



Province of Alberta

MOBILE HOME SITES TENANCIES ACT
RESIDENTIAL TENANCIES ACT

**RESIDENTIAL TENANCY DISPUTE
RESOLUTION SERVICE REGULATION**

Alberta Regulation 98/2006

With amendments up to and including Alberta Regulation 86/2020

Current as of June 1, 2020

Office Consolidation

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(Consolidated up to 86/2020)

ALBERTA REGULATION 98/2006

**Mobile Home Sites Tenancies Act
Residential Tenancies Act**

**RESIDENTIAL TENANCY DISPUTE
RESOLUTION SERVICE REGULATION**

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Definitions

- 1 In this Regulation,
 - (a) repealed AR 86/2020 s2;
 - (b) “Administrator” means the individual appointed as the Administrator in accordance with section 55 of the *Residential Tenancies Act*;
 - (c) “Dispute Resolution Service” means the Residential Tenancy Dispute Resolution Service established under section 2;
 - (d) “tenancy dispute officer” means an individual appointed as a tenancy dispute officer in accordance with section 55 of the *Residential Tenancies Act*.

AR 98/2006 s1;86/2020

Part 1 Administrative Matters

Residential Tenancy Dispute Resolution Service established

2 The Residential Tenancy Dispute Resolution Service is hereby established to hear and resolve disputes between landlords and tenants under the *Residential Tenancies Act* and the *Mobile Home Sites Tenancies Act*.

AR 98/2006 s2;86/2020

Administrator

3(1) The Administrator is responsible for the administration of this Regulation and the management of the Dispute Resolution Service.

(2) The Administrator may delegate to any person any power, duty or function conferred on the Administrator by this Regulation.

Tenancy dispute officers

4 Tenancy dispute officers have the powers and duties set out in this Regulation to make decisions about disputes between landlords and tenants under the *Residential Tenancies Act* and the *Mobile Home Sites Tenancies Act*.

AR 98/2006 s4;86/2020

Rules of practice and procedure and code of conduct

5 The Dispute Resolution Service shall establish the following for tenancy dispute officers:

- (a) rules of practice and procedure;
- (b) a code of conduct.

Part 2 Application to Dispute Resolution Service

Application

Application for remedy

6(1) An application by a landlord or a tenant under Part 5.1 of the *Residential Tenancies Act* or Part 5.1 of the *Mobile Home Sites Tenancies Act* must be made by filing with the Dispute Resolution Service an application accompanied with the required application fee.

(2) An application must be in the form determined by the Administrator and must

- (a) be signed by the applicant,
- (b) show the address of the rental premises or mobile home site,
- (c) include the full name, address and telephone number of both parties,
- (d) set out the remedies sought, and
- (e) indicate that the applicant has not applied to a court in respect of the same matter.

(3) On receipt of an application under subsection (1), the Dispute Resolution Service shall issue to the applicant a notice of hearing that shows the date, time and location of the hearing.

(4) The applicant shall serve a copy of the filed application and the notice of hearing on the other party.

(5) An applicant may withdraw an application at any time before the hearing is commenced by filing a notice of withdrawal with the Dispute Resolution Service.

(6) If, after serving a filed application and a notice of hearing on the other party, a person files a notice of withdrawal under subsection (5), the Dispute Resolution Service shall send to the other party a notice stating that the application has been withdrawn.

(7) Within 30 days after the day the notice of withdrawal is sent by the Dispute Resolution Service to the other party, the other party may apply to the Dispute Resolution Service for costs.

AR 98/2006 s6;83/2017;86/2020

Refusal to accept application

7 A tenancy dispute officer may refuse to accept an application where

- (a) the application is not in a proper form or is not complete,
- (b) the required fees have not been paid,
- (c) a court is the appropriate body to hear and decide the matter,
- (d) the matter cannot be heard in a timely manner, or

- (e) an application has been made to the court in respect of the same matter.

AR 98/2006 s7;83/2017

Duties and Powers of Tenancy Dispute Officers

General duties and powers of tenancy dispute officers

8(1) A tenancy dispute officer may

- (a) provide information to landlords and tenants respecting the Dispute Resolution Service,
- (b) administer oaths, take affidavits and declarations and receive affirmations for the purpose of hearings,
- (c) hold hearings, determine matters of procedure at hearings and make decisions and issue orders, including interim and temporary orders,
- (d) issue notices of hearing and other notices as authorized by this Regulation,
- (e) enter rental premises or visit a mobile home site at any reasonable time, after giving reasonable notice, for the purpose of discharging the tenancy dispute officer's duties under this Regulation,
- (f) order independent inspections where, in the opinion of the tenancy dispute officer, further evidence is required in order to make decisions,
- (g) amend applications or permit applications to be amended,
- (h) question the parties and witnesses in accordance with section 13, and
- (i) grant remedies in accordance with sections 15 and 16.

(2) Tenancy dispute officers are commissioners for oaths while acting in their official capacity.

AR 98/2006 s8;86/2020

Opportunity to settle dispute

9(1) A tenancy dispute officer may assist the parties to a dispute or may offer the parties an opportunity to settle the dispute.

(2) If the parties settle the dispute, the tenancy dispute officer may record the settlement in the form of an order.

Procedure

Hearing issues together or separately

10(1) Where

- (a) several different applications have been made to the Dispute Resolution Service, and
- (b) the Administrator or a tenancy dispute officer is of the opinion that it would be appropriate to determine the issues raised by the applications together,

the tenancy dispute officer may hear and determine the issues in dispute at a common hearing.

(2) Where the Administrator or a tenancy dispute officer is of the opinion that it would be appropriate to deal with some of the issues raised by an application at separate hearings, the tenancy dispute officer may hear some of the issues separately and set additional hearing dates for the determination of those issues.

Dismissing a proceeding

11 A tenancy dispute officer may by order dismiss a proceeding in circumstances that the tenancy dispute officer considers warranted.

Ability to require persons to attend and give evidence

12(1) On the request of a party or on the tenancy dispute officer's own initiative, a tenancy dispute officer may issue a notice to attend requiring a person, including a tenant,

- (a) to attend a hearing and give evidence, or
- (b) to produce before the tenancy dispute officer documents or any other thing relating to the subject-matter of the hearing.

(2) A party who requests that a notice to attend be issued under subsection (1) shall provide conduct money for the person required to attend in accordance with the rules of practice and procedure established under section 5.

(3) A person who is served with a notice to attend shall attend the hearing in accordance with the terms of the notice.

(4) If a person fails or refuses to comply with a notice under subsection (1), the tenancy dispute officer may apply by originating notice to the Court of Queen's Bench, and the Court may issue a

warrant requiring attendance of the person or the attendance of the person to produce a document or thing.

Power of tenancy dispute officer to question parties

13(1) At a hearing, a tenancy dispute officer may question the parties or witnesses who are present at the hearing or who give evidence by telephone or in any other manner specified in subsection (2) concerning the matter in dispute.

(2) For the purpose of a hearing,

(a) evidence may be given

(i) in person,

(ii) orally, including by telephone,

(iii) electronically,

(iv) in writing, or

(v) in any other manner the tenancy dispute officer considers appropriate,

and

(b) a party to the hearing is to be given an opportunity to respond to what was presented by the other party or a witness at the time of the hearing and in the manner the tenancy dispute officer considers appropriate.

Rules of evidence

14 A tenancy dispute officer is not bound by the rules of evidence or any other law applicable to court proceedings and has the power to determine the admissibility, relevance and weight of evidence given.

Making of order

15(1) After holding a hearing and having regard to all the circumstances, where the tenancy dispute officer is satisfied that

(a) an order that has been applied for is justified, the tenancy dispute officer shall make that order, or

(b) another order that could have been applied for is justified, the tenancy dispute officer may make that other order.

(2) A tenancy dispute officer may include in any order the terms and conditions that the tenancy dispute officer considers fair and proper in all the circumstances.

(3) In making an order, a tenancy dispute officer may consider any relevant information obtained by the tenancy dispute officer in addition to the evidence given at the hearing if the tenancy dispute officer first informs the parties of the additional information and gives them an opportunity to explain or refute it.

(4) Subject to this Regulation, a tenancy dispute officer may grant any remedy that a judge of the Provincial Court may grant under Part 3 or 4 of the *Residential Tenancies Act* or Part 3 or 4 of the *Mobile Home Sites Tenancies Act*.

AR 98/2006 s15;86/2020

Order for compensation

16(1) Where a tenancy dispute officer makes an order requiring a landlord to compensate a tenant, the tenancy dispute officer may make an order

- (a) that the tenant recover the compensation by deducting a specified sum from the tenant's rent for a specified number of rent payment periods, or
- (b) requiring the landlord to pay the compensation to the tenant in a lump sum.

(2) Where a tenancy dispute officer makes an order requiring a tenant to compensate a landlord, the tenancy dispute officer may make an order

- (a) permitting the tenant to pay the compensation by paying a specified sum together with the tenant's rent for a specified number of rent payment periods, or
- (b) requiring the tenant to pay the compensation to the landlord in a lump sum.

(3) A tenancy dispute officer may, on the application of the landlord or tenant, rescind an order made under subsection (1)(a) or (2)(a), and may order that any compensation still owing be paid in a lump sum.

Referral to court

17(1) A tenancy dispute officer shall make an order that a matter cannot be heard by the Dispute Resolution Service where the tenancy dispute officer believes

- (a) the matter to be heard involves
 - (i) the determination of a question of constitutional law or of human rights, or
 - (ii) an issue that, in the opinion of the tenancy dispute officer, a court is the appropriate body to hear and decide,

or

- (b) the matter lies outside the jurisdiction of the Dispute Resolution Service.

(1.1) During the period beginning on the day this subsection comes into force and ending on November 15, 2020, a tenancy dispute officer shall make an order that a matter cannot be heard by the Dispute Resolution Service if

- (a) the application is made under section 59.3 of the *Mobile Home Sites Tenancies Act*, and
- (b) the application may require an order for any remedy other than the remedies listed in sections 30(a) and (c) to (e) and 39(b) to (d) of the *Mobile Home Sites Tenancies Act*.

(2) Where a tenancy dispute officer makes an order under subsection (1) or (1.1), the applicant must choose

- (a) to withdraw the application, or
- (b) to designate the court to which the matter is to be transferred.

(3) If the applicant designates a court, the Dispute Resolution Service shall forward to a clerk of that court the following in respect of the matter:

- (a) the record of any evidence in the form in which it was received;
- (b) any money paid into the Dispute Resolution Service;
- (c) any documents and materials in the possession of the Dispute Resolution Service.

(4) Where a matter is transferred to a court under this section, the court may, on any conditions it considers appropriate,

- (a) continue the matter to completion, or

- (b) order the matter to be recommenced.

AR 98/2006 s17;83/2017;86/2020

Form and timing of order

18(1) An order of a tenancy dispute officer must

- (a) be in writing, and
- (b) be signed and dated by the tenancy dispute officer.

(2) The tenancy dispute officer shall give reasons in support of the order either orally, if on the record, or in the order itself.

(3) An order must be given not later than 30 days following the day on which proceedings conclude.

Correction or clarification of order

19(1) Subject to subsection (2), a tenancy dispute officer may, with or without a hearing,

- (a) correct typographic, grammatical, arithmetic or other similar errors in an order of that tenancy dispute officer,
- (b) clarify the order, and
- (c) deal with an obvious error or inadvertent omission in the order.

(2) A tenancy dispute officer may take the steps described in subsection (1)

- (a) on the tenancy dispute officer's own initiative, or
- (b) at the request of a party, which, for the purposes of subsection (1)(b) and (c), must be made within 30 days after the order is received by the party.

(3) A request referred to in subsection (2)(b)

- (a) must, unless the Administrator directs otherwise, be decided by the tenancy dispute officer who granted the original order, and
- (b) may, unless the tenancy dispute officer orders that the other party be given notice, be made without notice to the other party.

(4) A tenancy dispute officer must not act under this section unless the tenancy dispute officer considers it just and reasonable to do so in all the circumstances.

AR 98/2006 s19;83/2017

Orders to vary or to set aside

19.1(1) A tenancy dispute officer may, by an order made in accordance with this section, set aside or vary an order of the tenancy dispute officer.

(2) A tenancy dispute officer may set aside or vary an order under this section

- (a) on the tenancy dispute officer's own initiative, or
- (b) at the request of a party.

(3) A request referred to in subsection (2)(b) must,

- (a) be made within 20 days after the earlier of
 - (i) the date on which the Dispute Resolution Service provided a copy of the original order to the requesting party in accordance with section 20, and
 - (ii) the date on which the original order first came to the requesting party's attention,

and

- (b) unless the Administrator directs otherwise, be decided by the tenancy dispute officer who granted the original order.

(4) A tenancy dispute officer may issue an interim order staying the order sought to be varied or set aside pending the tenancy dispute officer's determination under this section

- (a) on the tenancy dispute officer's own initiative, or
- (b) at the request of a party.

(5) A tenancy dispute officer may set aside or vary an order

- (a) if the order was made without notice to one or more parties,
- (b) if the order was made following a hearing at which a party did not appear because of an accident, a mistake or insufficient notice of the hearing, or
- (c) on other grounds consistent with procedural fairness.

- (6) If a tenancy dispute officer issues an order to set aside under this section,
- (a) the Dispute Resolution Service shall issue a notice of rehearing of the application that shows the date, time and location of the rehearing, and
 - (b) except as otherwise directed by the tenancy dispute officer, the rehearing shall be held in accordance with this regulation in all respects as if it were an original hearing.
- (7) If a tenancy dispute officer issues an order under this section, a party may file a copy of that order with the Court of Queen's Bench, and on being filed,
- (a) the original order is
 - (i) stayed as the interim order under subsection (4) provides, or
 - (ii) set aside or varied as the order under subsection (5) provides,
- and
- (b) unless the Court of Queen's Bench orders otherwise, any execution or garnishee summons issued pursuant to the original order is stayed.

AR 83/2017 s6

Duty to provide order

20 The Dispute Resolution Service shall provide a copy of each order made by a tenancy dispute officer to each party.

AR 98/2006 s20;83/2017

Binding nature of order

21 An order of a tenancy dispute officer is binding on the parties to the dispute unless it is

- (a) set aside or varied by a tenancy dispute officer, or
- (b) set aside or varied on appeal.

AR 98/2006 s21;83/2017

Enforcement of order

22(1) An order made by a tenancy dispute officer may be filed with the Court of Queen's Bench and on being filed is enforceable in the same manner as an order of the Court of Queen's Bench.

(2) An order made by a tenancy dispute officer does not take effect until it is filed under subsection (1) and served.

AR 98/2006 s22;83/2017

Appeal

Appeal

23(1) Any party who is subject to an order of a tenancy dispute officer may appeal the order on a question of law or of jurisdiction to the Court of Queen's Bench

- (a) within 30 days after the order is filed, by
 - (i) filing with the Court of Queen's Bench a notice of appeal setting out the grounds of appeal, and
 - (ii) serving a copy of the filed notice of appeal on
 - (A) the respondent,
 - (B) the Dispute Resolution Service, and
 - (C) any other person that the Court of Queen's Bench directs,

and

- (b) by filing with the Court of Queen's Bench not later than 7 days after the last day for service on those persons served pursuant to clause (a)(ii)
 - (i) an affidavit of service of the notice of appeal, and
 - (ii) a copy of a requisition to the Dispute Resolution Service for a transcript of evidence, together with
 - (A) a receipt for payment of the transcript at the expense of the appellant, or
 - (B) written confirmation from the Dispute Resolution Service that a transcript is not available.

(2) The appellant shall, within 3 months from the date the notice of appeal is filed, file with the Court of Queen's Bench a transcript of the evidence heard before the tenancy dispute officer unless

- (a) the Court of Queen's Bench orders otherwise, or

- (b) the Dispute Resolution Service has confirmed that a transcript is not available.

AR 98/2006 s23;83/2017

Hearing of appeal

24(1) The Court of Queen's Bench shall

- (a) hear and determine an appeal, and
- (b) make an order.

(2) The decision of the Court of Queen's Bench is final and cannot be further appealed.

Decision on appeal

25(1) On hearing the appeal,

- (a) no evidence other than the evidence that was submitted to the Dispute Resolution Service may be admitted, but the Court of Queen's Bench may draw any inferences
 - (i) that are not inconsistent with the facts expressly found by the Dispute Resolution Service, and
 - (ii) that are necessary for determining the question of law or of jurisdiction

and

- (b) the Court of Queen's Bench may confirm, vary, reverse or cancel the order of the tenancy dispute officer.

(2) If the Court of Queen's Bench cancels an order of the tenancy dispute officer, it may refer the matter back to the Dispute Resolution Service, in which case the Dispute Resolution Service must rehear the matter and deal with it in accordance with any direction given by the Court of Queen's Bench on the question of law or of jurisdiction.

(3) No member of the Dispute Resolution Service is liable for costs by reason or in respect of an appeal.

(4) If the Court of Queen's Bench finds that the only ground for appeal established is a defect in form or technical irregularity and that no substantial wrong or miscarriage of justice has occurred, it may deny the appeal, confirm the order of the tenancy dispute officer despite the defect and order that the order of the tenancy dispute officer takes effect from the time and on the terms that the Court of Queen's Bench considers proper.

Stay of proceedings

26 The commencement of an appeal under this Part does not stay the order being appealed, unless the Court of Queen's Bench on application stays enforcement or proceedings of the order pending appeal.

Transfer of action

27 When a notice of appeal is served on the Dispute Resolution Service, the Dispute Resolution Service shall forward to a clerk of the Court of Queen's Bench all documents and materials in the possession of the Dispute Resolution Service that pertain to the matter being appealed.

AR 98/2006 s27;83/2017

Failure to comply

28 If an appellant fails to comply with the requirements of section 23, the appeal shall be dismissed by the Court of Queen's Bench.

Enforcement of judgment

29 A party to an appeal may have the judgment filed as a judgment of the Court of Queen's Bench and may enforce the judgment in accordance with the procedure of the Court of Queen's Bench.

AR 98/2006 s29;83/2017

Part 3 General Matters

Review before filing with clerk

30 For the purposes of section 54.4 of the *Residential Tenancies Act* and section 59.5 of the *Mobile Home Sites Tenancies Act*, a clerk of a court shall ensure that

- (a) a landlord who files an application with the court for a remedy under Part 3 or 4 of the *Residential Tenancies Act* or Part 3 or 4 of the *Mobile Home Sites Tenancies Act* certifies that the landlord
 - (i) has not filed an application with the Dispute Resolution Service pertaining to the same matter,
 - (ii) has not been served with a notice of hearing, and is not aware of any filing of an application with the Dispute Resolution Service by the tenant, and

- (iii) will immediately notify the clerk if the landlord is served with a notice of hearing, or becomes aware of any filing of an application with the Dispute Resolution Service by the tenant,

and

- (b) a tenant who files an application with the court for a remedy under Part 3 or 4 of the *Residential Tenancies Act* or Part 3 or 4 of the *Mobile Home Sites Tenancies Act* certifies that the tenant
 - (i) has not filed an application with the Dispute Resolution Service pertaining to the same matter,
 - (ii) has not been served with a notice of hearing, and is not aware of any filing of an application with the Dispute Resolution Service by the landlord, and
 - (iii) will immediately notify the clerk if the tenant is served with a notice of hearing, or becomes aware of any filing of an application by the landlord.

AR 98/2006 s30;83/2017;86/2020

Service

31(1) Any notice or other document required to be served under this Regulation must be served

- (a) for matters under the *Residential Tenancies Act*, in accordance with section 57, except subsection (5), of that Act,
- (a.1) for matters under the *Mobile Home Sites Tenancies Act*, in accordance with section 60 of that Act, or
- (b) in any other manner as directed by the Administrator or a tenancy dispute officer.

(2) The service of a notice or other document must be proved to the satisfaction of the tenancy dispute officer hearing the matter.

AR 98/2006 s31;86/2020

Fees

32(1) The Administrator may set the fee to be paid for any service provided under this Regulation.

(2) Where the Administrator is of the opinion that the payment of the fee to make an application under section 6 may cause undue hardship to an applicant, the Administrator may waive or reduce the fee.

(3) The Dispute Resolution Service shall not file or issue a document in respect of any proceedings until the required fee payable in respect of the filing or issuance has been paid.

Costs

33 A tenancy dispute officer may, at any time and on any conditions that the tenancy dispute officer considers appropriate, award costs in respect of any matter coming before the Dispute Resolution Service.

Forms

34 The Administrator may determine the forms that are to be used under this Regulation.

Part 4 Coming into Force

Expiry

35 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2022.

AR 98/2006 s35;92/2009;21/2011;55/2016;
83/2017

Coming into force

36 This Regulation comes into force on the coming into force of the *Residential Tenancies Amendment Act, 2005 (No. 2)*.



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