

**Rémi Savoie, Louis Marie Savoie, Irma Savoie and Vanessa Forbes et KinderCollege Inc.
2025 NBBR 093**

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF MONCTON

MC-515-2023

BETWEEN:

**RÉMI SAVOIE, LOUIS MARIE SAVOIE, and IRMA
SAVOIE**

Plaintiffs

– and –

VANESSA FORBES and KINDERCOLLEGE INC.

Defendants

DECISION

BEFORE: Justice Jean-Paul Ouellette

AT: Moncton, New Brunswick

DATE OF HEARING: March 4, 2025

DATE OF DECISION: April 17, 2025

APPEARANCES: **Marie-Hélène Haché**, for the plaintiffs

Vanessa Forbes, on her own behalf

[TRANSLATION]

OUELLETTE, J.

OVERVIEW

- [1] At the hearing of this trial, Vanessa Forbes appeared by telephone and requested an adjournment on the ground that she had never been served with this action.
- [2] Floyd Meunier filed an affidavit on the record stating that he went to Vanessa Forbes's residence at 652 Centrale Street in Memramcook, New Brunswick, on August 22, 2023 at 12:42 p.m., to serve her with documents. A red Mini Cooper was in the parking lot, and he knocked on the door, but no one answered. He left his business card at the door but never received a call. Despite numerous visits (4), he was unable to serve Ms. Forbes.
- [3] In her affidavit dated November 10, 2023, Ms. Juanita Leger states that she delivered the Notice of Action with Statement of Claim Attached to Alex Forbes at Ms. Forbes's residence on October 26, 2023. Ms. Leger claims that Alex Forbes told her that Vanessa Forbes lived at 652 Centrale Street in Memramcook, New Brunswick.
- [4] Additionally, Alex Forbes identified himself as being Vanessa Forbes's son and said that he lives at 652 Centrale Street, just like his mother.
- [5] Ms. Leger also states that, according to the Corporate Registry of New Brunswick, Vanessa Forbes is the director of KinderCollege Inc., located at 652 Centrale Street in Memramcook, New Brunswick. Ms. Forbes and the company were served with the Statement of Claim on October 26, 2023, at the residence located at

- 652 Centrale Street. A copy was also sent by prepaid mail through Canada Post to Ms. Forbes's residential address.
- [6] On November 23, 2023, the file for this trial was sent to KinderCollege's mailing address, the corporation's last known address in the Corporate Affairs Registry Database, being 652 Central Street in Memramcook, New Brunswick.
- [7] On September 23, 2024, the Moncton Court of King's Bench Court Services sent, by registered mail, two envelopes, one to Vanessa Forbes, and the other to KinderCollege, informing the parties of the hearing date and the reason for setting this action down for trial, and confirming the trial date as March 4, 2025. In the file, a Canada Post slip shows that on October 11, 2024, that correspondence was delivered to 652 Centrale Street in Memramcook, and its receipt was acknowledged with a signature.
- [8] Marc-André Gaudet, another process server, states in his affidavit dated January 23, 2025, that on October 25, 2024, at 3:35 p.m., he served Vanessa Forbes with this trial record by leaving a copy of the document with Alexa Dupuis at 652 Centrale Street in Memramcook. After identifying herself to Mr. Gaudet, Ms. Dupuis confirmed that it was Ms. Forbes's residence. Mr. Gaudet also confirmed in his affidavit that he sent a photocopy of those documents by prepaid mail to 652 Centrale Street in Memramcook, New Brunswick.
- [9] Ms. Forbes acknowledged receiving the correspondence of September 23, 2024, but denies having received any other documents.
- [10] At the hearing on March 4, 2024, Ms. Forbes requested an adjournment on this ground and wanted to file a counterclaim.

- [11] Finally, she confirmed that she drives a red Mini Cooper and that the residence located at 652 Centrale Street in Memramcook had been her residence, but that she has had another residence in Edmonton, Alberta, for some time (without providing further details).
- [12] When asked about Alex Forbes, who said he lives at the residence and who confirmed to the person who served him with the documents that Ms. Forbes also lives at 652 Centrale Street, Ms. Forbes stated that she does not have a son by that name. Her son's name is Elijah Tiendrebeogo, bearing his father's surname.
- [13] The Court denied the requested adjournment and informed Ms. Forbes that she could file a motion to set aside my decision or, as she suggested, appeal my decision. After being thus informed, Ms. Forbes put an end to the conversation by simply ending the call.
- [14] For the record, the Court is satisfied that all documentation relating to this case was indeed served on Vanessa Forbes and KinderCollege and that the information she provided in her request for an adjournment is not credible.

INTRODUCTION

- [15] A trial was held for the assessment of damages caused by Vanessa Forbes and KinderCollege Inc. to the property rented from Rémi Savoie, Louis Marie Savoie and Irma Savoie (the "Savoies"). That property is a single-family home located in a residential area in Dieppe, New Brunswick.

- [16] Ms. Forbes and KinderCollege were in possession of the Savoie property from August 3, 2019 to April 30, 2022, under a lease. After causing extensive damage to the property, they left.
- [17] Ms. Forbes and KinderCollege were noted in default after being served with the Statement of Claim and are deemed to admit the truth of the facts set forth therein.
- [18] In support of their request for an assessment of damages, the Savoies filed an affidavit from Rémi Savoie detailing the damages to the property.
- [19] The Court is of the opinion that this claim for damages has merit and grants judgment based on the evidence adduced, as well as costs.

FACTS

- [20] On August 3, 2019, Vanessa Forbes signed a lease for a part of the Savoies' property and, in September 2019, Vanessa Forbes and KinderCollege Inc. signed a new lease for the entire property for a monthly rent of \$1,750.
- [21] The property is a single-family home and was, at all relevant times, used for the purposes of a daycare. Since 2017, the property had been used as a daycare by a third party and then by Ms. Forbes and KinderCollege. Upon her taking possession, the property and house were in immaculate condition.
- [22] On February 1, 2022, after the Savoies decided to sell the property, they served Ms. Forbes and KinderCollege with a notice of termination stating that they were ending the lease and requesting that they vacate the premises by April 30, 2022, due to the eventual sale of the property.

[23] Despite Rémi Savoie's repeated requests to access the property for inspection purposes in order to sell the house, Ms. Forbes and KinderCollege refused to grant access to the property.

[24] The Savoies were not given access to the property until April 30, 2022. It was then that they discovered the deplorable condition in which the property had been left due to the unbelievable damages to the property.

[25] The evidence shows the following damages:

- a. The patio door and other exterior doors had been broken;
- b. The windows had been smashed, their glass spread across the deck and in the yard;
- c. The rotating wash arm of the dishwasher had been torn;
- d. All visible and/or accessible sink, bath, shower, and plumbing pipes had been clogged with polyurethane foam that expands and solidifies;
- e. The toilets had been clogged with dirty diapers;
- f. The toilets had been damaged to the point of no longer being usable;
- g. The basement bathroom sink had been ripped off and smashed on the floor, damaging the sink, bathroom plumbing, and basement flooring;
- h. The shower head had been ripped off, damaging the shower plumbing and the shower;
- i. The floors, carpets, walls, windows, kitchen and bathroom cabinets and baseboard heaters, mini-split type heat pump, and other surfaces had been covered with fluorescent paint;
- j. Holes had been made in the walls, floors, and ceilings;
- k. The floors had some scratches four to eight inches in length in some places;
- l. The light switches, wall outlets, and thermostats had been broken into several pieces, covered in fluorescent colours, or completely ripped from the walls;
- m. The range cooktop had been smashed;
- n. The refrigerator had been damaged;
- o. The closet doors had been damaged with splashes of fluorescent paint and had been thrown outside;
- p. The light fixtures had been removed and damaged; and
- q. The premises had been left in an unsanitary state by scattering old, rotting garbage bags filled with dirty diapers and old food all over the property in the heat.

[26] Considerable costs in materials and labour were incurred to repair the property. The rent for the month of April was not paid, and it took three months for the repairs to be completed.

[27] The Court finds that Vanessa Forbes and KinderCollege had a duty to maintain the house under the lease and had caused significant damage to the property. Due to the breach of contract related to the property and under the *Landlord and Tenant Act*, they are liable for all damages. There is no defence to this action.

ISSUES

[28] The Court is asked to determine the following issues:

1. What is the amount of damages recoverable by the Savoies?
2. Given the nature of the damages to the property, can the Court award punitive and/or exemplary damages?

ANALYSIS AND CONCLUSION

Damages

[29] The evidence presented in Rémi Savoie's affidavit shows damages that are quite out of the ordinary. The photographs show reckless behaviour that denotes careless brazenness.

[30] Rémi Savoie gave written notice of his intention to visit the premises on April 16, 2022. On this occasion, two individuals went to the front door of the house and knocked several times, but no one came to answer. They went to the back of the house. They noticed that windows had been smashed and that the patio door in the back of the house was broken. They attempted to enter the house, but Ms. Forbes suddenly emerged from the house with a baseball bat, shouting and threatening them with violence. They both turned back and left the premises.

[31] Ms. Forbes and KinderCollege breached their duty to maintain the premises in good condition and took personal property provided by the Savoies. They failed to repair all damages caused by themselves or by people whose presence they allowed on the property.

[32] The evidence on file shows the following damages:

1. \$16,215.82 for the purchase of materials needed to repair the damages.
2. \$9,845 for labour.
3. \$10,309.03 for property damaged and/or taken by Ms. Forbes and KinderCollege, such as household appliances and other personal property.
4. \$18,340 for the necessary work done by Louis Marie Savoie and Irma Savoie for cleaning, painting, and otherwise restoring the premises to an acceptable condition for sale.
5. \$1,420 in travel expenses.
6. \$3,300 in lost wages for Rémi Savoie due to missed work hours.
7. \$5,250 for loss of rent (3 months), being the time required for cleaning and repairs.

Total: \$64,679.85

[33] In this case, the Savoies have proven on a balance of probabilities that Ms. Forbes and KinderCollege breached their duty to maintain the property in good condition.

Punitive and Exemplary Damages

- [34] In *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, the Supreme Court of Canada held that punitive and exemplary damages can be awarded against a defendant who has engaged in malicious, arbitrary, or highly reprehensible misconduct that departs to a marked degree from ordinary standards of decent behaviour.
- [35] Ms. Forbes and KinderCollege maliciously, and without regard for the property of others, completely destroyed the interior of the house they occupied, rendering it unusable without having major repairs done.
- [36] Without a shadow of a doubt, the Court must consider awarding punitive and exemplary damages. The damages caused to the Savoies exceed the value of the repairs and replacement of the destroyed property and, according to the evidence, have reduced the value of the sale. The gravity of Ms. Forbes's and KinderCollege's misconduct is unequivocal and awarding punitive and exemplary damages of \$20,000 meets the objective of punishment and achieves the goal of deterrence.

DISPOSITION

- [37] The Court grants judgment as follows:
1. \$64,679.85 for property damages and losses.
 2. \$20,000 in punitive and exemplary damages.
 3. \$7,950 in costs under *Rule 59*, Tariff A, Scale 4, for an amount involved of \$85,000, plus HST of \$1,192.50.
 4. \$1,447.19 in disbursements.

5. Interest of 7% from the date of filing of this action on July 26, 2023, through March 24, 2025, is set at \$9,629.

DATED at Moncton, New Brunswick, this 17th day of April 2025.

Jean-Paul Ouellette
Judge of the Court of King's Bench of New Brunswick