



方卓怡 市議員 **Paula FLETCHER**

Councillor Toronto-Danforth Ward 14

April 20, 2021

Councillor Ana Bailão
Chair, Planning and Housing Committee
City of Toronto

Dear Chair and Members,

Re: Online Landlord and Tenant Board (LTB) Hearings

Many Torontonians are in a precarious financial position as a result of the economic outfall of the current pandemic. An estimated 35,000-45,000 Torontonians are in arrears on their rent. As well, dishonest N12 and N13 evictions continue to put many Torontonians' homes at risk.

In August 2020, as a response to the current pandemic, the Landlord and Tenant Board (LTB) began to hold virtual hearings; a practice Tribunals Ontario has recently announced will continue after the pandemic.

In October 2020 over 45 legal clinics in Ontario outlined their concerns with virtual meetings and presented them to the province. Their report, *Ontario Legal Clinics' Concerns: Landlord and Tenant Board's Operations during the COVID-19 Pandemic*, outlines several issues that would stand true even in a post-pandemic environment with expanded virtual hearings. Specific concerns include:

- unequal access to technology, printers, phone minutes or private space affecting ability of some individuals to participate meaningfully in virtual meetings
- tenants with a low-income or disability facing challenges to participate in electronic hearings
- audio or video challenges resulting in some people experiencing problems during a hearing potentially losing their housing
- challenges receiving/providing some types of evidence electronically

Since COVID-19 and the LTB's move to virtual meetings, the imbalance between tenants and landlords has become more pronounced primarily for tenants with low-incomes or with a disability. Some tenants have limited access to technology or financial means to participate in this type of proceeding.

Even before the COVID-19 pandemic, Toronto City Council is on record calling for the province to address the power imbalance between landlords and tenants at the LTB. The City's July 2020 submission on Bill 184 - Protecting Tenants and Strengthening Community Housing Act, 2020, outlines some of the barriers some tenants face at the LTB. Some tenants do not have access to legal support and face challenges navigating the LTB process. The City in its submission also called for increased investments in legal aid to address these barriers. Furthermore, in July 2020, (item PH 15.10) Council also voted:

..direct the City Solicitor to commence a challenge to those amendments of The Protecting Tenants and Strengthening Community Housing Act, 2020, outlined in the supplementary report (July 26, 2020) from the City Solicitor on the basis that they are contrary to rules of procedural fairness and natural justice

All of this means Tribunals Ontario plans to hold the Landlord & Tenant Board (LTB) hearings online post pandemic, as part of the Ontario government's new *Justice Accelerated* strategy, will be very problematic for many tenants.

Though there may be many benefits to adopting digital strategies and exploring new ways to access and improve justice, COVID-19 has reinforced that not everyone has the same access to technology, resources or information. Any new approach should be carefully considered to ensure that there are no unintended consequences such as exacerbating the power imbalance between tenants and landlords.

Though for some tenants in certain situations, online hearings would be preferable, the default should be in-person meetings and those tenants with the resources and preference should be given the option to have their hearing online. Once it is safe to do so, the LTB should revert to its previous procedures and the new online hearing model should not be the default but rather an option available to those tenants and landlords who actively choose it.

While it is still not safe to do hold in-person hearings due to the spread of Covid-19, the Landlord Tenant Board should stop the processing of applications, notices, hearings and enforcement of evictions to prevent further homelessness, a measure requested by Toronto City Council in February 2021.

I would ask the Committee to approve the following:

The Planning and Housing Committee recommends:

1. City Council request the Province through the Ministry of the Attorney General to take the following actions to mitigate any negative impacts on tenants during the implementation of the Justice Accelerated strategy as it relates to the Landlord and Tenant Board:

- a. limit the mandatory requirement for digital or virtual hearings to the pandemic response;
- b. make in person hearings the default format after the pandemic while providing the choice of digital or virtual hearings if both parties agree and clearly understand the process;
- c. develop clear guidelines that are easily accessible that outline how to request a change in format for a hearing or identify challenges during a virtual hearing;
- d. consult with legal clinics, tenant advocate groups, people with lived experience and landlords in advance of making digital hearings an option to ensure challenges that surfaced using this method during the pandemic are addressed; and
- e. restore and enhance funding for legal aid clinics so that tenants have the support required to participate meaningfully and with support if needed in LTB proceedings.

Thank you for your consideration.

Sincerely,

Paula Fletcher, City Councillor
Ward 14, Toronto-Danforth