hospital, health center, addiction treatment center, special-care home, residential treatment center, any other facility designated pursuant to The Regional Health Services Act, a personal care home licensed pursuant to The Personal Care Homes Act, or a facility or an approved home as defined in The Mental Health Services Act;
- Living accommodation that is located on property that is being farmed if the living accommodation is being rented by the person engaged in farming that property;
- Living accommodation provided by the Young Men's Christian Association, the Young Women's Christian Association, The Salvation Army, or the Oxford House Society of Regina Inc.;
- Living accommodation rented under a tenancy agreement that grants a right of occupancy for the life of the tenant, or for a fixed period of not less than 20 years;
- Living accommodation owned or operated by an educational institution provided to its students or employees.

Part 2 – Rules for Filing an Application for a Claim

Filing an Application for a Claim to the ORT

Either a landlord or tenant or their authorized representative may make an application to the ORT respecting a residential tenancy dispute in Saskatchewan. Applications must be made in the form and manner that the Director and ORT direct. Applications should be made through the online portal which allows residential landlords and tenants the ability to log in using their business or individual Saskatchewan Account to create notices, submit applications, evidence, photos, and other documents, and make payments 24 hours a day. The ORT may refuse an application for a claim if the required components below are not filed by an applicant.

Note: when an access to justice issue is identified the ORT may grant a request that allows a landlord, tenant, or their representative to file an application via an alternative method (e.g., paper form by email, mail, or in-person).

Application Fees

All ORT applications have a \$50 application fee unless a fee waiver certificate has been submitted and approved. As per the Act, all application fees are non-refundable.

Landlord Application for Possession

Applications for an Order of Possession must include:

- Landlord Application form completed online;
- A true copy of the approved Notice to Vacate: Immediate Notice to Vacate and Notice of Arrears (and Notice of Utility Arrears if applicable), Notice to Vacate: Cause, Notice to Vacate: Employee, Notice to Vacate: Housing Program Purposes, Notice to Vacate: Owner Occupy, Notice to Vacate: Purchaser Occupy, or Notice to Vacate: Specified Uses exactly as it was served on the Tenant(s). Applications for Possession for Eviction in Serious Circumstances or Overholding Tenant do not require a notice to be served prior to making the application;
- A Certificate of Service completed online or in paper form explaining how the Notice to Vacate was served on the tenant(s) (if served electronically or personally, each tenant must be served). Applications for possession for Eviction in Serious Circumstances or Overholding Tenant do not require a Certificate of Service prior to making the application;
- The prescribed filing fee (\$50) or a completed application for a fee waiver certificate;
- A copy of the written tenancy agreement (if applicable);
- A copy of the rent ledger if the application is based on rent arrears or repeated late payments of rent.

Note: An Immediate Notice to Vacate and Notice of Arrears allows a landlord to state arrears owing as of service of the notice. This amount can be claimed at the time of the possession hearing without an additional filing fee or completion of a Monetary Claim. The filing fee may also be claimed at this time. To claim further damages a landlord may file a Monetary Claim.

Tenant Application for Breach of Tenant's Rights

Applications for Breach of Tenant's Rights must include:

- Tenant Application form completed online;
- The prescribed filing fee (\$50) or a completed application for a fee waiver certificate;
- A copy of the written tenancy agreement (if applicable);
- Supporting evidence.

Note: The ORT does not have jurisdiction over pain, suffering, or discrimination.

Landlord Application for a Monetary Claim

Applications for a Landlord Monetary Claim must include:

- Landlord Application form completed online;
- The prescribed filing fee (\$50) or a completed application for a fee waiver certificate;
- A copy of the written tenancy agreement (if applicable);
- Supporting evidence with a detailed list of the claims being made (e.g., cleaning, rent arrears, etc.)

Landlord Application for a Property Disposition Order

Applications for a Property Disposition Order made by the landlord for property valued at more than \$1500 must include:

- Landlord Application form completed online (contact attempts must be explained in detail);
- The prescribed filing fee (\$50) or a completed application for a fee waiver certificate;
- A copy of the written tenancy agreement (if applicable);
- Supporting evidence with a detailed list of items and applicable monetary value. Visual evidence (photos or videos) of the detailed items should be included;
- VIN number for cars, trailers, boats, etc.

Note: Property Disposition applications are not scheduled for a hearing. Once submitted, accepted, and paid a hearing officer will review the application and make a decision by ex parte. If deemed necessary by the Director a Property Disposition application may be set for a hearing date.

Tenant Dispute of a Notice of Landlord's Claim for Security Deposit

Tenant disputes of a Notice of Landlord's Claim for Security Deposit must include:

- If the tenant has been provided a claim link code with the Notice of Landlord's Claim for Security Deposit from the landlord, they may go online to dispute the form;
- A copy of the written tenancy agreement (if applicable);
- The prescribed filing fee (\$50) or a completed application for a fee waiver certificate;
- Supporting evidence.

Note: If the tenant has received a Notice of Landlord's Claim for Security Deposit without a claim link code they may make an application following the instructions listed below.

Tenant Application for Return of Security Deposit and Interest

Applications for the Return of Security Deposit and Interest must include:

- Tenant application form completed online (application name: “Landlord has not returned the security deposit”);
- A copy of the written tenancy agreement (if applicable);
- Proof of payment of the security deposit to the landlord (e.g., e-transfer receipt, paper receipt, etc.);
- Supporting evidence.

Note: If the tenant has received a Notice of Landlord’s Claim for Security Deposit with a claim link code they should dispute that form rather than making a new application.

Filing of Evidence with an Application for a Claim

The applicant may provide their evidence by uploading it to the application when making an application to the ORT. Additional evidence may be filed by the applicant(s) and respondent(s) in advance of the hearing by uploading it to the online application **and** serving it on the other party well in advance of the hearing.

Note: Uploading evidence to an online application is not considered service on the other party. Evidence must also be served to the other party via another method such as personal, email, mail, etc.

Inclusion of Legal Names on Applications

Proper legal names must be used to indicate all parties of an application including the proper name of any individual tenant(s) or landlord(s), or if the landlord is a corporation or public housing authority, the proper name of the corporation ending in one of “Limited,” “Limitée,” “Incorporated,” “Incorporée,” “Corporation” or “Housing Authority,” or the abbreviation “Ltd.,” “Ltée,” “Inc.” or “Corp.”

Forms for Applications Approved by Director

The Director may approve forms for the purposes of the administration of the Act and the filing of applications. Only approved forms, or deviations of those forms that do not affect the substance or mislead or invalidate an approved form may be used.

Monetary Limit for Applications

Any application made to the ORT seeking a monetary award must not be greater than the limit set out in the Regulations of \$30,000. An applicant may abandon the amount of the claim greater than the monetary limit in order to proceed to a hearing with the ORT by completing an Abandonment of Claim in Excess of \$30,000 form.

Time Limit for Applications

Applications with a 7 business day time limit:

- Landlord application for a security deposit guaranteed by the Ministry of Social Services must be submitted to the ORT within 7 business days of the tenant(s) vacating.

Applications with a 60 day time limit:

- Tenant application for the return of a security deposit;
- Tenant dispute of a Notice of Landlord's Claim for Security Deposit.

Applications with a 1 year time limit:

- All other applications.

Part 3 – Rules for Scheduling an Application for a Hearing

Classification of Applications

The below sections provide an overview of how applications are generally classified. Please note this is subject to the discretion of the ORT.

Urgent Applications

Applications that are considered to be urgent are as follows:

- Applications for possession;
- Breach of Tenant's Rights applications where the tenant(s) is still living in the rental unit;
- Any other application the ORT considers to be urgent.

Non-Urgent Applications

Applications that are considered to be non-urgent are as follows:

- Landlord Monetary Claims;
- Security deposit disputes;
- Breach of Tenant's Rights applications where the tenant(s) is no longer living in the rental unit;
- Any other application the ORT considers to be non-urgent.

Selection of Hearing Date and Location

All applications are scheduled on a first come, first served basis. The ORT works to ensure applications are scheduled as quickly as possible while leaving a reasonable amount of time to serve a hearing notice. The earliest available date is also dependent on the urgency of the application and the availability of hearing officers. Applications are assigned to a hearing officer who will conduct the hearing over the phone. All ORT hearings are held by phone unless an in-person hearing is deemed necessary by the hearing officer.

Scheduling of Security Deposit Applications

Security deposit disputes are non-urgent applications. The ORT works to schedule security deposit disputes for the earliest available date for this application type while leaving time for the landlord to pay-in the security deposit. The ORT will provide a security deposit letter to the applicant and respondent once a hearing is scheduled to notify them of the date and time of the hearing.

Paying the Security Deposit Amount in Dispute to the ORT

The security deposit letter (hearing notice) will include a security deposit pay-in amount and deadline. If a landlord is in possession of any monetary amount representing a security deposit that is in dispute, the landlord must forward the specified amount in dispute to the ORT by a specified date in advance of the hearing. The ORT will hold the security deposit funds in trust pending the decision of a hearing officer to the entitlement of the security deposit.

Note: if the landlord fails to pay the security deposit into the ORT by the deadline the Director may, without notice, cancel the hearing and order the security deposit be paid to the tenant.

Scheduling of Related Applications

The Director may order that multiple applications be scheduled together if they are regarding the same tenancy. A party may make a request that related applications be heard together in advance, or at the time of the hearing. A hearing officer further has discretion, at the hearing, to schedule matters to allow for related claims to be heard together.

Sending the Hearing Notice to the Applicant (Excluding Security Deposit Applications)

Once a hearing has been scheduled, the ORT will send a hearing notice to the applicant which must be completed and served on the respondent. The hearing notice will include the date and time of the hearing, and instructions on how to serve the hearing notice on the respondent. The ORT will usually send the hearing notice to the applicant via email.

Sending the Hearing Notice to the Applicant for Security Deposit Applications

Once a hearing is scheduled for a security deposit application the ORT will send a security deposit letter (hearing notice) to both parties. The security deposit letter outlines the amount to be paid into the ORT by the landlord, the deadline for the landlord to pay in the amount, and the hearing date and time. The ORT will usually send the security deposit letter to the applicant and respondent via email but may also send it via mail if no email is available.

Note: For emailed hearing notices, the ORT receives automatic delivery notification emails confirming the hearing notice was delivered to the email provided by the applicant. It is the applicant's responsibility to watch their email (including junk and spam folders) for the hearing notice and ensure the respondent is served by the deadlines specified.

Pre-hearing Adjournment Requests

Either party may request a pre-hearing adjournment in writing (email) to the ORT. A request for a pre-hearing adjournment should include the following details:

- Application number and/or rental address;
- Explanation of the reason for the request;
- If there is a direct time conflict or other commitment, proof of that conflict (ex, flight itinerary, medical appointment confirmation, etc.);
- If applicable, the written consent of both parties to the adjournment;
- The requesting party's availability for a new hearing date.

Pre-hearing adjournment requests will be reviewed by the hearing officer to determine if it is appropriate to schedule the adjournment. The hearing officer may deny a request for an adjournment if it is not reasonable, just, or equitable to reschedule the hearing date.

Adjournment by the Director

In exceptional circumstances, hearings may require an adjournment on the date of the hearing due to the availability of the hearing officer. Such adjournments may be made by the Director. In these circumstances, the Director will contact the parties to arrange the adjournment.

Re-Hearing following Successful Appeal

A Court of King's Bench or Court of Appeal decision may order the ORT to schedule a new hearing for an application so the matter can be re-heard. In this case, the ORT will schedule a hearing as soon as reasonably possible after the decision is received and notify both parties of the new hearing date and time.

Withdrawal of Claim

An applicant may withdraw an application made through the online portal at their convenience any time in advance of the hearing or at the start of the hearing. It is the applicant's responsibility to notify the respondent if the application has been withdrawn.

Note: For security deposit applications the ORT must have the written consent of both parties to withdraw the application or the tenant may withdraw the application through the online portal. Once the security deposit has been paid into the ORT to be held in trust the application must proceed to a hearing and an order must be made disbursing the entire amount held in trust by the ORT.

Part 4 – Rules for Service of a Hearing Notice and Evidence

Timeframe for Serving a Hearing Notice

It is the applicant's responsibility to ensure the respondent is given proper and sufficient notice of a hearing in order for the hearing to proceed as scheduled. The applicant must ensure the hearing notice is completed in full and properly served by the deadlines provided.

Service of a Hearing Notice for Urgent Applications

Any hearing notice for an urgent application which must be served by an applicant upon the respondent must be served at least two days before a hearing is scheduled to take place.

Service of a Hearing Notice for all Other Applications

Any Hearing Notice for all other applications which must be served by an applicant upon the respondent must be served at least ten days before a hearing is scheduled to take place.

Methods of Serving a Hearing Notice

- Personal Service: any notice, including a hearing notice, when served personally is deemed received by the other party on the date and time it is given to them.
- Electronic Service: any notice delivered electronically is deemed received by the other party on the business day after it is sent.
- Mail: any notice delivered by ordinary mail is deemed to be received on the third business day after it is sent to the other party.

Methods of Service of a Hearing Notice

A hearing notice must be served on the other party to an application in the manner prescribed by the Act. Regardless of the method in which a hearing notice is served, it must come to the attention of all respondent parties to an application.

Service of a Hearing Notice on a Current Tenant

A hearing notice may be served on a current tenant within the given timelines by personal service, posting to the front door of the rental unit and sending a copy by ordinary mail, or posting to the front door of the rental unit and sending a copy electronically (e.g., texting, email, social media).

Service of a Hearing Notice on a Landlord

A hearing notice may be served on a landlord, the landlord's agent, or their registered office (if the landlord is a corporation). A tenant may serve their landlord personally, electronically (e.g., email, text, social media), or by ordinary mail within the given timelines.

Service of a Hearing Notice on a Former Tenant

A hearing notice may be served on a former tenant within the given timelines by personal service or in electronic form (e.g., texting, email, social media).

Service of Hearing Notice for a Security Deposit Claim

The ORT will serve a security deposit letter (hearing notice) for any security deposit application on both the applicant and respondent when a hearing is scheduled. The hearing notice will be served on the parties by email but may also be sent by mail if no email is provided.

Service of Hearing Notice on the Ministry of Social Services

In the event that a security deposit application hearing will decide entitlement of a party to a Social Services security deposit guarantee, the ORT will send a copy of the hearing notice to the Ministry of Social Services by email.

Service of Re-Hearing Notice of Successfully Appealed Application

The ORT will serve a Re-Hearing Notice for any successfully appealed application on both the applicant and respondent when the re-hearing has been scheduled. The Re-Hearing Notice will be served on the parties by personal service, ordinary mail, or in electronic form.

Service of an Amended Hearing Notice

The ORT will not generally provide an amended hearing notice for the applicant to serve. An applicant may amend and re-serve a hearing notice as long as it is received by the respondent and a copy of the amended hearing notice is provided to the ORT in advance of the hearing. Amendments may be done by striking out any incorrect information and changing or adding in new information. Amendments must be initialed and dated and changes must be made before serving the hearing notice on the respondent.

Order for Service of a Hearing Notice

The Director or a hearing officer may make any order they consider to be reasonable and in the interests of justice respecting the service of a hearing notice.

Proof of Service

In order to prove that a hearing notice has been served on the responding party, the applicant, or the individual who completed service on their behalf, must complete the following in advance of the hearing:

- Fill out the Certificate of Service through the online portal or complete a manual Certificate of Service to be uploaded as evidence.
- Upload the completed hearing notice that was served on the respondent(s) including the main page with the hearing date, appendix (if applicable), the What You Should Know About the Hearing page, and the claim link code page.
- Upload any documents the applicant wishes to rely on as evidence for the hearing and serve these documents on the other party by another method (e.g. email, mail, etc.).

Proof of Prior Communication

In addition to completing a Certificate of Service, additional proof is required when a hearing notice is served electronically (text, email, or social media) including but not limited to copies of any emails or messages in which the hearing notice was attached, and previous communication history with the responding party at the electronic address at which they were served.

Hearing Officer May Request Additional Proof of Service

In any instance where a hearing officer considers it reasonable and just or equitable to do so, they may request the applicant provide any other relevant evidence to prove service of a hearing notice.

Service of Evidence on Other Party

The applicant and respondent must serve all documentary evidence on each other well in advance of the hearing. Uploading evidence to the application online is not considered service on the other party. Evidence must also be provided to the other party via another method (e.g., text, email, mail, etc.). Evidence may not be considered by the hearing officer if it is not disclosed to the other party in advance of the hearing.

Filing of Evidence with the ORT

Any evidence not previously filed by the applicant with their application for an application must be uploaded to the application well in advance of the hearing. The respondent to an application must also upload their evidence to the application well in advance of the hearing. In the event either party requires assistance uploading their evidence they should contact the ORT as soon as possible.

Summons and Subpoenas

An applicant or respondent may request the ORT issue a summons for a witness who will not voluntarily attend a hearing to provide oral testimony. They may also request that the ORT subpoena a file from a police service or other agency. Both summons and subpoena requests are subject to the approval of the hearing officer assigned to the application.

Requesting a Subpoena

Any party requesting a subpoena should make the request of the ORT as soon as possible following any efforts to get a report or document. The ORT cannot subpoena RCMP files. Subpoena requests must be made in writing (email) to the ORT and should include the following information:

- The name of the agency you are requesting the ORT subpoena the file from;
- The file number for the document you are requesting (e.g., a police report number);
- The contact information for the agency you are requesting the ORT subpoena the file from if possible;
- The reason the file is relevant.

Requesting a Summons

Any party requesting a summons should make the request of the ORT as soon as possible following any efforts to secure the participation of a witness. summons requests must be made in writing (email) to the ORT and should include the following information:

- the name and address of the individual;
- The reason their testimony is relevant.

Service of a Summons

It is the responsibility of the requesting party to serve a summons on a witness so it is received well in advance of the hearing.

Non-compliance with a Summons

If a party does not comply with a summons, a hearing officer may consider an adjournment, if requested, to allow for further efforts to obtain the witness or evidence for the hearing. The hearing officer may also choose to continue with the hearing in the absence of the witness or evidence, if it is just and equitable to do so. Additionally, hearing officers may exercise any powers conferred on them through The Public Inquiries Act, 2013 to secure compliance with a summons.

Hearing Officer Discretion

Notwithstanding the foregoing, subject to principles of fairness and justice, inadequacies in service may be deemed acceptable by the hearing officer at the hearing. Furthermore, the hearing officer may make directions for the exchange and submission of evidence.

Part 5 – Rules for the Conduct of a Hearing

Purpose of the Hearing

A hearing is meant to enable a hearing officer to consider the evidence and testimony given by each party and make an impartial and binding decision to resolve the dispute. A hearing may also provide an opportunity for a hearing officer to assist the parties in reaching a settlement to resolve the dispute.

Role of Hearing Officer

The hearing officer will conduct the hearing in accordance with the Act, the Regulations, the Rules of Procedure, and the principles of fairness. A hearing officer must be independent of the parties and impartial and will disclose any existing conflicts of interest to the Director in advance of a hearing. If a hearing officer becomes aware of any circumstances that may give rise to a reasonable apprehension of bias during a hearing, they must disclose those circumstances to the parties. A hearing officer will adjourn a hearing if they cannot impartially proceed.

Methods for Hearing Participation

Any party, including the applicant, the respondent, and their representatives may appear at an ORT hearing at the appointed date and time. All ORT hearings take place by phone unless otherwise requested by a party and deemed necessary by the hearing officer.

Attending the Hearing by Phone

Parties must contact the ORT by email or by calling the Hearing Hotline at least two business days in advance of the hearing to provide the phone number at which they wish to be contacted. If a party calls in after the start of the hearing their phone number will be passed to the hearing officer for review. It will be at the hearing officer's discretion to determine how to proceed.

Note: Witness contact information may also be provided at that time by listing the witness's name and contact phone number. It will be at the discretion of the hearing officer if the witness is called to participate in the hearing.

Requesting an In-Person Hearing

If a party would like the hearing to be held in-person they may make a request in writing (email) to the ORT. Requests for an in-person hearing should include the following information:

- Application number and/or rental address;
- Explanation of the reason for the request.

The request will be forwarded to the hearing officer for their review. It is at the hearing officer's discretion as to whether an in-person hearing request is granted.

Representation and Assistance

Any party may be represented by an agent or a lawyer and/or may be assisted by an advocate, an interpreter, or any other person whose assistance may be required to present their evidence or give testimony at the discretion of the hearing officer. The Director or the hearing officer may require an agent to provide proof they have been appointed to act on behalf of a party.

Written Statements

Any party or witness may appear at a hearing by a signed written submission at the discretion of the hearing officer that must be received by the ORT in advance of the scheduled hearing. Any parties appearing by written statement will not be able to pose or respond to questions from any other party. Anonymous statements will not be accepted as testimony or evidence at a hearing unless it is considered reasonable, just and equitable by the hearing officer.

Conducting the Hearing

The hearing officer will begin the hearing at the appointed date and time. If the applicant is not present, the hearing officer may dismiss the application with or without leave to re-apply. If the respondent is not present, and the hearing officer is satisfied that proper notice was served, that the respondent has not made arrangements to appear by telephone, or cannot be reached at the telephone number previously provided, they may proceed with the hearing in their absence.

Parties should be prepared to attend the hearing for potentially the whole of the date scheduled. In certain circumstances, hearings may extend into or be adjourned to the afternoons of the date.

Delay in the Start of a Hearing

Although hearings will typically start at the scheduled time, depending on where a matter is on the schedule on that day for the hearing officer and the length of the preceding matters, the start of a hearing may occur at a time later than that set by ORT. Parties should be prepared to appear at the scheduled time or at any time after the scheduled time on the date.

Consideration of Preliminary Matters

At the onset of the hearing, the hearing officer should consider any relevant preliminary matters raised by the parties, including but not limited to questions of jurisdiction, service of the Hearing Notice and evidence, adjournment requests, hearing a related application, amending the application, and the summoning of a witness or admission of documents prior to the parties presenting any evidence or testimony.

Order Respecting Service

A hearing officer may order that service of a Hearing Notice is sufficient if, in the opinion of the hearing officer, the notice came to the attention of the person served.

Addition of a Related or Counter Application

If a related or counter application not already scheduled to be heard at the time of a hearing is raised during the consideration of preliminary matters the hearing officer may decide the initial application and the counter/related application should be heard at the same time. The hearing officer may adjourn a hearing to add the additional matter unless they are satisfied the responding party has had sufficient notice of the related or counter application, or the responding party waives their right to prior notice and agrees to proceed. It is ultimately at the discretion of the hearing officer if they choose to adjourn a hearing to join two or more applications together.

Presentation of Evidence and Testimony by the Parties

Following the consideration of any relevant preliminary matters, each party will have the chance to present their evidence and testimony to the hearing officer. It is up to the discretion of the hearing officer as to how the hearing will proceed, provided each party is made aware of the process. In the interest of fairness to all parties, every presiding hearing officer must ensure that:

- All parties are identified;
- The applicant, if present, is allowed to present their evidence in its entirety, including the participation of any witnesses;
- The respondent, if present, has the opportunity to pose questions to the applicant and any of their witnesses;
- The respondent is allowed to present their evidence in its entirety, including the participation of any witnesses;
- The applicant has the opportunity to pose questions to the respondent and any of their witnesses;
- Any other interested party, as the hearing officer may determine, has the opportunity to present their evidence in its entirety, including the participation of any witnesses;
- The applicant and respondent have the opportunity to pose questions to any other interested party and any of their witnesses;
- The applicant, respondent, and any other interested party who has been allowed to participate by the hearing officer, are allowed the opportunity to present a summary of their position and evidence.

Exclusion of Witnesses

A hearing officer may direct that witnesses be excluded from the hearing until it is their turn to present testimony and/or answer questions from another party.

Questions Posed by the Hearing Officer

At any time during the hearing, a hearing officer may pose questions to clarify, or to determine the relevancy of any evidence or testimony as presented to them.

Relevance of Evidence Presented

Evidence presented by any party to a hearing must be relevant to the matters discussed at the hearing. A hearing officer may decide not to hear or consider evidence if it is determined by the hearing officer that it is not relevant.

Consideration of Evidence Not Served on the Other Party

A hearing officer may refuse to consider any evidence not previously disclosed on the other party in a timely manner if there is not a valid reason why the evidence was not previously disclosed. The hearing officer may decline evidence or adjourn the hearing if they are satisfied that:

- There is no valid reason the evidence was not previously disclosed;
- The failure to disclose the evidence was intended to willfully and unfairly disadvantage the other party;

- Other party will not have a sufficient opportunity to review and respond to the evidence submitted.

Rules of Evidence do not Apply

A hearing officer may admit as evidence any oral or written testimony, record or document, or thing they consider to be credible, trustworthy and relevant to the dispute whether or not it would be admissible under the laws of evidence.

Conduct of all Participating Parties

All participating and observing parties are expected to conduct themselves in a courteous manner. If a party behaves in a manner which is rude, hostile, or improper, including the use of profane language, a hearing officer may give a warning to proceed in a respectful manner, and if need be, require any misbehaving party to end their participation in the hearing whether or not the hearing itself has concluded.

Adjournment of Hearing Proceedings

A hearing officer may adjourn a hearing to a later date or time on their own initiative or at the request of one of the parties if both parties consent, or it is just and equitable to do so.

Notice of Adjourned Hearing Date and Time

The hearing officer may notify both parties of the new hearing date and time at the time of the hearing. They may also direct that a letter be sent out by the ORT confirming the new date and time of the hearing. Adjournment letters will be sent by email or mail if an email is not available. The ORT will not usually adjourn sine die (indefinitely).

Conclusion of the Hearing

A hearing concludes once all parties have been given the opportunity to present a summary of their evidence, and the hearing officer declares the hearing concluded. Once a hearing is concluded the hearing officer will write a decision that will be issued to both parties.

Submission of Additional Evidence Following a Hearing

Additional evidence may only be submitted by either party following the conclusion of a hearing if specifically requested by the hearing officer at the hearing. Only evidence specified by the hearing officer will be accepted, and the hearing officer must provide an opportunity to the other party to respond to the evidence by a specified date and time. Following the specified deadline for a response to evidence, the hearing will be considered concluded, and the hearing officer may proceed to issuing a written decision.

Communication with a Hearing Officer Prohibited

All forms of communication by any party with a hearing officer outside of the hearing are prohibited.

Accessibility, Interpretation and Translation of Hearing Proceedings

Hearings at the ORT are conducted in English but may be conducted in any language if that language is fully understood by the hearing officer, the applicant, the respondent, and any other witnesses or participants provided that the written decision issued by the hearing officer is in English. It is the responsibility of a party to secure translation or interpretation services if they are needed for a hearing.

Any party should ask the ORT well in advance for a reschedule of a hearing if it is needed to make reasonable efforts to secure accommodation.

Recording of Hearing Proceedings

Audio, photographic and video recordings of a hearing either by a hearing officer, applicant, respondent, witness, or any other observer of the hearing are prohibited. The written decision issued by the hearing officer following a hearing is considered the official hearing record, along with any documents filed.

Hearings Open to the Public

Hearings are open to members of the public - individuals who are not party to a claim or a witness or otherwise directly involved in the hearing - to attend and observe. A hearing may be closed to the public by a hearing officer either on their own initiative, or at the request of any participating party, if it is considered reasonable, in the public interest, and just and equitable to deny the public access. A hearing officer may order that only portions of a hearing be closed to the public.

Part 6 – Rules for the Issuance of Decisions following a Hearing

Decisions are not given at a Hearing

A final decision will not be given or issued at a hearing. Hearing officers will reserve their decision at the conclusion of a hearing and produce a written decision to be given to the parties in a reasonable and timely manner.

Settlement between Parties

If a settlement agreement is reached at a hearing that settles the dispute to the satisfaction of all parties to an application, the hearing officer should issue a written decision including any orders if necessary, outlining the details of the parties' agreement.

Decisions must be in Writing

All decisions from a hearing officer following a hearing must be in writing and consider the facts of the application including any preliminary matters heard, the evidence presented, and testimony given by all parties present, relevant provisions of the Act, Regulations or other applicable legislation, precedent and prior case law, and any other determining factors leading to their decision, providing full reasoning behind their decision and any order made.

Burden of Proof Considered

In making a decision following a hearing, a hearing officer must consider all evidence presented and testimony given at a hearing by the parties on a balance of probabilities. This means that, if there is conflicting evidence, the hearing officer will accept the version of events that is more likely than not to have occurred. Since the applicant has the burden of proof, if the hearing officer cannot decide which version of events is more likely than not to have occurred after considering all the evidence and testimony then the applicant has not proven their claim.

Appeal and Clarification Information

Information on a party's right to appeal or seek a correction or clarification of a decision will be attached as an appendix to every written decision. Questions regarding the appeal process should be directed to the Court of King's Bench.

Service of Decisions on Parties

Once a decision is rendered and signed by a hearing officer the ORT will serve an original copy of the decision on the applicant, respondent, and any other materially affected third party as the hearing officer considers appropriate. Decisions may be served on the parties by email or regular mail.

Service of Decisions on the Ministry of Social Services

In the event that all or a portion of a hearing officer's decision addresses entitlement of a party to a Social Services security deposit guarantee, the ORT must send a copy of the decision to the relevant office within the Ministry of Social Services by email.

Ex Parte Decisions

When allowed pursuant to the Act, and when just and equitable, the Director or a hearing officer may make a decision on an application based only on the application, without a hearing of the parties.

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Ex Parte Property Disposition Orders

A hearing officer may make an order regarding the disposition of property left behind by a tenant following the end of a tenancy. They may do so without giving notice to the tenant or giving the tenant an opportunity to be heard at a hearing if it is found that the tenant cannot be contacted or located, or the tenant has not made or attempted to make reasonable arrangements to retrieve any property they have left behind.

Ex Parte Security Deposit Orders

The Director may make an order regarding the entitlement of a security deposit if a landlord has failed to forward the amount of the security deposit in dispute to be held in trust by the ORT by the deadline provided to both parties on the security deposit letter (hearing notice).

Maintenance of the Application File

The ORT must maintain the entirety of the application file following the issuance of a decision from a hearing officer. This includes the original forms used to file an application for an application, any record of written or printed electronic communication between the ORT and the parties to an application, copies of any evidence submitted by the parties, an original copy of the written decision of the hearing officer, and any other materials that may have been included on the file.

Hearing Officer's Notes

Any personal notes made by a hearing officer should not be included as part of the ORT application file.

Part 7 – Rules for the Appeal, Clarification and Enforcement of a Decision

Appeals of ORT Decisions

Any party who feels there was an error in law or jurisdiction in an ORT decision may appeal the decision pursuant to the provisions of Section 72 of the Act. If a party files a Notice of Appeal with the Court of King's Bench, the ORT will send the complete ORT application file to the court in a timely manner so that it is received before the appeal is set to be heard in chambers.

Service of Notice of Appeal on Director

Any appellant may serve the Director with a Notice of Appeal, or an Application for Leave to Appeal in the case of a proposed appeal to the Court of Appeal, either in person at an office of the ORT in either Regina or Saskatoon, by registered mail, or in electronic form.

Director as a Respondent to an Appeal

The Director is named as a respondent to any appeal of an ORT decision, but, in practice, does not regularly have counsel appear at an appeal hearing. However, if the court requests that the Director be present, the ORT will accommodate any such request.

Certificate of Payment of Rent

A Certificate of Payment of Rent is necessary to appeal an order made pursuant to subsection 70(13) for non-payment of rent and/or utility arrears or repeated late payment of rent pursuant to sections 57(1), (5), or 58(1)(b) of the Act. A tenant must complete and submit an Application for Certificate of Payment of Rent to the ORT and pay the equivalent of one month's rent to the ORT. This money will be held in trust until either the conclusion of the appeal, or at any other time the director decides. Once a completed certificate and full one-month's rent has been received, the ORT will provide the tenant with a Certificate of Payment of Rent to the Office of Residential Tenancies. This certificate must be submitted to the Court of King's Bench with their appeal documentation.

Re-hearing Requests

As per section 73(5) of the Act, if an order has been made without hearing from the affected person, or the affected person can establish they did not receive notice of the hearing, the hearing officer may re-hear the application. If a party requests a re-hearing their request will be forwarded to the hearing officer for review. It is ultimately at the hearing officer's discretion as to whether or not a re-hearing request is granted and the application is re-opened.

Note: In the case of possession applications a re-hearing does not prevent the landlord from enforcing a Writ of Possession.

Making a Re-hear Request

Re-hear requests must be sent in writing (email) to the ORT. A request for a re-hearing should include the following details:

- Application number and/or rental address;
- Explanation of the reason for the request;
- If applicable, proof to support the explanation.

Notice of a Re-Hearing

If the hearing officer decides that the application should be re-opened the ORT will provide notice to both parties by email or mail of the new hearing date, time, and location.

Corrections or Clarifications to a Decision

A hearing officer, on their own initiative or upon the filing of a request by the applicant or respondent, may, with or without a hearing, correct any typographic, grammatical, arithmetic, or other similar errors, clarify the decision, and deal with any errors or unintentional omissions within the decision.

Filing a Request to Correct or Clarify an Order

Requests to correct or clarify an order or obvious error must be made by submitting the following to the ORT within 15 days of the date of the decision or order:

- Request to Correct or Clarify Order or Obvious Error form;
- \$50 application fee or a completed application for a fee waiver certificate.

Time Limit to File a Request to Correct or Clarify an Order

Any request to correct or clarify an order or obvious error must be made within 15 days of the date on the order or decision.

Notice to Parties of a Request to Correct or Clarify an Order

A request to correct or clarify an order or obvious error may be made without notice to another party unless a hearing officer or the Director orders that another party be given notice. Any notice given to another party by the ORT may be done in person, or by ordinary mail.

Enforcing an ORT Decision

Any decision of the ORT ordering a monetary award that has not been appealed within the prescribed 30-day appeal period may be enforced through the Court of King's Bench pursuant to section 77 of the Act if the other party does not voluntarily comply with a hearing officer's order. The ORT does not directly enforce decisions.

Non-Compliance List

Following the expiry of the prescribed 30-day appeal period, if a landlord or tenant does not fully comply with an order of a hearing officer the other party may request in writing (email) that the ORT consider the landlord or tenant to be non-compliant and place them on the non-compliance list. For the duration of the time a landlord or tenant is on the non-compliance list, the ORT may refuse to issue them a written Hearing Notice, and a hearing officer may decline to make an order respecting them. Requests to place a party on the non-compliance list must include:

- The application number;
- The landlord(s) name and the tenant(s) name;
- The total outstanding amount;
- The date the decision was issued;
- The requesting party's attempts to collect the funds from the non-compliant party.

Notice to Parties of Non-Compliance

When the Director approves a landlord or tenant to be placed on the non-compliance list, the ORT must advise the non-compliant party of this determination. This notice can be served on the non-compliant landlord or tenant by email or mail.

Removal from Non-Compliance List

Once placed on the non-compliance list, a landlord or tenant can only be removed at the discretion of the Director if they provide proof that the outstanding order has been complied with in full, or the other party advises the ORT of the non-compliant party's compliance.

Disbursement of Security Deposit Monies Held in Trust

If a decision made by a hearing officer following a hearing directs the payment of a security deposit held in trust by the ORT, payment will be made to the entitled parties after the expiration of the prescribed 30- day appeal period.

Disbursement of Security Deposit Monies Held in Trust after an Appeal

If an appeal is made to the Court of King's Bench or the Court of Appeal, the ORT will hold any security deposit monies held in trust until the appeal periods have passed. If an appeal is allowed and remitted to the ORT for a re-hearing or further consideration, the ORT will continue to hold any security deposit monies in trust until a decision is made, and all appeal periods have passed.

Disbursement of Security Deposit Monies Held in Trust at the Parties Consent

If all parties to an application agree in writing, the ORT may disburse security deposit monies held in trust prior to the expiry of the 30-day appeal period.

Disbursement of Certificate of Payment of Rent funds paid into the ORT

Subject to any direction from the Court of King's Bench, the Director has discretion on disbursement of funds paid to the ORT by the Tenant for the purpose of issuance of a Certificate of Payment of Rent.

Part 8 – Rules for the Publication of Decisions

Publication of ORT Decisions

All ORT decisions are published online.

Online Publication of ORT Decisions to CanLII

The venue for the online publication of ORT decisions is the Canadian Legal Information Institute (CanLII). ORT decisions are located at the following URL: <https://www.canlii.org/en/sk/skort/>

Redaction of Information

Sensitive information regarding individuals may be redacted. A party may request that certain information be redacted from a decision, and at the discretion of the Director the information may be redacted.

Removal of ORT Decisions from Online Publication

At the discretion of the Director, any decision previously published online may be removed. Decisions that are removed may be replaced with another.