



Amendments, Reviews and Appeals

Information in this brochure

This brochure explains the options available to a person who is affected by an order of the Board and believes that there is something incorrect in the order.

There are three ways to request that an order of the Board be reconsidered or changed. A person can:

- request to **Amend** an order,
- request to **Review** an order, and
- **Appeal** an order to the Divisional Court of the Superior Court of Justice

What the person believes is incorrect in the order may determine which option they choose.

Who can file a Request to Amend or a Request to Review an Order?

In general, only a party to an application can request that an order be amended or reviewed. A party is a person who is named in the order as an applicant or a respondent. A person who represented a party in an application can also make the request on that person's behalf.

Exception:

If a person is not a party to an application but is directly affected by the order, the Board allows that person to file a request as a "potential party". A member of the Board will decide whether or not that person is a party.

Amending an Order

When to make a Request to Amend an Order

If a party believes that there is a mistake in the order, such as a misspelled name, an incorrect calculation or another similar mistake, they can make a Request to Amend an Order. This type of mistake is called a “clerical error”. The member of the Board who wrote the order could have made the clerical error, or it could have been made by the applicant in the application.

For example, an applicant might request that the member correct the spelling of a name or an address if it was not spelled correctly in the application.

Once a party makes a Request to Amend an Order, it is given to the member who made the decision. The member may do any of the following:

- grant the request to amend the order and make the correction
- deny the request to amend the order
- ask for written submissions from the parties to help with the member’s decision
- hold a hearing to decide if the request to amend the order should be granted or denied

When a member makes a correction to an order, they will issue an “Amended Order”, which is mailed to the parties and to their authorized representatives. The Amended Order replaces the original order.

Deadline to make a Request to Amend an Order

The deadline to make a Request to Amend an Order is 30 days after the date the order was issued. If a person makes a request after the 30 day deadline, the person must also file a Request to Extend or Shorten Time. Please see the section in this brochure entitled **Requesting an extension of time** for more information.

The Request to Amend an Order and the Request to Extend or Shorten Time forms are available from the Board. There is no fee to make these requests.

Reviewing an Order

When to make a Request to Review an Order

This request can be made by a party who believes that there is a serious error in an order, or that a serious error occurred in the Board's proceedings. However, the Request to Review an order is not an opportunity for a party to have their matter heard a second time if they are not satisfied with the Board's decision.

The following are some examples of what could be considered serious errors:

- an error in jurisdiction (the Board did not have the authority to decide the issue, or the Board applied the *Residential Tenancies Act, 2006* in a situation where it did not apply)
- an error in procedure that might have caused prejudice to a party
- an error of fact that affected the member's decision (the member's decision was affected by information that was misleading or incorrect)
- an error in remedy (the member allowed a remedy that is not appropriate in the circumstances)
- an error in law (a party questions the member's interpretation of the law)
- a party was not reasonably able to participate in the process. For example, if a party claims they did not attend the initial hearing because they did not receive the Notice of Hearing, this may be considered a serious error in process.

A person can only make **one** request to review the same order. This means that if the Board denies the Request to Review an Order, the person who requested it cannot make another request to have the same order reviewed.

Note: There is a fee to file a Request to Review an Order.

Deadline to make a Request to Review an Order

The deadline to make a Request to Review an Order is 30 days after the date the order was issued. If the request is made after the 30 day deadline, the person making the request must also make a Request to Extend or Shorten Time. Please see the section in this brochure entitled **Requesting an extension of time** for more information.

The Request to Review an Order and Request to Extend or Shorten Time forms are available from the Board.

What happens when a Request to Review an Order is filed?

A member must look at the Request to Review an Order to decide how to proceed. The member who wrote the order cannot make this decision, so the request is always assigned to another member. The member then makes a preliminary review of the request.

The member will consider the reason(s) for the request and decide if a serious error **may** have occurred. If the member does not believe that a serious error may have occurred, the member will deny the request. The member will explain in writing why they denied the request.

If the member does believe that a serious error **may** have occurred, the Board will hold a review hearing. The hearing allows a member to fully consider the request to review by allowing the parties to present their position and their evidence.

After hearing the evidence, the member will issue an order.

- If the member finds that there is no serious error in the order, the member will deny the request to review. In this case the original order does not change.
- If the member finds that there is a serious error in the order, the member will decide which issues should be reviewed, hear those issues, and then either confirm, vary, suspend or cancel the order. The member will write a new order to explain the decision, and this new order will replace the original one.

Note: Sometimes the Board may decide on its own to hold a review hearing even if no Request to Review an Order has been made. This is called a Board Initiated Review.

When is an order stayed?

When a party makes a Request to Amend an Order or a Request to Review an Order, they can also ask for a stay of the order. When an order is stayed, it cannot be enforced.

The member must consider the effect that staying the order will have on the parties, and make a decision to either grant or deny the stay.

For example, if a tenant requests a review of an order for eviction and also requests a stay of the order, the member might decide, in that situation, that it would cause greater prejudice to the tenant than it would to the landlord if the order was not stayed, because the tenant could be evicted before the Board holds a hearing.

When is an order stayed?
(continued)

A stay is generally issued in the form of an “Interim Order”. This type of order may have conditions for one or both parties to fulfill, or it may simply indicate that an order has been stayed.

Once a hearing has been held, the member hearing the request will either remove the stay so that the order can still be enforced, or write a new order that cancels and replaces the previous one.

An appeal to the Divisional Court automatically stays the Board’s order until the court makes a decision on the appeal. In some cases, the Court may order the stay lifted before making a final decision.

Requesting an extension of time

When a person wants to make a Request to Amend an Order or a Request to Review an Order, and the 30 day deadline to do so has passed, they must also make a **Request to Extend or Shorten Time**. This form is available from the Board.

If a person is requesting an extension of time they must explain the reason(s) that they were not able to meet the 30 day deadline. A member of the Board will consider the reason(s) and make a decision to either grant or deny the request.

If the member denies the extension of time, the Board will return the Request to Amend an Order, or the Request to Review an Order, to the person who made the request.

If the member grants a request for an extension of time, this does not mean that the Request to Review an Order or the Request to Amend an Order will also be granted. The member will consider both requests individually.

Appealing an Order

What is an appeal to the Divisional Court?

If a party believes that an order of the Board contains an error in law, that party can appeal the Board’s order to the Divisional Court of the Superior Court of Justice. The Court will hear the appeal and make a decision about the legal correctness of the Board’s order.

The deadline to appeal a Board order to the Divisional Court is 30 days after the date the order was issued. If the 30 day deadline has passed, a person filing an appeal can bring a motion requesting an extension of time before a judge of the Divisional Court.

What is an appeal to the Divisional Court?
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A person appealing an order must send a copy of their appeal documents to the Board. This copy is placed on file as a record that the order is under appeal.

The Landlord and Tenant Board **does not** provide information regarding the Divisional Court appeal process. If you are planning to file an appeal, please contact the Divisional Court of the Superior Court of Justice, or seek legal advice.

For More Information

Contact the Landlord and Tenant Board

This brochure provides general information only. For more information about the law, or to obtain copies of the Board's forms and publications, you can:

- visit the Board's website at www.LTB.gov.on.ca,
- call the Board at **416-645-8080** or toll-free at **1-888-332-3234**, or
- visit your local Landlord and Tenant Board office. For a list of Board office locations and ServiceOntario locations that provide access to the Board's services, visit the Board's website, or call the numbers listed above.