

Residential Tenancy Act

Policy and Process for Investigations and Administrative Monetary Penalties

Definitions

In this policy:

“Act” means the *Residential Tenancy Act*. A copy of the Act is available [here](#).

“Director” has the same meaning as in the Act.

“investigator” means a person to whom the Director has assigned or delegated the powers and duties of the Director under Part 6, Division 1 of the Act.

“regulations” means any regulations made under the Act. Currently, the only regulations made under the Act are the *Residential Tenancy Regulations*. A copy of the *Residential Tenancy Regulations* is available [here](#).

“rules” means the *Residential Tenancy Act Investigation and Administrative Monetary Penalty Rules of Procedure*. [A copy of the rules is available here.](#)

What is this document?

This document states and explains the policy and process that the Director will follow when conducting proceedings under Part 6 (Investigations and Administrative Monetary Penalties) of the Act.

What is a complaint?

A complaint is an allegation of non-compliance with the Act or the regulations or with a decision or order of the Director.

A complaint must be filed on a form prescribed by the Director. [The form for filing a complaint is available here.](#)

What is a complainant and are they involved in the investigation process?

A complainant is a person that files a complaint with the Director alleging non-compliance with the Act, regulations or a decision or order issued by the Director.

Being a complainant is different than being a party in a matter. A complainant is not a party to the complaint process, which means that a complainant has no right to participate in an investigation or to receive notice of any step in the process. Having said this, the Director or investigator may request that a complainant participate in the investigation process, but this does not mean that a complainant is a party to the complaint process.

This is one way in which filing a complaint differs from filing an application to determine a dispute.

A person who files an application to determine a dispute is a party to the dispute-resolution process. A party has the right to receive notice of a hearing, submit documentary evidence to the Director, participate in the hearing, receive a copy of the Director’s decision, and appeal the Director’s decision. A complainant does not have these rights.

Filing a complaint is not a way to obtain monetary compensation. If an administrative monetary penalty is imposed, it is a debt owing to the Government.

A person seeking monetary compensation for a breach of the Act or a tenancy agreement should instead file an application to determine a dispute. The form for filing an application to determine a dispute is available [here](#).

What is the complaint process?

Step 1 – Preliminary review

A person may file a complaint form with the Director. The Director will acknowledge receipt of the complaint form. The Director will conduct a preliminary review of the complaint form. The purpose of conducting the preliminary review is to determine whether an investigation into the complaint is warranted.

If the Director determines that an investigation is warranted, the Director will assign an investigator to investigate the complaint. If the Director determines that an investigation is not warranted, the Director will close the complaint file and take no further action in respect of the complaint.

It is important to note that the filing of a complaint form will not necessarily lead to an investigation. Generally, investigations are reserved for complaints of serious and recent non-compliance with the Act or the regulations or with a decision or order of the Director. The Director may also determine that an investigation is warranted if the Director detects a pattern of less serious, but repeated, complaints.

Step 2 – Investigation

If the Director determines that an investigation is warranted, the Director will assign an investigator to investigate the complaint. The investigator will provide a summary of the complaint to the person named in the complaint. The investigator will offer the person an opportunity to respond to the summary of the complaint. The investigator will investigate the complaint by exercising the powers that have been delegated to the investigator under the Act and the regulations.

Step 3 – Concluding an investigation

At the end of an investigation, the investigator will:

- a) determine that no further action is required and close the complaint file;
- b) issue a written warning and close the complaint file; or
- c) prepare an investigation report for review by the Director.

In deciding which of these options is most appropriate in the circumstances, the investigator will consider the factors listed in clause 93(2)(b) of the Act. Generally speaking, the investigator will prepare an investigation report only if the investigator determines that there has been serious, deliberate, or repeated non-compliance with the Act or the regulations or with a decision or order of the Director.

Step 4 – Review of investigation report

The Director will review an investigation report that has been prepared by an investigator. After reviewing an investigation report, the Director will:

- a) determine that no further action is required and close the complaint file;
- b) issue a written warning and close the complaint file; or
- c) order the person to pay an administrative monetary penalty.

However, before ordering a person to pay an administrative monetary penalty, the Director will give the person an opportunity to be heard.

Step 5 – Notice and publication

When the Director imposes an administrative monetary penalty on a person, the Director will give that person a notice specifying, among other things, the amount of the penalty and the date by which the penalty must be paid. The Director will also publish a public notice of the order requiring the payment of the administrative monetary penalty.