

Legislation:

Section 190 of the *Residential Tenancies Act, 2006* ('the RTA')

Related Rules:

Rule 13.15 (Mediation by the Board: Re-opening Applications)

Rule 30.1 (Order Void or Stayed)

Rule 29.3 - 29.4 (Review of Orders: Time for Making a Request)

Regulation:

Section 56 of Ontario Regulation 516/06

The RTA and the Board's Rules of Practice establish a number of deadlines for filing applications and other documents with the Board, and for serving documents to other parties. Subsection 190(1) of the RTA specifically authorizes the Board to extend or shorten the time for making an application under: section 126 (to increase the rent above guideline), subsection 159(2) (for a determination that the landlord's grounds for refusing consent to an assignment of a mobile home site are reasonable), and/or section 226 (to review a provincial work order). Subsection 190(2) permits the Board to extend or shorten time for other matters in proceedings in accordance with these Rules.

15.1 Subject to section 56 of O. Reg. 516/06, a party may make a request to extend or shorten time.

For example, a party may file a motion to set aside an ex parte order after the deadline if they submit a request for an extension of time when filing the motion. Under subsection 77(7) of the RTA, an ex parte order is stayed if a motion to set aside the order is received by the Board. When a motion is filed late, it will not stay the order unless a Member decides to extend the time for filing the motion. It is important to determine as quickly as possible whether the extension of time is granted.

A party may also request an extension of time where a Member has allowed a party to file a document by a certain date, and the party realizes that they may have difficulty meeting the deadline. In this case, the party should make the request for extension of time as soon as they become aware of the need for it.

A party may make a request to shorten the time requirement to serve a Notice of Hearing or for other procedural matters. However, the Board has no authority to extend or shorten those time requirements which are specified under the regulations (see section 56), such as notice requirements for terminating tenancies or the 12 month deeming rule for rent to be lawful under subsection 119(1) of the RTA.

A request pursuant to this Rule may include a request to extend the time to either request reasons or request a review of an order (see Rule 15.6 commentary).

15.2 A request to extend or shorten time must be in writing and must set out the reasons why additional time is requested.

Where a document is filed after the deadline, it is up to the party making the request to set out in writing the reasons why additional time is necessary. Documents, except for applications made under section 126, subsection 159(2) or section 226, will not be accepted without a written request for an extension of time.

15.3 Where the request to extend or shorten time is related to a document in a party's possession, the document must be filed along with the request.

For example, if a party is filing a request to review an order more than 30 days after the order was issued, the party must file the request to extend time along with the review request. This will avoid delays in processing the document if the request to extend or shorten time is granted.

15.4 Where the Board has denied a party's request to extend or shorten time, no subsequent request from the same party to extend or shorten the same time requirement will be considered.

Where a party has sought an extension of time (or an abridgement of time, as the case may be) to do a particular thing, such as file a set aside motion, a Member will decide whether or not to grant the request. If the request is denied, the same party may not file another request seeking the same remedy, even if different reasons are set out in the subsequent request.

15.5 A Member may extend or shorten the time for filing a document without obtaining or considering submissions from the other parties to the application.

It may be prejudicial to a party to delay the decision on the request to extend or shorten time by seeking submissions from the other parties to the application. In many cases, it will be necessary to decide the issue based only on the reasons given in the request. However, a Member may seek submissions from the other parties before deciding the issue.

15.6 A Member shall consider the following factors in deciding whether to extend or shorten any time requirement under the RTA or these Rules:

- (a) the length of the delay, and the reason for it;
- (b) any prejudice a party may experience;
- (c) whether any potential prejudice may be remedied;
- (d) whether the request is made in good faith; and
- (e) any other relevant factors.

The Board has the discretion to extend or shorten a time period set out in the RTA or the Rules, or refuse such a request. In most cases, the request will be to extend time, and the length of the delay requested is very relevant. So too are the reasons that the party explains as the need for the extension.

If the extension causes little or no prejudice to other parties, a close examination of the reason for and length of the extension will be less important.

Although subsection 190(2) of the RTA authorizes the Board to extend or shorten time requirements in accordance with these Rules, the regulations limit which time requirements under the RTA may be extended.

For example, a party may request an extension of time to file a request for review because they have requested reasons within a reasonable time, and those reasons were not issued in time to review those reasons and file the request for a review of the order within the 30 days prescribed by this rule.

15.7 A document for which a request to extend or shorten time is required is deemed not to be received until the request has been made and granted.

If the request to extend or shorten time is denied, the document will be returned to the party who submitted it, as the document will not be considered to have been accepted by the Board.

15.8 If the request to extend or shorten time is granted, the document will be deemed to have been received on the date on which the party filed it.

15.9 Rules 15.7 and 15.8 do not apply to applications made under sections 126, subsection 159(2) and section 226 of the RTA.

A request to extend or shorten time made on an application filed under section 126(for an above guideline increase), subsection 159(2) (for a determination that the landlord's grounds for refusing consent to an assignment of a mobile home site are reasonable) or section 226 (to review a work order) is typically handled as a preliminary matter at the hearing. In order to schedule a hearing, the application must be accepted.