2020 Planned Temporary Suspension of Online Application Services: extending time limits
February 7-18, 2020

Purpose
This practice directive deals with circumstances where the temporary suspension of the Residential Tenancy Branch’s online application services prevents a landlord or tenant from electronically making an application for dispute resolution or submitting evidence within the required time for doing so.

Preamble
The Residential Tenancy Branch’s online application services will be unavailable from February 7 until 12 pm on February 18, 2020 in order to transition to a new dispute resolution management system. During this time, it will not be possible to commence a dispute or upload evidence to the online system. Parties are expected to make reasonable efforts to ensure their applications are filed within the time limits set out in the Residential Tenancy Act or Manufactured Home Park Tenancy Act. Applications for dispute resolution can be made by filing a paper application for dispute resolution in person at any Service BC location or at the Residential Tenancy Branch’s Burnaby office at 4th floor – 5021 Kingsway. Forms are accessible on the RTB’s website. If a party is unable to attend in person at a Service BC office or the RTB’s office, they can authorize a person to file documents on their behalf. Contact the RTB to determine what other options may be available. Click here for contact information.

Parties remain responsible for ensuring their evidence is served on all other parties to a dispute resolution within the time limits set out in the Rules of Procedure. In circumstances where the time frame for RTB to receive evidence falls within the window when the online system is unavailable, parties are expected to submit paper copies of their evidence in person at the RTB’s Burnaby office or at a Service BC office.

There may be circumstances that prevent people from filing applications and other documents within the time frames set out in the Acts or Rules. If an issue arises as a result of a missed time limit or deadline due to the unavailability of the online application services, the director will consider those circumstances when determining whether to grant an order extending the time limit. Parties should be aware there are some time limits that the Director cannot extend. Please refer to the Policy Guideline excerpt set
out below. In the case of evidence received by RTB outside of the time frames set out in the Rules, the director will consider the circumstances, any potential prejudice to the other party and the principles of natural justice when deciding whether to exercise their discretion to accept the late-filed evidence.

**Relevant Legislation**
Section 66(1) and (3) of the *Residential Tenancy Act* (RTA) and section 59(1) and (3) of the *Manufactured Home Park Tenancy Act* (MHPTA) establish the authority for director’s orders on changing time limits relevant to this practice directive. Sections 58(2)(b) and 60 of the RTA and sections 51(2)(b) and 53 of the MHPTA also establish a general time limit that the Director has no discretion to extend.

<table>
<thead>
<tr>
<th>RTA</th>
<th>Determining disputes</th>
</tr>
</thead>
<tbody>
<tr>
<td>58</td>
<td>(2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless</td>
</tr>
<tr>
<td> </td>
<td>(b) the application was not made within the applicable period specified under this Act</td>
</tr>
</tbody>
</table>

**Latest time application for dispute resolution can be made**

| 60  | (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned. |
| &nbsp; | (2) Despite the *Limitation Act*, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3). |
| &nbsp; | (3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded. |

**Director's orders: changing time limits**

| 66  | (1) The director may extend a time limit established by this Act only |
in exceptional circumstances, other than as provided by section 59 (3) [starting proceedings] or 81 (4) [decision on application for review].

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.
MHPTA

Determining disputes

51 (2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless

(b) the application was not made within the applicable period specified under this Act

Latest time application for dispute resolution can be made

53 (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

(2) Despite the Limitation Act, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).

(3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.

Director’s orders: changing time limits

59 (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 52 (3) [starting proceedings] or 74 (4) [decision on application for review].

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Relevant Residential Tenancy Branch Policy Guideline

Policy Guideline 36: Extending a Time Period sets out the considerations for extending a time limit established by the RTA or MHPTA in exceptional circumstances. It states, in part:
The Residential Tenancy Act and the Manufactured Home Park Tenancy Act provide that an arbitrator may extend or modify a time limit established by these Acts only in exceptional circumstances. An arbitrator may not extend the time limit to apply for arbitration beyond the effective date of a Notice to End a Tenancy and may not extend the time within rent must be paid without the consent of the landlord.

Exceptional Circumstances
The word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit. The word "exceptional" implies that the reason for failing to do something at the time required is very strong and compelling. Furthermore, as one Court noted, a "reason" without any force of persuasion is merely an excuse. Thus, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.
Background and Existing Practice
The Residential Tenancy Branch has provided policy direction in Policy Guideline 36. Arbitrators consider each application for an extension of time on its merits.

Practice Directive
An arbitrator may not extend the time limit to apply for dispute resolution to dispute a Notice to End Tenancy beyond the effective date of the notice. An arbitrator also may not extend the general time limit for making an application for dispute resolution of two years from the date the tenancy ends or is assigned.

In cases where an arbitrator does have the authority to extend the time limit for making an application and when considering a request from a landlord or tenant to do so because they were unable to make an Application for Dispute Resolution as required by the RTA or MHPTA during the time online services were unavailable, arbitrators are directed to consider the temporary suspension of the Residential Tenancy Branch’s online application services as an exceptional circumstance for the purposes of section 66 of the RTA (section 59 MHPTA).

While Policy Guideline 36: Extending a Time Period ordinarily requires “persuasive evidence to support the truthfulness of what is said”, in the current circumstances, landlords and tenants will only need to provide a reasonable explanation of why they, or someone on their behalf, were unable to file the application within the required time frames by attending at a Service BC location or the Residential Tenancy Branch’s Burnaby office. If an adequate explanation is provided, arbitrators should exercise discretion to ensure landlords and tenants affected by the temporary suspension of online services are not prejudiced.

In cases where evidence has not been received by the RTB within the time limits set out in the Rules due to the temporary suspension of online services, arbitrators will determine whether to exercise their discretion to accept the late-filed evidence as set out in Rule 3.17. Arbitrators will give consideration to the circumstances, including any explanation provided as to why the party or someone on their behalf could not submit the evidence in person at a Service BC location or the RTB’s office, any potential prejudice to a party, including whether the other parties received the evidence within the established time limits, and the principles of natural justice.

Where the Arbitrator decides to use an approach not outlined in this Practice Directive, the Arbitrator must explain in the decision the reasons for doing so.