



MATTER HERBERT W. PIERCE v. TOWN ARKWRIGHT ET AL.

537 N.Y.S.2d 410 (1989) | Cited 0 times | New York Supreme Court | February 3, 1989

Order unanimously reversed on the law with costs and motion granted. Memorandum: Plaintiff moved for leave to file a late notice of claim by notice of motion dated 96 days after his termination by the Town of Arkwright Highway Department. Special Term denied the motion without comment. We reverse. Plaintiff's delay was minimal, and the town has failed to show that its ability to maintain a defense has been prejudiced (see, General Municipal Law § 50-e [5]). Under these circumstances, it was an abuse of discretion to deny the motion (*Matter of Chatman v White Plains Hous. Auth.*, 101 A.D.2d 838; see, *Matter of Bowen v Salamanca Dist. Hosp. Auth.*, 99 A.D.2d 658; *Innes v County of Genesee*, 99 A.D.2d 642, *affd* 62 N.Y.2d 779; *Matter of Baier v City of Rochester*, 98 A.D.2d 991; *Matter of Stevenson v County of Monroe*, 97 A.D.2d 969, *affd* 63 N.Y.2d 963).

