

Legislation:

Section 200 of the *Residential Tenancies Act, 2006* ('the RTA')

Related Rules:

Rule 22 (Written Hearings)

Subsection 200(2) of the RTA allows an applicant to withdraw an application without the consent of the Board if the request is made before the hearing begins. Subsection 200(4) provides that, once the hearing starts, the applicant may only withdraw the application with the consent of a Member. However, under subsection 200(3), a tenant who applies under paragraph 4 of subsection 29(1) of the RTA may not withdraw an application at any stage without the consent of the Board.

When a Hearing Begins

- 17.1 For the purposes of subsection 200(2) of the RTA, an oral or electronic hearing has begun when the parties first appear before a Member, even if the appearance is only to deal with a preliminary matter.**

It is important to be certain when a hearing has begun in order to ascertain whether or not a Member's consent is required before an application can be withdrawn. Note that this definition of when a hearing has begun only applies for the purposes of determining whether or not consent is required, and does not necessarily mean that the Member who heard the preliminary matter is seized with the application.

- 17.2 For the purposes of subsection 200(2) of the RTA, a written hearing has begun when the respondents' deadline to file responses has passed.**

When an application is being resolved by written hearing, deadlines are established for respondents to file responses to the application, and for the applicant to reply to those responses (see Rule 22.4).

Applicant's Responsibility to Notify Respondents

17.3 An applicant who withdraws an application shall promptly notify the Board and each other party.

It is the responsibility of the applicant to notify each respondent that the hearing has been cancelled because of the withdrawal, even if the Notice of Hearing has not been served.

The best practice is for the applicant to notify the Board and the other party or parties in writing of the withdrawal of the application. However, the Board will accept verbal notice of a withdrawal.