

Legislation:

Section 196 of the *Residential Tenancies Act* (the "RTA")

Where the Board learns of an applicant's failure to pay any fine, fee or costs payable to the Board on or before the date that person submits a new application, section 196 of the RTA states that staff may refuse to accept the application "in such circumstances as may be specified in the Rules". This Rule defines the circumstances where such refusal is appropriate.

*Where the Board learns of an applicant's failure to pay any fee, fine or costs **before** a hearing has been held, the RTA states that the proceeding shall be stayed until the fee, fine or costs have been paid. Where the Board learns of the applicant's failure to pay **after** a hearing has been held, the order shall not be issued until the fee, fine or costs have been paid.*

In addition to these provisions, the RTA allows a Board Member to discontinue an application "in such circumstances as may be specified in the Rules". These Rules establish those circumstances.

- 9.1 If an applicant has failed to pay to the Board any fine, fee or costs, staff shall refuse to accept any new application from that person until the fine, fee or costs have been paid unless the issues raised in the new application are of an urgent nature.**

Although the RTA enables Board staff to refuse to accept a new application from an applicant who has failed to pay a fee, fine or costs to the Board, if the new application appears urgent staff will accept it. An application might be viewed as urgent if, for example, it deals with conduct which seriously impairs the safety of the landlord or other tenants or if it has been filed in an attempt to regain entry into a rental unit where the locks have been changed illegally.

- 9.2 With respect to Rule 9.1, applications pursuant to section 69 for an order terminating a tenancy and evicting a tenant due to rent arrears and applications pursuant to section 87 for an order for payment of rent arrears are not urgent.**

9.3 Where an employee of the Board has accepted an application pursuant to Rule 9.1, a Member may determine that the issues raised in the application are not sufficiently urgent to have justified accepting it, and:

- (a) shall stay the proceeding,**
- (b) shall inform the parties by notice that the applicant must pay the full amount owing by a specified date, not later than 15 days after the notice is issued, and**
- (c) may discontinue the application if the full payment is not made by the specified date.**

Although staff may accept a new application from an applicant who owes money to the Board in accordance with Rule 9.1, a Member may find that the issues are not urgent. The Member may make this finding with or without inviting submissions from the parties. Where the Member finds that the application should not have been accepted, they will stay the proceeding and give the applicant a deadline by which to pay the outstanding monies. Where the applicant fails to pay by the deadline, the Member may discontinue the application.

9.4 Where the Board learns that the applicant has failed to pay a fine, fee or costs before a hearing is commenced, a Board Member shall inform the parties by notice that:

- (a) the proceeding is stayed,**
- (b) a hearing will not be held unless the applicant pays the fee, fine or costs by a specified date not later than 15 days after the notice is issued, and**
- (c) the application may be discontinued if the full payment is not made by the specified date.**

This Rule limits the amount of time the Board will hold on to a pending application once it is learned that the applicant owes money to the Board as a result of their failure to pay a fine, fee or costs. The impact of the applicant's failure to pay, on both the Board and the respondent, is such that reasonable measures must be taken promptly to ensure that the outstanding debt is satisfied before the application can proceed.

9.5 Where a hearing is commenced and the Board learns, before the hearing is completed or before an order is issued, that the applicant has failed to pay a fine, fee or costs, the Board Member hearing the application:

- (a) shall stay the proceeding,**
- (b) shall inform the parties by notice that the hearing will not conclude or an order will not be issued unless the applicant pays the full amount owing by a specified date, not later than 15 days after the notice is issued, and**
- (c) may discontinue the application if the full payment is not made by the specified date.**

Because an adjournment may result in a hearing being held over a number of days, it is possible that the Board will learn that an applicant owes money to the Board after the hearing has begun but before it is completed. In such cases, the Board Member will stay the proceeding and give the applicant a deadline to pay the outstanding fee, fine or costs and may discontinue the application where the full amount is not paid by the specified deadline.

9.6 Where an applicant has failed to pay an outstanding fine, fee or costs by the deadline specified by the Board Member, the Member may discontinue the application without refunding the filing fee unless discontinuing the application would be inappropriate in the particular circumstances.

The deadline specified by the Member provides the applicant with a reasonable amount of time to pay the outstanding fine, fee or costs to the Board. Although the Member may discontinue the application where full payment is not received by the deadline, the Member may decide that this would be inappropriate in light of the circumstances of the applicant(s) or respondent(s).