



RSI

Participant Experience in Mediation

A SUMMARY OF Q1 2022 SURVEY RESPONSES IN THE 16TH
JUDICIAL CIRCUIT OF ILLINOIS' VIDEO MEDIATION PROGRAM

May 2022

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ACKNOWLEDGEMENTS

Resolution Systems Institute is grateful to the American Arbitration Association/International Centre for Dispute Resolution Foundation's support for our ongoing evaluation of the program and the dissemination of the findings, and to the Illinois Equal Justice Foundation, whose support has enabled us to operate this mediation program.



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BACKGROUND

In 2021, the 16th Judicial Circuit of Illinois launched a video mediation program for eviction cases in Kane County. In this program, which is administered by Resolution Systems Institute (RSI), parties are informed of the program when they receive their summons and are invited to participate in mediation when they arrive for their initial hearing, which they can attend either by Zoom or in person. If they decide to participate, they meet with the program coordinator, who informs them of their options, including meeting with a financial counselor and/or a legal services representative. If the tenant decides to participate in mediation, the coordinator schedules the mediation on a date prior to the next hearing. Either the landlord or their attorney is required to participate if the tenant decides to do so. The mediation is conducted on Zoom by roster mediators paid through grant funds.

After each mediation, parties and attorneys are invited by email or text to complete a survey online about their experience. The following summarizes the 47 survey responses from January through March 2022, focusing on the most salient questions in the survey. During this time, 101 cases were mediated.

In general, parties and attorneys thought they were able to express themselves in mediation, thought the process was fair and were satisfied with the process. Attorneys more often responded with high ratings than parties. In comparison to surveys completed in 2021, attorneys continue to rate their experience highly. On the other hand, tenants' ratings averaged lower than in 2021. This lower average for tenants may reflect their reported agreement rate. While 75% of the mediations held in the first quarter of

101

Mediations

47

Survey Responses

76%

Were able to express themselves a lot

78%

Rated mediation as highly fair

67%

Highly likely to recommend mediation



2022 resulted in an agreement, only 38% of parties who responded to the survey reported they reached agreement.

When commenting about what they liked about the mediation, parties focused on aspects of the process while attorneys most often mentioned the mediator. This pattern did not hold up for comments regarding what was not liked about mediation. Both parties and attorneys were more likely to find issue with an aspect of the process than with the mediator.

The program appears to continue to be working well for the participants. Survey responses indicate that mediation is providing a fair and satisfying experience to both parties and attorneys.

Response numbers for Q1 2022

Tenants completed surveys for 15.8% of the cases mediated. The response rate for landlords and attorneys could not be precisely calculated; the landlord did not have to participate in mediation if their attorney did, and not all landlords had attorneys. Therefore, landlords did not attend some mediations, and there were no attorneys in others. However, if we were to assume that plaintiff attorneys and landlords attended all mediations, then attorneys responded for at least 22.8% of the mediations and landlords responded for at least 3.0% of the mediations.

Total number of cases mediated: 101

Total survey responses: 47

- Tenant: 16
- Landlord: 3
- Tenant Attorney: 5
- Landlord Attorney: 20
- Homeowner Association (HOA) Attorney:¹ 3

Attorney Representation

None of the tenants or landlords who responded to the survey were represented by an attorney.

Mediation Outcome

Percent of mediations in which agreements were reached: 75%

Percent of survey respondents reporting they reached agreement:

- Attorneys: 75%

¹ In Illinois, homeowner associations may evict a member from their unit if HOA assessments are not paid.



- Landlords: 67%
- Tenants: 38%



Mode of Participation in Mediation

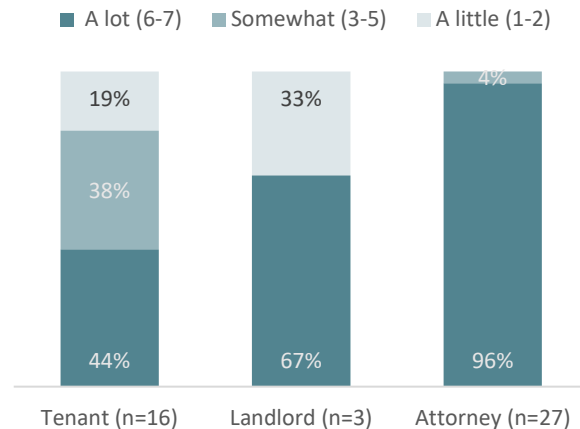
- 68% of parties participated via video; 11% called in by phone; 21% did not respond to the question
 - Of those who participated via video, 62% used their mobile phone; 38% used a computer
- 89% of attorneys participated via video; three did not respond to the question
 - Of those who participated via video, 76% used their computer; three used their mobile phone and two used a tablet; one person did not respond to the question.

PARTICIPANT EXPERIENCE

Voice

When asked whether they were able to express what was important to them during mediation, 43 of the 47 individuals who responded to the question indicated that they were at least somewhat able to. Fewer tenants than other participants highly rated their ability to express themselves, with 44% giving a rating of 6 or 7. In comparison, 96% of the attorneys and two of the three landlords who responded rated highly their ability to express what was important to them.

Were you able to express what was important to you? (Scale 1-7)



Fairness of the Process

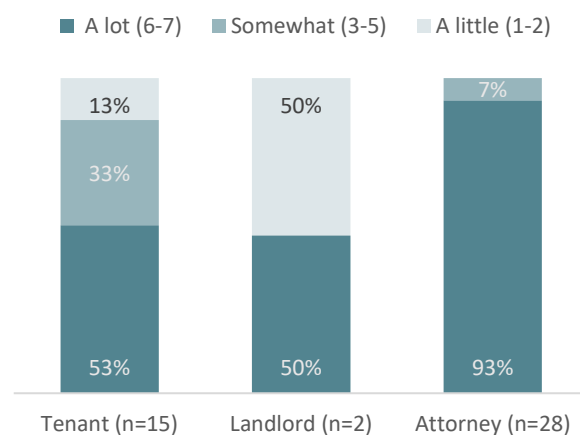
Survey participants were asked to rate the fairness of the mediation process on a scale of 1-7 and to explain their response. They most often gave high ratings for fairness, with 35 of 45 (78%) rating it with a 6 or 7. Only three gave a rating of 1 or 2. Attorneys more often gave high ratings than parties.

Sample tenant explanations of their ratings of the fairness of the process:²

Representative comments of tenants who gave a high rating:

- “Excellent experience overall. We knew the milestones to achieve a meeting of the minds between the landlord and the renter (me). The milestones were reached and exceeded by all measures. Thank you for a fair experience that realized the

Overall, was the mediation process fair? (Scale 1-7)



² All comments are presented as written by the survey respondent.



goal of remaining in the property until nearly the end of the lease.”

- “Both parties were given time and opportunity to explain, negotiate, and ultimately come to an agreement.”
- “I hope to come to a good agreement so that they don’t take my housing. I am going to pray that I don’t lose the roof over my head and will have a place for my children. I hope to God that all turns out well.” (Translated from Spanish.)
- “I was able to point out the Landlord Attorney \$768.20 in legal fees was added to my rent ledger after they took the rental assistance money. Mediation allowed me to have that inaction with the Attorney. I am hopeful my case will be dismissed.”

Representative comments for medium ratings:

- “This is not something that should be done via zoom”
- “I really didn't have a chance because I don't have money so now I have to go with no where to go with four kids all are under 18 we don't have family we don't have help all I can tell you guys is that life is hard and if you have family you're blessed I never had nobody to help me my oldest children father was killed in 2010 I made it the best I could that was awful now I have to be homeless all because my landlord wanted to be greedy thanks a lot court system for still throwing us out thanks a lot I had a bullet hole in my window that landlord never fixed for 2yrs I mean it was numerous things that he didn't do as a property owner or a landlord and after all that he still won life is crazy cold world”

Comments from tenants who gave low ratings:

The second comment has been shared with the program coordinator with the recommendation that the mediators be reminded they should not advise parties not to attend their court date.

- “I felt pressured to file an answer at my first court date. I told the judge I didn't need another 30 days. This ended up costing me a lot more money than/ it had to. My motion response answer wasn't even brought up. I learned a lesson that will cost me triple for choosing not to take advantage of a corrupt system.”
- “I was told by mediator that I was not to attend a court date due to moving out of property. She lied to me. The case went to trial and now I am to pay \$12,000. I am disabled and don't have the money to pay. Mediation was a cruel joke. I am completely boggled as to why mediation even exists in Kane County. The tenant will not win. Thanks for false hopes.”

Landlord explanations of their ratings:

- “Everything went as expected”
- “mediator only cares about getting the case out the court docket regardless of the outcome or feelings or rights of others”

Tenant attorney explanations of their ratings:

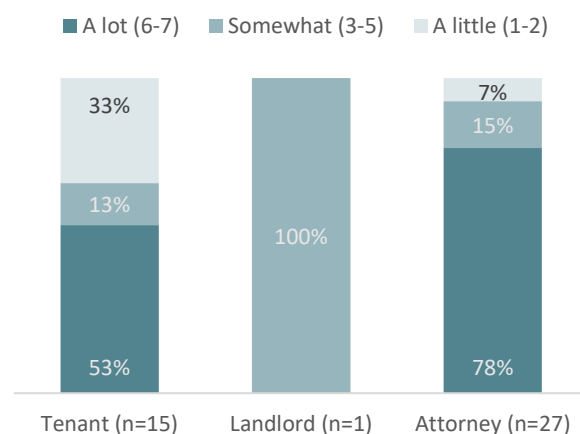
- “The opposing party did not participate in good faith. The other party was clearly not interested in reaching a settlement from the outset.”
- “Any concerns I have have nothing to do with the mediation process.”
- “facilitated a conversation”

Sample landlord attorney explanations of their ratings:

- “We got what we wanted and the mediator helped to sell it. It was reasonable and gave the tenant a chance to succeed. It is now on the tenant.”
- “Mediation was fine. Not really sure why we are being pushed to use this service though at this time as most landlords either want the tenant to get rental assistance or they want them out of their property. Can understand if there is/was a counterclaim but that is not the landscape right now. I would have offer tenant the exact same deal and everyone would have agreed and the process would have taken 10 minutes instead of 2 hours.”
- “As the attorney I would meet with tenants in the hallway and do much the same thing. The mediation process gives the tenant the opportunity to have a third party conduct the mediation which I find assists resolution. Tenants, understandably, often feel that I am enemy and are hostile toward anything I propose to resolve.”
- “The mediator treated both sides fairly, but there was nothing to mediate in that the tenant had no funds and only recently had begun to look for aid.”

Satisfaction

Survey participants were asked to rate on a scale of 1-7 how likely they were to recommend eviction mediation to a friend or colleague and to explain their response. Overall, 36 of 43 respondents (84%) said they were at least somewhat likely to recommend eviction mediation, with 29 (67%) indicating they were highly likely to do so. Attorneys more often said they were highly likely (6-7 rating) to recommend mediation to others than parties.

How likely are you to recommend mediation to others? (Scale 1-7)



Sample tenant explanations of their satisfaction ratings:

- “It can only help.”
- “Fair experience that provides the tenant with some respect and does not allow the landlord to dictate the terms. In my case, the landlord and his attorney sought to terminate my lease immediately. Instead with the help of the mediator we showed that rent was paid through mid - June already. Great job!”
- “I had no other option but to choose the one where I had to move so I would recommend them to get a lawyer if they can afford one”
- “Nothing was done to help me. It was against me from the start.”
- “It's sad when you did morning wrong yet are being evicted with a baby and the landlord only cares about money that doesn't even pertain to rent as it has been paid every month”
- “Mediator doesn't care”

Landlord explanation of their rating:

- “no because the mediators are crooked with no feelings for others”

Tenant attorney explanation of their rating:

- “Mediation usually only works if both parties participate in good faith and come to the table with proposals that can be discussed and compromised to reach an agreement.”

Landlord attorney explanations of their ratings:

- “Really depends on the mediator. [Redacted] was great. [Redacted] not so much on a different file.”
- “It really depends on the issue and what effort the tenant has made to mitigate the situation. There are some situations in which I don't think mediation can help and the tenant is using the process to extend his tenancy to the detriment of the landlord.”
- “I represent landlords. Eviction mediation is most often for the benefit of the tenant. Most cases are non-payment of rent cases, so in the end, the landlord has to give in order to get a tenant out. The tenant rarely has to compromise. It is good if the landlord just wants a tenant out and is willing to waive rent, but not so useful if the landlord needs to recover rent and get possession.”
- “Mediation has the ability to resolve the case with limited expense to the parties and resolve it more expeditiously.”
- “We have had a good success rate using mediation. Plus it diffuses the tenancy for the parties to take cheap shots at one another and stay focused on the issues at hand.”
- “Mediation works when both parties have claims against each other. Evictions (especially right now) are very one sided. Tenants don't have the money and that is why



they didn't pay. The fact that we were able to work out an agreement without going to court was very helpful. I believe it helps both sides.”

- “In many situations there is no solution.”

HOA attorney explanation of their rating:

- “Quick resolution of matters.”

What Was Liked About Eviction Mediation

Tenants and landlords were asked what they liked about mediation. Attorneys were asked what they thought made the mediation effective.

Representative tenant comments:

- “Both sides were heard and the mediator listened and it turned out to benefit both sides.”
- “Zoom”
- “I think that the tenants need to be heard more often”
- “The mediation experience allowed me to maintain my dignity and self-respect while appreciating the landlord's financial obligations. This is best exemplified by the mediation process scheduling of opportunities for all parties to communicate and to gain a unique appreciation for our respective responsibilities.”
- “Nothing”
- “There was lots of laughter from the landlord whom I had called police on for harassment. She is mean and mentally abusive. Behavior like her laughing needs to be addressed and it most definitely was ignored by the mediator.”
- “Everything was treated fairly for both tenant and landlord”
- “That all the time they were informing me and in my language. (Translated from Spanish.)”
- “What I liked was perhaps that we might be able to reach a good agreement and pay them the rent and I wouldn’t want to lose my home for my children and I am very hopeful. (Translated from Spanish.)”

Landlord comments:

- “It was a longer then Expected but we handled it and completed that day and I'm very much happy that we finished at (sic)”
- “Nothing”

Tenant attorney comment:

- “The mediator was clearly experienced, had a good demeanor, and made a good faith effort to move the opposing party off its intractable position.”

*Representative landlord attorney comments:*

- “Communication”
- “mediator's calm demeanor; organized approach to solution”
- “Letting both parties express their position and the mediator asking pointed questions to “stress test” each parties arguments.”
- “The interpreter. Tenant only spoke Spanish so very helpful to have her present so that everyone could understand each other.”
- “The mediator allowed the sides to talk and did not seek to dominate.”
- “Having the court to enforce the agreement helped my client feel at ease about compromising.”
- “The mediator kept the parties focused on talking about things that mattered. Suggested splitting the difference on money and move out dates; which seems obvious but was done very well and in a way that both parties could agree on.”
- “I think with tenants it seems like an extra step -- that takes up time Non- payment is just that --clear cut”

HOA attorney comment:

- “Mediator remained very neutral and gave both sides time to speak. He didn't push too hard and was very honest with both sides.”

What Was Not Liked About Eviction Mediation

Tenants and landlords were asked what they didn’t like about the mediation. Attorneys were asked what could have been improved about the mediation.

Sample tenant comments:

- “Web problems.”
- “I didn't understand the things I was supposed to do. It never should have even went that far.”
- “Nothing”
- “I didn't like that my landlord his lawyer and the person doing the meditation got to go in the lobby and come to an agreement without me he got to do what he wanted to do and it didn't matter what I wanted”
- “Being lied to by mediator ruined any chances of justice.”
- “The landlords attorney kept talking over me. Mediator said nothing to him all but once to allow me to talk. But when I did it to him I was given a warning? What is that?! How is that fair? This is why these meetings need to be done in person.”
- “The way they conduct meetings (Translated from Spanish.)”

Landlord comments:

- “i did not like the whole process”

Tenant attorney comments:

- “Mediator was more of a compromiser, split the difference type , rather than head knocking, or explaining to the parties why they are better off settling type”

Sample landlord attorney comments:

- “Tenant was on the phone and mediator had to keep going back to him.”
- “Using breakout rooms to more effective negotiate.”
- “Nothing really. Just wasn't really helpful with my case.”
- “I think its unfair to let the tenants lead the discussion. It's the landlord's claim, and the claimant should always present first.”

CONCLUSION

Attorneys and parties continue to indicate they had a positive experience in mediation. Attorneys, in particular, gave high ratings to their ability to express themselves, the fairness of the process, and their likelihood of recommending mediation. While parties' ratings averaged lower than those of attorneys, few gave low ratings. Tenants averaged lower ratings in the first quarter of 2022 than they did in 2021. This may be a function of who responded to the survey: 38% of tenant respondents in 2022 indicated they did not reach agreement compared to 67% of respondents indicating they reached agreement in 2021. This was highlighted in the tenants' comments. Those who rated their experience highly indicated they had a positive outcome. Generally, the comments of those who provided low ratings suggested they were upset about how their case turned out.