

Evidence

The Residential Tenancies Act:

- Provides regulation making authority to set timelines for submitting evidence for a hearing.
- Provides regulation making authority to state the types and format of evidence for use in a hearing.
- Provides regulation making authority to provide the procedures for the participation of witnesses during a hearing.

Reference:

Regulations: Section 25A, 25AA

Details:

If applicants or respondents intend to introduce evidence, other than oral testimony, during their hearing to demonstrate or explain their case they must submit their evidence at least 5 days before their hearing date.

Residential Tenancy Officers **do not** review evidence before a hearing begins.

Parties **must participate** in the hearing and introduce their submitted evidence for it to be considered by a Residential Tenancy Officer. A party that cannot attend **may** be allowed to submit written testimony with advance permission from the Residential Tenancy Officer.

Evidence submitted should be relevant, reliable, and in a legible format.

- Relevant evidence relates directly to the issues identified in the Application to Director.
- Reliable evidence is an accurate representation of events that has not been distorted.
- Legible evidence should be readable, clear, and easy to understand.

It is at the Residential Tenancy Officer's discretion to determine relevant evidence during the hearing. Early submission of evidence is required to ensure all parties have evidence at the time of the hearing. It is not required for the parties to review evidence submitted before the hearing.

Physical items cannot be submitted and will not be accepted as evidence. A photograph or video of the item is acceptable.

Procedure

To ensure the hearing proceeds in an efficient and timely manner, Applicants and Respondents must submit evidence to the other party and to the Residential Tenancies Program no later than **5 days** before the scheduled hearing date. This date is on your Notice of Hearing. However, a Residential Tenancy Officer has the discretion to accept evidence up to or during the hearing in exceptional circumstances. Exceptional circumstances are solely at the discretion of the Residential Tenancy Officer.

Weighing of Evidence

A Residential Tenancy Officer will consider the source (credibility, reliability, relation to other evidence) and look for a logical connection between evidence and the fact sought to be proved. Evidence is the material introduced to establish the factual basis against which legal interpretation, policy and logical reasoning will operate. It should be **believable, plausible, and consistent**.

Parties should ensure that evidence submitted relates directly to the issues identified in the Application to Director. Evidence that is unrelated or consists of multiple documents or photographs that are essential the same should be avoided.

Submitting Evidence

Each party must submit a copy of each piece of evidence that they intend to introduce at the hearing to all other parties and the Residential Tenancy program. A list of the types of evidence submitted and the number of each type of evidence must be provided to the other parties (landlord and tenants), e.g. 2 Word documents, 3 PDF documents, 4 pictures

Parties **must participate** in the hearing and introduce their submitted evidence for it to be considered by a Residential Tenancy Officer.

Applicants and respondents can submit evidence to one another by one of the following methods:

- Personal service
- if the receiving party is a landlord, prepaid registered mail, prepaid express post or prepaid courier service addressed to
 - the address of the landlord stated in the lease
 - an address where the landlord carries on business as a landlord
 - an address where the rent is payable
- if the receiving party is a tenant, prepaid registered mail, prepaid express post or prepaid courier service addressed to
 - the address of the residential premises if the tenant resides there
 - a forwarding civic address provided by the tenant
- E-mail, if
 - the receiving party has provided an e-mail address in the lease to receive documents and the submission is sent to that e-mail address, or

- the receiving party consents to receiving the submission by e-mail and the submitting party receives a confirmation of delivery from the receiving party

Applicants and respondents can submit evidence to the Residential Tenancy Program by one of the following methods:

- Using Nova Scotia's online service
https://accesstobusiness.snsmr.gov.ns.ca/a2b_web/resten
- Deliver a copy to an Access Centre
- Prepaid registered mail, express post or courier service to an Access Centre

When you submit evidence online you will be taken to Nova Scotia's online service. Log in to your existing account or sign up and create an account.

For assistance in creating or logging into an account, or for any additional assistance, you can call 1-844-322-9375 or visit the Nova Scotia online services Help page at:
<https://novascotia.ca/sns/nsos/help/default.asp>

A submission sent by registered mail, express post or courier service is deemed to have been received by the receiving party on the 3rd day after the date it was sent. The submitting party must retain confirmation that it was prepaid and sent.

A submission by email must be provided in the same or substantially the same form as the original and it must be capable of being retained by the receiving party to be usable for subsequent reference.

A submission sent by e-mail is deemed to have been received by the receiving party on the same day it was sent if the submission was sent before 4:00 pm, or the next day if the submission was sent at or after 4:00 pm. The submitting party must retain confirmation that the email was sent.

At the hearing, each party must be prepared to demonstrate to the Residential Tenancy Officer that evidence was submitted to the other parties at least 5 days before the date of the hearing.

The Residential Tenancy Officer has the discretion to permit evidence at any time up to and including during the hearing in exceptional circumstances. If evidence is permitted to be submitted later than 5 days before the hearing:

- the other parties must be given an opportunity to review the evidence at time of the hearing
- any of the parties may request that the hearing be adjourned and
- the Residential Tenancy Officer may adjourn the hearing if it is necessary for the other parties to receive copies of the evidence being submitted

A party who submits evidence must keep an exact copy of the evidence submitted

- for at least 10 days after a Director's Order is made or
- until a Small Claims Court order has been made if the Director's Order has been appealed.

Evidence not Permitted

The following types of evidence are **not permitted**:

- Any kind of living/dead specimens i.e. bed bugs, rodents, etc.
- Physical objects, i.e. a piece of carpet or a light bulb

A photograph or video of living/dead specimens or physical objects can be submitted using the acceptable formats below.

Types of Evidence

Written Documents

- Any type of written document that is relevant to your hearing is acceptable
- This could include receipts, leases, letters, printed copies of emails, bank statements, rental ledgers etc.
- When submitting written documents as evidence at an Access Centre they must be copies. (Parties must keep originals for their records)
- Any evidence of communications such as text messages or emails, must be submitted digitally though our online service or printed out and submitted at an Access Centre. Do not forward text or email messages to the Residential Tenancy Officer
- Digital documents must be in one of the following formats:
 - Microsoft Office Word, Microsoft Office Excel or Adobe PDF

Photos

- Photographs that are relevant to your hearing are acceptable
 - They can be submitted digitally though our online service or printed and submitted at an Access Centre.
 - If sent digitally, they must be in one of the following formats: Jpeg, jpg, png, bmp, pdf

Video and Audio Recordings

- Video and audio recordings that are relevant to your hearing are acceptable
 - Digital recordings can be submitted digitally though our online service and must be in one of the following formats:
 - Windows media/video file (.wmv), mpg, mpeg, m4v, mp4

All digital evidence must be sent to the Residential Tenancies Program using Nova Scotia's online service, https://accesstobusiness.snsmr.gov.ns.ca/a2b_web/resten

Evidence stored on file sharing services such as Google Drive, Microsoft OneDrive, Dropbox etc. will not be accepted.

All digital files must be in an uncompressed format, i.e. no Zip or ARC files.

Witnesses

- Witnesses can provide testimony for telephone hearings
- You must contact the RTO ahead of the hearing to discuss how your witness can participate and provide testimony. Witnesses **will not** call into the conference; they will be called into the conference at the appropriate time by the Residential Tenancy Officer.
- Witnesses **will not** be permitted to listen to the entire hearing, they will only provide their testimony.