

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA**

BETWEEN:

Nancy Appleby Cowper

**Applicant**

- and -

Courtney Crew, Corey McDonald, Matthew LeBlanc

**Respondents**

**ORDER**

This matter is an application for an extension of time for filing a residential tenancy appeal in the Small Claims Court of Nova Scotia. This application came before the court on August 30, 2012 and was filed at the court on August 22, 2012.

The order of the Director of Residential Tenancy is dated July 18, 2011 and is file number 201101862. The reasons articulated for the delay in filing the appeal are the following:

- "The delay was due to the fact I received the notice the day the appeal was due."
- "The facts of the case were wrong"
- "no money has been paid per the order"
- "I filed by fax on time to meet the deadline"
- "more damages has appeared after the hearing"
- "I reside in Alberta and need to personally deliver this affidavit"

In the court documentation, there is a facsimile from the applicant dated July 28, 2010 received by the Halifax provincial court in which the applicant says "I wish to appeal this decision."

The Residential Tenancy Act that provides for appeals states inter alia the following:

"Appeal to Small Claims Court

17C (1) Except as otherwise provided in this Act, any party to an order of the Director may appeal to the Small Claims Court.

(2) An appeal may be commenced by filing with the Small Claims Court, within ten days of the making of the order, a notice of appeal in the form prescribed by regulations made pursuant to

the Small Claims Court Act accompanied by the fee prescribed by regulations made pursuant to the Small Claims Court Act.

(3) The appellant shall serve each party to the order and the Director with the notice of appeal and the notice of hearing.

(3A) Service of all documents may be by personal service or such other manner of service or substituted service permitted pursuant to the Small Claims Court Act..."

This formality has been well thought out by the legislation. It allows an appeal but requires proper notice to be given to the parties so they may have the opportunity to be heard. In this case that was not done. The only notice that was received was provided to the Halifax provincial court by way of facsimile. More than a year later the applicant is able to serve this notice of application for an extension of time to appeal on one of the respondents and no one knows where the other two respondents are located. It would be a complete injustice to allow this extension at this time. The reasons for the delay have little if any foundational substance or little merit. The applicant had the opportunity to take proceedings in law to enforce or attempt to enforce the order of the director. This apparently was not done. To allow an extension of this appeal would promote lax practice and this court is not prepared to do so.

Motion denied.

Dated at Halifax September 26, 2012

---

David T.R. Parker  
Small Claims Court Adjudicator