

**Legislation:**

Section 200 and subsection 201(1) of the *Residential Tenancies Act, 2006* ('the RTA')

*Subsection 200(1) of the RTA permits an applicant to amend an application in accordance with the Rules.*

*Subsection 201(1) also permits the Board to amend an application on its own motion and on notice to the parties where the Board considers it appropriate and as long as to do so would not be unfair to any party.*

**16.1 An applicant who wishes to amend the application before the hearing shall:**

- (a) file the written request for the amendment and an amended application;**
- (b) give a copy of the documents to all other parties;**
- (c) file a certificate of service for the request and the amended application.**

*The applicant should give written notice of the amendment to the Board and the respondent(s) as soon as possible after the need for the amendment becomes known. The applicant should give this notice by filing both:*

- *a written request describing the amendment requested, and*
- *a copy of the application marked "Amended" at the top of the first page, and clearly showing the requested amendment at the appropriate place in the application in a way that the respondent will understand it, initialling the changes. (Usually the applicant will photocopy the application, and highlight the amendment on this copy.)*

*The applicant must give a copy of the written request and the amended application to each respondent. This should be given using one of the methods of service permitted by section 191 of the RTA and Rules 5.1 to 5.6. A certificate of service must be filed to prove that the documents were given to each respondent.*

*The applicant must decide whether the amendment is so minor that it should be raised at the beginning of the hearing, or whether notice should be given earlier to the respondents. The best practice is to give notice of the requested amendment to each respondent and the Board as much before the hearing as possible. The applicant must still convince the Member that the amendment is proper.*

- 16.2 When an applicant files a request to amend an application, staff of the Board will process the amended application and, if necessary, issue a new Notice of Hearing. The decision about whether or not to grant the requested amendment will be made by a Member.**

*When an amended application is filed, staff will process it according to the usual application filing procedures. Where the amendment affects the information that appears on the Notice of Hearing, a new notice will be issued. The decision about whether or not to grant the amendment will be made by the Member at the hearing.*

- 16.3 If a new Notice of Hearing is required, the hearing date in the new notice will remain the same as the existing Notice of Hearing unless the applicant has consent of all parties to reschedule. If a new Notice of Hearing is issued, the applicant must give a copy to each respondent.**

*If there no consent to reschedule and there is insufficient time for the applicant to provide the required amount of service of the new Notice of the Hearing, the matter will proceed as originally scheduled and it will be up to the Member at the hearing or who otherwise decides the application, to deal with any issues raised as a result of the insufficient service.*

*If a new Notice of Hearing is issued, the applicant should give it to the other parties using one of the methods of service permitted by section 191 of the RTA and Rules 5.1 to 5.6. A certificate of service must be filed to prove that the notice was given to each respondent.*

- 16.4 A Member shall decide whether to permit an amendment taking into consideration the following factors:**

- (a) whether the amendment was requested as soon as the need for it was known, if that was important in the circumstances;**
- (b) any prejudice a party may experience as a result of the amendment;**
- (c) whether the amendment is significant enough to warrant any delay that may be caused by the amendment;**
- (d) whether the amendment is necessary and was requested in good faith; and**
- (e) any other relevant factors.**

*The Board has the discretion to accept an amendment of an application, or refuse to permit it. Some amendments are necessary because they correct mistakes which are so significant that, without them, the respondent would not understand what they were to answer, or the hearing would deal with the wrong issues. Other amendments are less significant (e.g., a minor up-dating of information, or addition of information that does not change the relief requested). The Member should consider the need for the amendment, balancing this against any delay in requesting it (notifying the respondents) and any prejudice the respondents will suffer if they must respond to it. The Member may consider any other relevant factor when deciding the application.*

*The decision to accept or reject a proposed amendment will be made by the Member at the start of the hearing, and rarely if ever in advance.*

**16.5 Where the parties to an application resolve the application through mediation conducted by the Board and the parties agree to the requested amendment, the application will be considered amended.**

*For example, if the applicant has named a child of the tenant as one of the tenants in the application and both the applicant and respondent agree that the child's name should be removed from the application, the Mediator will make note of this amendment in the Board's file. In this case, the parties would not be required to appear before a Member to have a decision made on the amendment to the application.*