

25. Requests for Clarification or Correction of Orders and Decisions

Dec-17

This policy guideline is intended to aid Residential Tenancy Branch staff and the public in understanding the provisions for clarification or correction of a decision or order. It may also help parties know what information or evidence is likely to assist them in supporting their position. This policy guideline may be revised and new guidelines issued from time to time.

A. LEGISLATIVE FRAMEWORK

The *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act* (the Legislation)¹ give the Director of the Residential Tenancy Branch (RTB) the power to clarify a decision or order, correct a typographical, arithmetical or other similar error, or deal with an obvious error or inadvertent omission in the decision, order or reasons.

The Legislation allows a correction or clarification to be made without a hearing. In very exceptional circumstances, the RTB may hold a new hearing. For example, a new hearing may be necessary to observe natural justice requirements or when relief might only be available under the *Judicial Review Procedure Act*.

B. CLARIFICATION

The Legislation² allows the RTB to clarify a Director's order or decision if a party is unclear about or does not understand the decision, order or reasons. Clarification allows the RTB to explain, but not to change, the decision. Clarification involves making the order or decision more clear or plain to the understanding, and the removal of any complexity, ambiguity, or obscurity (Oxford English Dictionary, ed. Vol. 1, 1993).

C. CORRECTION

The Legislation³ also allows the RTB to correct a typographical, arithmetical or other similar error. This provision allows the RTB to change the decision or order, to correct typographical, mathematical or other minor errors.

Finally, the Legislation⁴ allows the RTB to correct an obvious error or inadvertent omission.

An obvious error is a mistake which is immediately and clearly apparent upon reading the evidence or reviewing the hearing notes.

An obvious error does not include a different interpretation or assessment of facts or law applicable to the hearing or a change of mind about the outcome of the hearing or the Director's decision.

1 *Residential Tenancy Act*, s. 78 and 87.7; *Manufactured Home Park Tenancy Act*, s. 71 and 80.7.

2 RTA, s. 78(1)(b) and 87.7(b); MHPTA, s. 71(1)(b) and 80.7(b).

3 RTA, s. 78(1)(a) and 87.7(a); MHPTA, s. 71(1)(a) and 80.7(a).

4 RTA, s. 78(1)(c) and 87.7(c); MHPTA, s. 71(1)(c) and 80.7(c).

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An example of an obvious error would be if the evidence was that the couch was white and the Director misread the evidence of colour and found it was red. The RTB could correct this error and any findings based on the error. An obvious error also includes a circumstance where the Director made a clear and unequivocal mistake by citing the *Residential Tenancy Act* when the application was made under the *Manufactured Home Park Tenancy Act*.

An inadvertent omission is a matter which the Director would have addressed in the decision but failed to address because of an oversight. If the Director has failed to dispose of a matter that was part of the application, and the matter is one that the RTB is permitted to deal with under the Act, the RTB may amend the order or decision to properly deal with the omission.

The Director will not exercise a power to clarify or correct a decision or order unless the Director considers it just and reasonable to do so in all the circumstances.

D. PROCESS AND TIME LIMIT TO APPLY

The RTB may clarify or correct an order or decision on the RTB's own initiative, or at the request of a party.

A request for clarification or correction of an error or omission must be made by a party within 15 days after the decision or order is given. The 15 day time limit does not apply to a request to correct a typographical or arithmetical error, or to a clarification or correction of an obvious error issued on the Director's own initiative.

In determining whether to correct an order or decision on the Director's initiative, the Director will consider the amount of time that has passed since the original decision was given, and the effect on the other party and any third parties who may have already acted upon the Director's decision.

A request for a clarification or correction may be made without notice to any other party. The RTB may require that the other party be given advance notice of a request, or, in very exceptional circumstances, the holding of a hearing.

E. POSSIBLE OUTCOMES

When considering a request for a correction or clarification, the Director may decide to make or not to make the clarification or correction. Regardless of what has been decided, the Director will inform the applicant in writing. When a change has been made, the corrected or clarified decision or order will be provided to the applicant, and when appropriate to the other party.

The Director will make a decision on the request without delay, and generally within 30 days after the written request is submitted to the RTB.

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F. CHANGES TO POLICY GUIDELINE

SECTION	CHANGE	NOTES	EFFECTIVE DATE
All	am	Added section numbers.	30-Nov-2017
A, B, C	am	Amended footnotes to include authority to correct or clarify decision on administrative penalties.	30-Nov-2017

Change notations

am = text amended or changed

del = text deleted

new = new section added