

HEARINGS OF RHT OPEN AND PUBLIC

All parties have right to be heard

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THE FOLLOWING section is from the draft Procedural Regulations published in 2008ⁱ (but not signed into law) that sets out some of the requirements for the Rental Housing Tribunals.

8. Hearing: Process and Procedure

(1.) The Tribunal is competent to hear a complaint and make such a ruling as it may consider just and fair in the circumstances, based on the provisions of the Act, facts of the case, relevant law and regulations:-

- (a.) where the dispute is of such a nature that it cannot be resolved through mediation; or
- (b.) where a mediator has issued a certificate to the effect that the parties are unable to resolve the dispute through mediation;

(2.) Summoning of Parties to a Hearing

- (a.) The Tribunal through its staff members shall notify parties of the date, time and place of the hearing at least ten days prior to the hearing date.
- (b.) The staff of the Tribunal shall issue a summons (Annexure D) to be served upon the parties to the dispute, which summons will be served in terms of subregulation 8(1)(m).

(3) Hearing Proceedings

- (a.) At least three Tribunal members shall preside at any hearing, one of whom shall be the chairperson or deputy chairperson, or another member appointed by the members present, to chair the proceedings;
- (b.) All hearings will be held in public, unless any of the parties successfully applies for a hearing to be held in camera;
- (c.) The Tribunal may call upon and administer an oath to, or accept an affirmation from, any person present at the hearing or who has been summoned to appear before the Tribunal;

- (d) Parties will be informed of their rights, the procedure to be followed by the Tribunal, the effect of its rulings and the consequences of contravention thereof;
- (e) Parties will be afforded the opportunity of stating their case, to cross examine, call witnesses and produce any relevant book, document, or object.
- (f) The rules of evidence will be observed and the members may, should the need arise, ask questions of the parties at any stage of the hearing proceedings;

(4) Process to be followed by parties before a hearing-

- (a) If a Tribunal has determined that a complaint does relate to a dispute in respect of a matter which may constitute an unfair practice, it will notify the respondent in writing, providing him or her the opportunity to examine the file and, if necessary, to provide the Tribunal with a written response thereto and / or lodge a counter claim within 21 days of receipt of the Tribunal's notification; and the Tribunal shall issue a hearing certificate: (Annexure E)
- (b) Parties will exchange all relevant documents with each other, at least five days before the hearing;
- (c) Parties will inform each other and provide details of witnesses they intend to use, at least five days before the hearing;
- (d) Parties may meet before the hearing in an attempt to resolve the dispute, clarify issues or to agree on the exact nature of the complaints to be adjudicated.

(5) General responsibilities of members-

- (a) Members in dealing with matters before the Tribunal, shall act and conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the Tribunal;
- (b) Members shall be patient, dignified and courteous to the parties, representatives, witnesses and others before the Tribunal and shall require similar conduct of others;
- (c) Members shall accord to every party to a proceeding, or to that party's representative, the right to be heard according to law.
- (d) Members shall not initiate, permit or consider ex parte communications, unless required by the Act or regulations;
- (e) Members shall not initiate, permit or consider communications with the public or parties that falls under the administrative responsibilities of the staff

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ⁱ The Minister of Housing has, in terms of section 15(1) (f) of the Rental Housing Act, 1999 (Act 50 of 1999), as amended, and in consultation with the select and portfolio committee and every MEC, made the regulations in the Schedule. (Government Gazette, 14 March 2008, No. 30863)