

Information Sheet for New Home Builders

Strikes – Extending Repair Periods

Potential Impact of Strikes on Warranty Claim Repair Periods

In May 2019, it is possible strikes of certain trades in the residential home construction industry may occur. Builders may be concerned about the impact of the strikes, including the delay in the trades returning to work which may affect their ability to complete remedial work relating to warranty claims within their builder repair periods.

Builder repair periods may be impacted for 30-day, year-end, second year and major structural defect claims. This includes the 120-day initial builder repair period which begins once a claim is made, as well as the 30-day post-conciliation repair period for items assessed as warranted at a conciliation.

Procedure for Requesting an Extension

Builder repair periods are set out in applicable regulations and Builder Bulletin 42 – Customer Service Standard (for common elements, in Builder Bulletin 49 – Condominium Common Elements), but extensions can be permitted in limited circumstances. One such circumstance where Tarion can exercise a discretion to extend repair periods is based upon demonstrable “*extraordinary circumstances*.” This can include trade strikes where it can be shown that strikes will adversely affect the timing of repairs of warranted items. (See Appendix A of Builder Bulletin 42 and Appendix A of Builder Bulletin 49). This Information Sheet is a Warranty Alert for the purposes of Builder Bulletins 42 and 49.p

Extensions to builder repair periods will be granted by Tarion on a case-by-case basis, where Tarion determines that an extension is justified.

1) *Work first with the homeowner (or condominium corporation)*

Tarion encourages builders to work with their homeowners (or condominium corporations for common elements) in hopes of repairing items without needing an extension so as to have as few disruptions as possible. In situations where extensions are needed, it is Tarion’s intent to ensure that builders do not lose any time from their builder repair periods for strike-related issues.

2) *Contact Tarion if an extension is needed*

If you believe your ability to complete repairs within a builder repair period will be delayed as a result of the strikes (and/or their aftermath) and you require an extension to a builder repair period, you must contact Tarion as soon as possible. Contact information is provided below.

You will be required to provide the following information to both Tarion and affected home buyers¹:

¹ Or condominium corporations where the repairs relate to common elements.

- a) Identify each home and/or common element which will be/are being impacted by the strikes and the specific claim items affected.
- b) Describe how the strikes will impact/are impacting your ability to complete the specific claim item(s) for the particular home(s)/common element(s). Note that you may be required to give a more detailed explanation where the strikes are indirectly, rather than directly, impacting your ability to complete the initial work/repairs.
- c) Specify the length of extension you are seeking and why – tie it back to the impact referred to above.
- d) Provide up-to-date contact information for each affected homeowner.

Tarion will review the information you provide and confirm whether an extension will be granted for the particular claim item(s) and, if so, the length of the extension.

In the past, in cases where a builder has demonstrated that the claim item(s) are affected by strikes, extensions of repair periods have generally been granted. The length of the extension has varied depending in part on how much time still remains within the builder repair period.

Builders who do not receive an extension (or require a further extension), are encouraged to submit further information as the situation evolves and Tarion will conduct a reassessment at that time.

In determining whether to grant such extensions, important considerations include:

- Evidence that the strike(s) shortened the repair period that would otherwise have been available for the particular claim item; and
- Appropriateness of the period of extension requested, e.g., how much of the strike period fell within the repair period plus such reasonable additional period to account for getting trades back to work and to address backlogs.

3) *Notice to homeowners (or condominium corporations)*

If Tarion grants the extension, Tarion will arrange through the builder (or will itself) provide written notice to the affected homeowner(s) (or condominium corporation) as soon as possible. Tarion will use all reasonable efforts to give purchasers notice of the approved extension. It is critical that builders provide Tarion with up-to-date contact information and the explanation for extension so the notice can be properly sent to purchasers. The notice must include an explanation of why the extension is required for the home(s) or common element(s) and the number of days that the builder repair period has been extended and thus the builder must provide that explanation to Tarion.

The message about extensions should also come directly from you as the builder. As such, builders are also requested to give notice of the extension and explanation directly to affected homeowners.

If notice is not provided to your homeowner(s) (or condominium corporation), or if Tarion does not grant the extension, the standard builder repair periods set out in Builder Bulletins 42 (or 49) (and associated chargeability consequences set out in Builder Bulletin 20) will continue to apply.

Contact Information

For inquiries related to freehold and condo units, please contact:

Trudy Napoleone
Manager, Warranty Services
416.229.3844, ext. 3202
trudy.napoleone@tarion.com

For inquiries related to common elements, please contact:

Bonnie Douglas
Manager, Warranty Services
416.229.3844, ext. 3183
bonnie.douglas@tarion.com

Frequently Asked Questions

When should I be requesting the extension?

You can request the extension at any time during the builder repair period that is affected. This includes the initial 120-day repair period, the 30-day repair period following a request for conciliation, and the 30-day post conciliation repair period for items assessed as warranted at the conciliation.

You should make the request as soon as possible and, in all cases, it must be before the applicable repair period has expired.

Each extension request will be considered on a case by case basis.

What is the process of notifying homeowners if they are affected by the strike?

You should advise your homeowners about the strike and indicate which items you feel will be affected by the strike. If you plan to seek an extension from Tarion, you should advise them that the applicable builder period may be extended and that you will let them know if that happens.

What should I do once the extension is granted by Tarion?

Once the extension is granted both you as builder and Tarion will have to notify each affected homeowner. You will need to let the homeowner know that their request for conciliation timeframe will be moved forward until after the extension for those items affected by the extension. For items not impacted by the extension, they should request a conciliation, if they wish to do so, within the usual timeframe.

How is the issue of strikes addressed when a conciliation is requested?

- Homeowner contacts Tarion to request a conciliation inspection.
- If, for example, the inspection is scheduled for 10 items and two of them are strike related, the homeowner will know prior to the inspection that we will not be assessing the two strike-related items. They will be advised to contact us after the extension date if the builder has not resolved the items.
- If any other item is warranted at the conciliation, then the conciliation is chargeable.
- For the strike-related items, the WSR will code the item as not assessed and indicate on the report that the builder was given an extension due to the industry strike. They will provide the date in the report as to when the homeowner can contact us for the re-inspection if the builder does not resolve the items.

If I can't get the work done because of the strike, how will this affect chargeability?

As mentioned above, each claim will be looked at on a case by case basis.

Note: This information sheet is not legal advice and every vendor should consult their professional advisors, including legal counsel.