

44. Format of Hearings and Conferences

Apr-24

In This Guideline:

- A. Takeaway
- B. Legislative Framework
- C. Written Hearing
- D. Direct Request Process
- E. Request for a Specific Hearing Format
 - History of abusive interactions:
 - Physical or mental disability:
 - Physical, geographical or language barriers:
 - Both parties have legal representation:
 - Large number of participants
- F. Decision
- G. Policy Guideline Intention
- H. Changes to Policy Guideline

A. Takeaway

This policy guideline addresses the formats in which hearings and conferences can be conducted and the process for requesting an alternate hearing and conference format. The director has the discretion to conduct a hearing or conference in the manner the director considers appropriate. Most hearings and conferences are routinely scheduled as telephone conference calls although some matters are routinely determined through a written hearing.

Keywords: hearing format, facilitated settlement conference format, request for alternate hearing or conference format, written hearings, telephone conference

B. Legislative Framework

The following sections describe the director's authority and discretion to hold a dispute resolution proceeding in person, in writing, by telephone conference call, video conference or other electronic means, or any combination of these methods.

<i>Residential Tenancy Act</i> (RTA)	<i>Manufactured Home Park Tenancy Act</i> (MHPTA)
<ul style="list-style-type: none">• section 74(1) and (2)	<ul style="list-style-type: none">• section 67(1) and (2)

44. Format of Hearings and Conferences

Apr-24

The following sections empower the director to establish and publish Rules of Procedure for the conduct of dispute resolution proceedings.

RTA	MHPTA
• section 9	• section 9

The following sections give the director the authority to make a decision without holding a hearing, based on written submissions only, for applications for Orders of Possession and Monetary Orders concerning unpaid rent. This is referred to as the direct request process and is only available for specific dispute types.

RTA	MHPTA
• section 55(4)	• section 48(4)

C. Written Hearing

The director routinely schedules a written hearing:

- when considering an administrative penalty;
- when considering an Application for Review Consideration; and
- when parties are known to have an abusive and/or litigious relationship.

For the direct request process, the director makes a decision without holding a hearing, as noted below.

D. Direct Request Process

Through the direct request process, the director makes a decision based only on the applicant's written evidence. The direct request process is limited to specific dispute types. For information on which dispute types qualify for the direct request process, please see [Policy Guideline 39: Landlord's Direct Requests](#) and [Policy Guideline 49: Tenant's Direct Requests](#).

E. Request for a Specific Hearing or Conference Format

Rule 6.4 (A party may request that the hearing be held in a specific format) and Rule 12.4 (A party may request that the conference be held in a specific format) of the Rules of Procedure allow a party to request that a hearing or conference be held in a

44. Format of Hearings and Conferences

Apr-24

format other than the one routinely set by the director.

For most dispute types, a party must complete and submit a Request for Alternate Dispute Resolution Hearing or Facilitated Settlement Conference Format (RTB-36) to the Residential Tenancy Branch or through a Service BC office with supporting documentation as soon as possible and, at a minimum, not less than 30 days before the hearing or conference date.

For expedited hearings, an applicant must complete and submit a Request for Alternate Dispute Resolution Hearing or Facilitated Settlement Conference Format (RTB-36) to the Residential Tenancy Branch or through a Service BC office with supporting documentation within 3 days of the Notice of Dispute Resolution Proceeding being made available by the Residential Tenancy Branch. A respondent must complete and submit a Request for Alternate Dispute Resolution Hearing or Facilitated Settlement Conference Format (RTB-36) with supporting documentation within 3 days of receiving or being deemed to have received the Notice of Dispute Resolution Proceeding.

Requests for an alternate hearing or conference format and supporting documentation may be submitted after the deadlines set out above but must also include an explanation and supporting documentation for why the request is being submitted late. Requests that are submitted late will only be granted in exceptional circumstances since granting a late request could result in having to reschedule the hearing or conference to a later date than the originally scheduled date. An example of an exceptional circumstance includes a situation where a respondent wishes to request an alternate hearing or conference format but is not served the Notice of Dispute Resolution Proceeding package until less than 30 days before the hearing or conference.

The director may consider requests for a hearing or conference in an alternate format in limited circumstances including when:

- there is a history of abusive interactions;
- a party has a physical or mental disability that creates a barrier to participation in an oral hearing or conference;
- there are physical, geographical or language barriers for which an oral hearing or conference would result in prejudice to one or both parties;
- there is evidence that both parties have legal representation; or

44. Format of Hearings and Conferences

Apr-24

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- there are a large number of applicants and/or respondents, and they do not self-identify a lead spokesperson or agent.

When considering a request for a hearing or conference in a format other than telephone conference call, the director will consider the reason for the request based on the supporting documentation provided and why the party is unable to participate in a telephone conference call or be represented by someone who could.

If one party requests a hearing or conference in a specific format, the director will provide the other party an opportunity to make submissions on the format to ensure procedural fairness.

History of abusive interactions:

The director may consider holding a written hearing or conference where a party expresses abusive language and behaviours, or concern that the other party is excessively abusive when interacting with the party.

Evidence of abusive interactions may include:

- a police report of assault between the parties;
- a notation in a previous decision that one or both parties used abusive language or behaviour in the hearing; or
- a protection order held by one party limiting contact with the other party.

Physical or mental disability:

The director may consider holding a hearing or conference in writing, in person or by video conference or other electronic means where a party provides evidence that they have a physical or mental disability that will limit their ability to participate in a teleconference. In most instances, the director anticipates that someone with a significant physical or mental disability would be represented at an oral hearing or conference.

Examples include:

- for a person whose speech has been impaired by a stroke or other significant event, a letter from their doctor, speech-language pathologist, specialist, or other medical professional stating the party's physical or mental disability and how it limits their ability to participate in an oral hearing or conference; and

44. Format of Hearings and Conferences

Apr-24

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- for a person whose hearing is impaired, a letter from their doctor, audiologist, speech-language pathologist, specialist, or other medical professional stating the party's physical or mental disability and how it limits their ability to participate in an oral hearing or conference.

Physical, geographical or language barriers:

The director may consider holding a written hearing or conference where a party provides evidence that there is a physical, geographical or language barrier that will limit their ability to participate in a teleconference hearing.

Physical barrier examples include:

- a party is incarcerated and unable to access a telephone at the time of the hearing or conference; and
- a party is outside of telephone service areas.

Geographic barrier examples include:

- a party is a member of the Armed Forces and is stationed in an active war zone; and
- a party is on a humanitarian mission in an active war zone.

Language barrier examples include:

- a situation where a party is not fluent in English and provides evidence of their unsuccessful attempts to obtain interpreter assistance for an oral hearing or conference.

Both parties have legal representation:

The director may schedule a matter as a written hearing or conference or consider a written request to hold a written hearing or conference where there is evidence that both parties have legal representation.

Examples include:

- the applicant provides evidence that both the applicant and the respondent have legal representation in the form of legal counsel or a legal advocate; and
- the respondent provides evidence that both the applicant and the respondent

44. Format of Hearings and Conferences

Apr-24

have legal representation in the form of legal counsel or a legal advocate.

Large number of participants

The director may schedule a matter as a written hearing or conference where there is a large number of participants. There are two situations where there are a large number of participants in a hearing or conference:

- a landlord is seeking a common outcome involving a large number of tenants, such as an additional rent increase; or
- tenants have joined applications to seek a common outcome against a landlord, such as disputing a rent increase or seeking repairs to a building or waste management system in a Manufactured Home Park.

When there is a large number of participants, the director works with the tenants or landlords to identify a lead applicant or small group of applicants who are able to speak on behalf of all applicants. In such cases, the applicants should submit a document that records the consent to have a lead applicant or small group of applicants act on their behalf. Alternatively, the applicants may have the request to join applications record the consent.

- Tenants may use the *Tenant's Request to Join Applications for Dispute Resolution* (form RTB-19) for that purpose. Landlords may use the *Landlord's Request to Join Applications for Dispute Resolution* (form RTB-18) for this purpose.

Circumstances in which the director may consider holding a written hearing or conference for a dispute involving a large number of tenants include:

- similar applications in the past two years; and/or
- demonstrated animosity between the landlord and tenants, evidenced by newspaper reports, police reports, correspondence.

F. Decision

When an applicant or respondent requests a hearing or conference in a format other than hearing format (telephone conference in most cases), the other party must be given an opportunity to respond to the request. The director will consider submissions from both parties on the format and make a decision.

The director will record the decision in the form of a letter that becomes part of the

44. Format of Hearings and Conferences

Apr-24

Notice of Dispute Resolution Proceeding package.

G. Policy Guideline Intention

The Residential Tenancy Branch issues policy guidelines to help Residential Tenancy Branch staff and the public in addressing issues and resolving disputes under the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. This policy guideline may be revised and new guidelines issued from time to time.

H. Changes to Policy Guideline

Section	Change	Notes	Date Guideline Changed
All	New	Drafted in response to revisions to the Rules of Procedure	October 26, 2015
Preamble, D, E	Am	Updated to reflect change in process and reflect language of Human Rights Code	August 7, 2020
D	Am	Updated to reflect that a party may make a request for an alternate hearing format after the notice of hearing document has been made available	November 1, 2021
All	Am	Formatted to new template	October 3, 2023
B and D	Am	Revised to reflect new direct request process	October 3, 2023
E	Am	Updated to reflect change in Rules of Procedure	October 3, 2023
F	Am	Revised to make section easier to understand	October 3, 2023
All	Am	Revised to reflect that parties can request an alternate format for facilitated settlement conferences	April 8, 2024

Change notations

am = text amended or changed

del = text deleted

new = new section added