



RESIDENTIAL TENANCY BRANCH PRACTICE DIRECTIVE 2018-01

**2018 Wildfire State of Emergency and
Director's orders: changing time limits
August 16, 2018**

Purpose

This Practice Directive deals with circumstances where interface fires threatening lives and property in British Columbia, as described in [Ministerial Order No. M326](#), (“2018 Wildfires”) prevent a landlord or tenant from complying with a time limit established under the *Residential Tenancy Act* (RTA) or the *Manufactured Home Park Tenancy Act* (MHPTA due to the closure of Service BC offices, evacuation orders, suspension of Canada Post mail delivery services or other similar circumstances.

Relevant Legislation

Section 66 of the RTA and section 59 of the MHPTA establish the provisions for director’s orders on changing time limits.

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| RTA | <p>Director's orders: changing time limits</p> <p>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) [<i>starting proceedings</i>] or 81 (4) [<i>decision on application for review</i>].</p> <p>(2) Despite subsection (1), the director may extend the time limit established by section 46 (4) (a) [<i>landlord's notice: non-payment of rent</i>] for a tenant to pay overdue rent only in one of the following circumstances:</p> <ul style="list-style-type: none">(a) the extension is agreed to by the landlord;(b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director. <p>(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.</p> |
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| MHPTA | <p>Director's orders: changing time limits</p> <p>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) [<i>starting proceedings</i>] or 74 (4) [<i>decision on application for review</i>].</p> <p>(2) Despite subsection (1), the director may extend the time limit established by section 39 (4) (a) [<i>landlord's notice: non-payment of rent</i>] for a tenant to pay overdue rent only in one of the following circumstances:</p> <ul style="list-style-type: none"> (a) the extension is agreed to by the landlord; (b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director. <p>(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.</p> |
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Relevant Residential Tenancy Branch Policy Guideline

[Policy Guideline 36: Extending a Time Period](#) sets out the considerations for extending a time period in exceptional circumstances.

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 not provided any previous policy direction beyond Policy Guideline 36. Arbitrators consider each application for an extension of time on its merits.

Practice Directive

While 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 and may not extend the time limit for a tenant to pay overdue rent without the agreement of the landlord or unless the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director, **arbitrators are directed to consider the 2018 Wildfires in exercising discretion when considering requests for director's orders to change time limits from landlord or tenants who:**

- (a) reside or do business as a landlord in the catchment area of a Service BC Office closed due to the 2018 Wildfires; or**
- (b) reside or do business as a landlord in an area that was subject to an evacuation order due to the 2018 Wildfires; or**
- (c) reside or do business as a landlord in a community where Canada Post suspended mail delivery service due to the 2018 Wildfires; or**
- (d) were otherwise unable to make an Application for Dispute Resolution or submit and exchange evidence as required by the RTA or MHPTA and the Dispute Resolution Rules of Procedure due to the 2018 Wildfires.**

While Policy Guideline 36: Extending a Time Period requires “persuasive evidence to support the truthfulness of what is said,” arbitrators should exercise discretion to ensure landlords and tenants affected by the 2018 Wildfires are not prejudiced.

For example:

1. landlords or tenants who meet the criteria in (a) above must only demonstrate that at the relevant time they resided in, or did business as a landlord in, the catchment area of a Service BC Office closed due to the 2018 Wildfires and that the closure prevented them from complying with the time limit;
2. landlords or tenants who meet the criteria in (b) above must only demonstrate that at the relevant time they resided in, or did business as a landlord in, an area that was subject to an evacuation order due to the 2018 Wildfires and that the evacuation order prevented them from complying with the time limit;
3. landlords or tenants who meet the criteria in (c) above must only demonstrate that at the relevant time they resided in, or did business as a landlord in, an area in which Canada Post suspended mail delivery service due to the 2018 Wildfires and that the service suspension prevented them from complying with the time limit;
4. landlords or tenants who meet the criteria in (d) above must provide evidence to the Residential Tenancy Branch and the other party to show how the 2018 Wildfires prevented them from complying with the time limit for making an Application for Dispute Resolution or submitting and exchanging evidence established by the RTA or MHPTA and the Residential Tenancy Branch Rules of Procedure.

Exceptional Circumstances

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