

Residential Tenancy Act
Investigation and Administrative Monetary Penalty
Rules of Procedure

1. Definitions

In these rules of procedure

- (a) “Act” means the *Residential Tenancy Act*, RSPEI 1988, c R-13.11;
- (b) “complaint” means an allegation of non-compliance with
 - (i) the Act or the regulations; or
 - (ii) a decision or order of the Director;
- (c) “Director” has the same meaning as in the Act;
- (d) “investigator” means a person to whom the Director has delegated powers of the Director under Part 6, Division 1 of the Act;
- (e) “new evidence”, in relation to an application for reconsideration under section 12, means evidence that the applicant could not, with reasonable diligence, have presented to the Director before the Director made the decision to impose the administrative monetary penalty;
- (f) “regulations” means regulations made under the Act.

2. Application

These rules of procedure apply to the conduct of proceedings under Part 6 of the Act.

3. Authority

These rules of procedure are made under clause 7(2)(d) of the Act.

4. Filing a complaint form

- (1) A person may file a complaint on a form prescribed by the Director.
- (2) The Director will acknowledge receipt of the complaint form.

5. Preliminary review of complaint form

- (1) The Director will conduct a preliminary review of a complaint form filed under section 4.
- (2) The purpose of conducting the preliminary review is to determine whether an investigation into the complaint is warranted.
- (3) In determining whether an investigation is warranted, the Director may consider anything that is relevant to ensuring compliance with the Act, the regulations, or with a decision or order of the Director, including
 - (a) the seriousness and recentness of the complaint;
 - (b) the evidence of the complaint; and
 - (c) the number and recentness of complaint forms containing the same or similar complaints.
- (4) If the Director determines that an investigation is warranted, the Director will assign an investigator to investigate the alleged contravention raised by the complaint.
- (5) If the Director determines that an investigation is not warranted, the Director will close the complaint file.

6. Conducting an investigation

- (1) An investigator will investigate an alleged contravention that has been assigned to the investigator by the Director.
- (2) In investigating the alleged contravention, the investigator will
 - (a) provide a summary of the alleged contravention to the person being investigated; and
 - (b) provide the person being investigated with an opportunity to respond to the alleged contravention.
- (3) The investigator may exercise such powers as have been delegated to the investigator under the Act and the regulations.

7. Concluding an investigation

- (1) An investigator will conclude an investigation by
 - (a) determining that no further action is warranted and closing the complaint file;
 - (b) issuing a written warning and closing the complaint file; or
 - (c) sending an investigation report to the Director with all relevant documents obtained by the investigator.
- (2) In deciding how to conclude an investigation, the investigator will consider the factors listed in clause 93(2)(b) of the Act.

8. Contents of investigation report

An investigation report that is sent to the Director will include

- (a) a summary of the investigation;
- (b) the findings of the investigator; and
- (c) a recommendation from the investigator regarding the imposition of an administrative monetary penalty.

9. Review of investigation report by Director

- (1) The Director will review an investigation report received from an investigator.
- (2) After reviewing the investigation report, the Director will
 - (a) determine that no further action is warranted and close the complaint file;
 - (b) issue a written warning and close the complaint file; or
 - (c) subject to subsection (3), impose an administrative monetary penalty.

- (3) Before imposing an administrative monetary penalty on a person, the Director will
- (a) provide the person a copy of the investigation report and all relevant documents that the Director received from the investigator;
 - (b) provide the person an opportunity to be heard;
 - (c) be satisfied on a balance of probabilities that the person has
 - i. contravened a provision of the Act or the regulations; or
 - ii. failed to comply with a decision or order of the Director; and
 - (d) consider the factors listed in clause 93(2)(b) of the Act.

10. Notice of order

When the Director orders a person to pay an administrative monetary penalty, the Director will give to the person a notice specifying

- (a) the contravention or failure to which the penalty relates;
- (b) the amount of the penalty;
- (c) the date by which the penalty must be paid; and
- (d) the person's right to have the Director reconsider imposing the penalty.

11. Notice of administrative monetary penalty

The Director will publish or otherwise make available to the public the following documents, or summaries of them:

- (a) any order requiring the payment of an administrative monetary penalty;
- (b) any agreement entered into by the Director under subsection 93(4) of the Act; and
- (c) the status of penalties required to be paid under the Act.

12. Reconsideration

- (1) A person who has been ordered to pay an administrative monetary penalty may file an application for reconsideration on a form prescribed by the Director within 15 days after a copy of the Director's order is provided to this person.

- (2) The Director will review the application for reconsideration.
- (3) The purpose of reviewing the application for reconsideration is to determine whether to reconsider the order to pay the administrative monetary penalty.
- (4) In determining whether to reconsider the order to pay the administrative monetary penalty, the Director will consider whether
 - (a) the Director erred materially in imposing the administrative monetary penalty;
 - (b) the Director failed to provide the applicant with an opportunity to be heard before imposing the administrative monetary penalty; or
 - (c) new evidence justifies reconsidering the order to pay the administrative monetary penalty.
- (5) If the Director decides not to reconsider the order imposing the administrative monetary penalty, the Director will dismiss the application for reconsideration with notice to the applicant.
- (6) If the Director decides to reconsider the order imposing the administrative monetary penalty, the Director will provide the applicant an opportunity to be heard before reconsidering the order.
- (7) After reconsidering an order to pay an administrative monetary penalty, the Director may
 - (a) confirm;
 - (b) vary; or
 - (c) cancelthe order to pay the penalty.
- (8) The Director may refuse to reconsider an order to pay an administrative monetary penalty where the applicant for reconsideration,
 - (a) has filed more than one application for reconsideration in respect of the same order; or
 - (b) despite having received adequate notice, failed or refused to exercise the applicant's right to be heard before the Director made the order to pay the penalty.

13. Director may initiate investigation

Nothing in these rules prevents the Director, on the Director's own initiative, from assigning an investigator to conduct an investigation.

14. The Director may amend or vary these rules

The Director may, at the Director's sole discretion, dispense with, amend, vary, or supplement all or part of these rules.