



Policy Number: 05-004
Subject: Service of Subpoena
Chapter: Service of Documents

Legislation	s. 46
Definitions	Subpoena: an order for an individual to attend a hearing at a specific time, date and place to give oral evidence and/or to produce documents/things in a hearing.
Purpose	The purpose of this policy is to inform landlords and tenants about the process of obtaining and serving a subpoena required to compel a witness to appear and provide testimony or produce documents at a hearing.
Policy	<p>Individuals who are called as witnesses in a hearing should be willing to appear and give testimony. The party calling the witness should previously know what the witness testimony will be and how it supports their application for dispute resolution. Some witnesses, although they are willing to appear and give testimony, require a subpoena to obtain leave from their employer to participate in the hearing.</p> <p>A subpoena will only be issued upon approval of the Director or Manager.</p> <p>An employee of the Residential Tenancies Office may not be subpoenaed to give evidence in relation to any Residential Tenancies file.</p>
Procedure Overview	<p>Application for Subpoena</p> <p>A party makes a request for a subpoena must complete the Application for Subpoena form and submit it to the Residential Tenancies Office. The application must provide the following information:</p> <ul style="list-style-type: none">• Names of parties and application number;• The name and address for service of the witness;• A brief summary of the evidence the witness will provide;• An explanation of the relevance and necessity of this evidence• Details of any documents or other things which the witness is required to bring to the hearing.



	<p>Subpoena Issued The original subpoena will be kept on file at the Residential Tenancies Office and a copy of the subpoena will be provided to the applicant to serve on the witness. The subpoena prepared and issued by the Residential Tenancies Office will be stamped as: “certified copy of the original on file at the Residential Tenancies Office.”</p> <p>Service of Subpoena A copy of the subpoena approved by the Director must be served by on the witness personally at least 5 working days prior to the hearing date. The witness must be paid or offered the applicable witness fee. Where the witness testifies as an expert witness, the fee is set at \$100.00 per day. For all other witnesses, the witness fee is set at \$50.00 per day. A witness who is not paid or offered the witness fee is not required to appear at the hearing or provide evidence.</p> <p>A copy of the subpoena is not required to be served on the other party to the Application to Dispute Resolution.</p> <p>The service of a subpoena and payment/offering of the witness fee may be proved by completing an affidavit of service.</p> <p>Amendment of a Subpoena: Where a subpoena has been issued but not served, an amendment to the subpoena may be executed by withdrawing the original subpoena and submitting a new Application for Subpoena to the Residential Tenancies Office.</p> <p>Where a subpoena has already been served, an amended Subpoena may be requested. To issue an amended subpoena, the Residential Tenancies Office may print the word “Amended” at the top of the subpoena, underline the amended wording and the amendment designated by underlining it and print the word “Reissued” at the bottom section of the subpoena along with the date and signature of the director or Manager issuing the amended subpoena. The applicant must then serve the witness with the amended subpoena by following the procedure outlined prior in this policy.</p>
Forms & Form Letters	Application for Subpoena Affidavit of Service of Subpoena
X-Reference	Hearings - General Information - section 11-2 of this manual. Hearing Guidelines - section 11-3 of this manual. Mediation - section 1-7 of this manual



Policy Developed	September, 2000
Policy Revised	January, 2002 August, 2021
Other Resources	The Public Inquiries Act The Public Investigations Act