
Compellability of Residential Tenancy Officers as Witnesses

The Residential Tenancies Act:

- does not address the issue of whether Residential Tenancy Officers can be compelled to testify at appeal hearings.

Reference:

Residential Tenancies Act not applicable.

Details:

The Federal Court and various Provincial Courts have consistently ruled that members of administrative tribunals cannot be compelled to testify with respect to matters touching upon their decision or their decision-making process.

For the Residential Tenancy Program, this means that Residential Tenancy Officers cannot be forced or compelled to testify at an appeal hearing to give evidence about the case they heard or a resulting decision.

Procedure:

- if a Residential Tenancy Officer is asked to testify at an appeal hearing to one of their cases, they must decline;
- if a Residential Tenancy Officer is subpoenaed to testify before an appeal hearing:
 - service of the subpoena should be accepted;
 - a copy of the subpoena must be provided immediately to the Director of Residential Tenancies;
 - a litigator will be immediately assigned to have the subpoena quashed based on previous Court decisions on this topic.