SUPREME COURT OF NOVA SCOTIA
Citation: *McIntyre v. 24 Melrose Holdings Inc.*, 2025 NSSC 289

Date: 20250909
Docket: Hfx No. 545157
Registry: Halifax

Between:

Gaidheal McIntyre

Appellant

v.

24 Melrose Holdings Inc.

Respondent

DECISION ON APPEAL

Judge: The Honourable Justice Scott C. Norton

Heard: August 25, 2025, in Halifax, Nova Scotia

Decision: September 9, 2025

Counsel: Gaidheal McIntyre, self-represented Appellant
Anna Giddy, for the Respondent

By the Court:

Preamble

[1] The appellant is not a lawyer. She is a frequent and arguably vexatious litigant before the Small Claims Court and before this Court on appeals from the Small Claims Court. She is a clinical social worker with a proclaimed masters degree level of education. She appeared intelligent and articulate. She stated that she has sustained a brain injury, spine damage, organ damage, and chemical sensitivity. She stated she was traumatized as a former resident of the Nova Scotia Home for Coloured Children. She appeared to sincerely believe that the respondent's employees have caused her injury by their conduct and she sees the actions of the adjudicator whose decision is the subject of this appeal as part of a larger conspiracy to cover up the conduct of the respondent and others in the justice system that the appellant has encountered and perceives to have intentionally and illegally wronged her.

[2] As a result, she sees the decision under appeal as an "act of violence and a weapon of words". She states that it mocks the abuse she has endured and was written knowing it would be psychologically damaging.

[3] Because the appellant is not legally trained and because of her strongly held and apparently sincere beliefs, she is unable to accept that this Court, acting judicially and reviewing the decision objectively, could come to the conclusion that it discloses no ground of appeal permitted by the *Small Claims Court Act*.

[4] Nonetheless, this Court must dismiss the Appeal for the reasons that follow.

Introduction

[5] Gaidheal McIntyre appeals from the judgment of the Small Claims Court dated June 23, 2025 on Appeal from a Residential Tenancy Decision (the "Appeal"). The decision of Small Claims Court Adjudicator, Darrel Pink, is reported at 2025 NSSM 27 ("Decision").

[6] In advance of the hearing of the Appeal on August 25, 2025, the appellant filed two motions, one to request that I recuse myself from hearing the Appeal, and one to remove counsel for the respondent. Both were scheduled to be heard at the Appeal hearing. After hearing submissions from the parties I dismissed both motions

with reasons to follow. Before addressing the Appeal issues, I will provide my reasons for dismissing the motions.

Recusal Motion

[7] The appellant filed a motion on August 1, 2025 seeking my recusal "due to [my] propensity to protect abusive male landlords and abusive male adjudicators from lower courts". Her only evidence in support of the motion was her affidavit, affirmed on August 1, 2025, in which she referred to my hearing a previous matter involving her and alleging, without evidence, that I spoke to her in "disrespectful misogynistic tones to degrade and embarrass [her] in front of an abusive male landlord…". She did not evidence of the court recording of this hearing, a transcript of the hearing, or a copy of my written decision. Similar allegations by the appellant of wrongful conduct on the part of other decision-makers she dealt with, also without evidence, was noted in the Decision (p. 16).

[8] As reviewed by me in *DLF Law Practice Incorporated v. McDonald et at.*, 2024 NSSC 315, the test for recusal is whether a reasonable apprehension of bias exists. The burden is on the applicant, and it is an objective standard. This burden is onerous, requiring the applicant to produce cogent evidence of bias: *Fraser v. Nova Scotia Barristers' Society*, 2024 NSCA 79.

[9] The appellant's subjective beliefs and feelings as expressed in her affidavit do not amount to a reasonable apprehension of bias. The motion for recusal is dismissed.

Motion for Removal of Respondent Counsel

[10] The appellant seeks an order removing respondent counsel "due to the following conflicts of interest, malfeasance and prejudicial abuse of authority by [name] a long term employee of [the respondent counsel's law firm]. The Notice of Motion proceeds to allege organized crime and malfeasance on the part of the lawyer and law firm and that the named lawyer is a pathological misogynist, all apparently related to the fact that this lawyer, acting in the capacity of a Justice of the Peace, heard a number of peace bond applications involving the appellant. No evidence was filed in support of these vexatious allegations. These same allegations were raised before the adjudicator, again without evidence (Decision, p. 16).

[11] The Notice of Motion continues to recite these types of allegations over seven pages and concludes with the admission that the appellant was unable to find any legislation or other legal authority for this alleged conflict of interest.

[12] It is clear from the motion materials that the appellant has pursued other remedies in respect of her belief that the actions of the named lawyer were improper. What the motion record does not establish is any conflict of interest for the respondents' counsel.

[13] The Nova Scotia Barristers' Society *Code of Professional Conduct* requires lawyers to avoid conflicts of interest. The *Code* defines conflict of interest:

> "conflict of interest" means the existence of a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's own interest or the lawyer's duties to another client, a former client, or a third person."

[14] The concept of a disqualifying conflict of interest was explained by Justice Hood in *Johnson v. Rudolph*, 2013 NSSC 210, at paras. 39-41. The appellant is not, and has never been a client of the responding law firm. No confidential information exists that could prejudice the appellant in the absence of a solicitor-client relationship. No such relationship has been established by the appellant. The appellant's adversarial dealings with a now-retired lawyer of the firm in his capacity as a Justice of the Peace are irrelevant to the Appeal.

[15] The motion to remove the respondents' counsel is dismissed.

The Appeal

[16] The Notice of Appeal filed by the appellant comprised 172 pages and in the first paragraph stated that due to restrictions on the time and health of the appellant it would only address the first 54 pages of the Decision.

Background and Procedural History

[17] The appellant is a tenant at unit 3-108 Albro Lake Road, Dartmouth, Nova Scotia (the "Premises"). The Respondent, 24 Melrose Holdings Inc., is the landlord and owner of the Premises.

[18] On September 11, 2024, the Director of Residential Tenancies issued an order (the "RTO") granting vacant possession of the Premises to the respondent based on

a finding that the appellant had breached the statutory condition of good behaviour under the *Residential Tenancies Act,* RSNS 1989, c. 401 ("RTA").

[19] On September 23, 2024, the appellant appealed the RTO to the Small Claims Court. The notice of appeal from the RTO filed in the Small Claims Court was 87 pages long.

[20] Notably, the hearing of the appeal by the Small Claims Court took place over 14 separate Thursday evening sessions spanning five months and amounting to more than thirty hours of hearings. The adjudicator issued interim decisions appended to the Decision. Each of the interim decisions involved questions and concerns the appellant raised with the Small Claims Court procedure and the adjudicator's authority in exercising his discretion within that procedural framework. Each interim decision includes further details and context supporting the final Decision.

[21] On June 23, 2025, the adjudicator issued the Decision upholding the RTO and ordering the appellant to vacate the Premises by July 31, 2025.

[22] On July 6, 2025, the appellant filed in this court a Notice of Appeal and a Notice of Motion to stay the Decision and order of the adjudicator. On July 25, 2025, Justice Ann E. Smith ordered an interim stay of the Decision pending the hearing and determination of the Appeal.

The Decision and Summary Report

[23] The Decision is 80 pages in length. It is clear, logical and comprehensive. The Decision discloses that the adjudicator went to great lengths to accommodate the appellant's medical issues and provide a fair and even-handed hearing. At para. 6 the adjudicator stated:

> [6] The role of an independent adjudicator, like all judicial officers, is to provide a fair and even-handed process, following the rules of natural justice, so all parties receive a fair hearing. Though the Appellant is convinced that it cannot happen in the Small Claims Court of Nova Scotia, because she alleges every adjudicator has an animus against her, this matter has been conducted to ensure the issues the Appellant wanted to address, even if they were only marginally relevant, were heard and considered. That has not satisfied her. She has been clear that if she is not successful, she will appeal my decision. That is her right. Regardless of that, these reasons, much longer than would be expected, address all the salient issues raised by the parties and dispose of them. In doing so, I am mindful of the oath of this office[3] and to the best of my ability, I have been guided by it.

And at para. 38:

> [38] The Appellant rejected all efforts by the Court to guide her. When she was not well-organized, a comment urging her to focus more on the key issues in future evidence was rejected as a personal criticism that demonstrated the Court's insensitivity and lack of understanding of her limitations. Furthermore, she regularly accused the Court of intentionally ruling against her or doing so during an examination to cause her harm and throw her off her game plan. Her responses were permeated with diagnostic language (generally relating to psychological and mental health diagnoses) that critiqued the adjudicator, Respondent's counsel, and court staff. Specifics have been noted regarding her communication style, as the language used in the hearing and messages with the court was the same as that used to analyze the Respondent, its employees, and other tenants.

[24] At para. 14 of the Decision the adjudicator identified the following grounds of appeal:

> The following grounds of appeal have been identified:
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> 1. Denial of due process by the RTO, including:
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> a. ruling in the absence of evidence from the landlord,
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> b. carrying on the hearing in the absence of the Appellant,
>
> c. ignoring medical information, which was the basis for seeking an adjournment,
>
> d ignoring evidence where the Respondent agreed to allow the Appellant to move from 108 to 110 Albro Lake Road,
>
> e. arbitrarily setting hearing dates when the tenant was not available,
>
> f. failure to address retaliation by the landlord
>
> g. 'inventing information' that the RTO relied on (pp. 33 and 42),
>
> h. ignoring submissions from the Appellant (p.66),
>
> 2. Failure to consider and address various evidence, including
>
> a. 'the no chemicals rule by the previous landlord' (p. 61)
>
> b. violence and medical history,
>
> c. reports of bylaw violations,
>
> d. the Appellant's hundreds (500) of emails asking for redress from the landlord (p34)
>
> e. a lease that was not current,

f. the efforts by the landlord to ‘take my life several times’ (p. 21)

g. ignoring (video) evidence relating to an incident on April 14, 2024,

h. ignoring the use of dangerous/life-threatening chemicals by the landlord’s employees,

i. evidence of perjury by Gillian Ansell and evidence of motive by Adele Lovette to harm, issues that might incriminate Gillian Ansell (p.52),

j. the landlord’s failure to provide heat for three months (p.59)

3. Failure to address discrimination and breaches of the Human Rights Act

4. Failure to accommodate the Appellant’s brain injury by not requiring hard copies of material to be provided to the Appellant

5. Failure to disqualify the landlord’s law firm due to conflicts of interest

6. ‘The RTO’s exclusion of the two Form Fs served within 48 hours of each other is a disturbing omission’ (p. 12 and 14)

7. The RTO wrongfully concluded that the conduct of the Appellant was ‘evictable’ (p.63) and supported by the evidence of the landlord and its witnesses[.].

[25] After conducting a comprehensive review of the witness testimony, the adjudicator summarized his findings beginning on p. 77 as follows:

[193] In para [48] I stated the issues to be determined as follows:

1. Whether there was a factual and legal basis for an order for vacant possession.

2. Whether the conduct of the Respondent warrants a finding in favour of the Appellant.

[194] In evaluating the Appellant’s conduct and behaviour in light of the requirements of Statutory Condition No.3, my analysis must consider whether the conduct, when viewed from the perspective of a reasonable person in light of the tenant’s individual circumstances and the overall situation of the tenancy, falls below that which is expected of a tenant. I have found that:

1. The Appellant’s conduct was disruptive and threatening to several tenants, resulting in the departure of other tenants, including Ms. Hilchie, Ms. Campbell, and Mr. Quigley.

2. The nature and frequency of her communication constituted a breach of the obligation of good behaviour under the Act. Frequent police presence, the use of court processes such as peace bond applications, and strong language to critique anyone who disagreed with her created an atmosphere that was intimidating and overwhelming for other tenants.

3. On April 14, 2024, her threats and intimidation of Ms. Lovette constituted a breach of her duty of good behaviour.

4. Her constant videoing of other tenants and the installation of cameras to enable surreptitious recording were not justified. When she aggressively followed others with her camera and used strong and threatening language, she breached her obligation of good behaviour under the Act when it is viewed objectively and in the context of what is expected from a reasonable tenant.

[195] In evaluating the Respondent's behaviour, in particular that of Ms. Lovette, I have found it to have been invasive and too controlling. It was beyond what a reasonable landlord does, even if motivated by pride of place. The gossiping among tenants, centred around Ms. Lovette, was inappropriate and caused a rift among the tenants, distressing the Appellant. It was bothersome, but not harmful. It did not amount to conduct or behaviour, when viewed objectively in the context of the tenancy, that breached the Respondent's obligations under the Act.

[196] I have found the evidence does not support the accusations made that the Respondent used noxious or other strong chemicals, as cleaning agents or otherwise, to cause or contribute to any harm to the Appellant.

Conclusion

[197] Having found the Appellant to have breached her duty of good behaviour, I conclude there is no option regarding remedy. There is no possibility of rehabilitation of relationships at 108-110 Albro Lake Road. As has been demonstrated by the Appellant's approach to this appeal hearing, she seems incapable of self-restraint and cannot remain as a tenant at 108 Albro Lake Road.

[198] The Appellant must vacate her unit #3 at 108 Albro Lake Road by noon on July 31, 2025. I so order.

[199] There was no valid counterclaim before this court, but to be clear, any claim the Appellant thought she was making is dismissed.

[200] The appeal is dismissed, and the order of the Director of Residential Tenancies is confirmed, with the date of vacant possession varied to July 31, 2015.

Analysis

[26] The appellant has not established any of the three statutory grounds for appeal: error of law; jurisdictional error; and failure to follow the requirements of natural justice. The standard of review and high degree of deference owed to Small Claims Court adjudicator's are well established: *MacDonald v. Barbour*, 2012 NSSC 102.

There Was No Error of Law

[27] The scope of appeal for error of law is narrow and has been repeatedly stated by this court citing the following passage by Justice Saunders (as he then was) in *Brett Motors Leasing Ltd. v. Welsford*, [1999] N.S.J. No. 466, at para. 14:

> One should bear in mind that the jurisdiction of this Court is confined to questions of law which must rest upon findings of fact as found by the adjudicator. I do not have the authority to go outside the facts as found by the adjudicator and determine from the evidence my own findings of fact. "Error of law" is not defined but precedent offers useful guidance as to where a superior court will intervene to redress reversible error. Examples would include where a statute has been misinterpreted; or when a party has been denied the benefit of statutory provisions under legislation pertaining to the case; or where there has been a clear error on the part of the adjudicator in the interpretation of documents or other evidence; or where the adjudicator has failed to appreciate a valid legal defence; or where there is no evidence to support the conclusions reached; or where the adjudicator has clearly misapplied the evidence in material respects thereby producing an unjust result; or where the adjudicator has failed to apply the appropriate legal principles to the proven facts. In such instances this Court has intervened either to overturn the decision or to impose some other remedy, such as remitting the case for further consideration.

[28] The appellant has not identified any specific error of law. The Notice of Appeal largely voices alleged errors of fact which are outside the scope of review by this court. The adjudicator followed the relevant law. He canvassed the applicable authorities on "good behaviour" under statutory condition 9(1)(3) of the RTA and articulated the correct legal test for determining whether that condition has been breached (paras. 52-55):

> [52] In considering good behaviour, this Court has analyzed the language in the Statutory Condition on many occasions. Based on the jurisprudence, when reviewing whether a breach of Statutory Condition 3 has occurred, the standard to be applied is that of the reasonable person (tenant or landlord) in the circumstances. The fact that the alleged offender believes they are acting properly is not the test. Rather, it is whether an objective bystander (a reasonable person) examining the conduct concludes that the behaviour is reasonable in light of the circumstances of the tenancy and the person whose conduct is being evaluated.
>
> [53] In *Colley v. Metro Regional Housing Authority*, 2019 NSSM 24, Adjudicator Richardson reflected on the reasonable behaviour requirement
>
> The introductory words to the condition—" good behaviour"—inform the interpretation of what types of conduct would "interfere" with the possession or

> occupancy of residential rental units. In ordinary course "good behaviour" extends beyond merely refraining from threatening to commit physical or property damage. It extends to the niceties of social discourse and conduct. And in my view, it extends to obscene or racial epithets, or overbearingly discourteous conduct, at least when conducted on a repeated basis. Surely, on the facts of this case, a tenant who knocks on the doors of aged tenants demanding money or cigarettes and becomes verbally abusive when denied is interfering with the latter's "possession or occupancy." Surely the same can be said of a tenant (or a landlord) who repeatedly swears at staff or accuses them of being racists.
>
> [54] In *Landlord DL v. Tenant RM*, 2020 NSSM 25, Adjudicator Richardson found that when mental health was what impacted behaviour, the evidence did not support a finding against the tenant 'at this …time'. However, in most cases, it is clear that using a reasonableness or objective standard, when assessing poor behaviour such as 'harassment'[25] or 'loud noise,'[26] that evaluation will determine if the conduct falls below the requirements of the Act.
>
> [55] The task of this Court, based on all the evidence, is to determine whether the behaviour of one or both parties fell below the applicable standard. Regarding the Appellant, it is to determine if her behaviour in actions and words, when viewed objectively, fell below what would be expected of a reasonable tenant in the circumstances. The test for the Respondent is similar. Did the behaviour of the landlord fall below that which would be expected on a reasonable landlord in the circumstances of the tenancy?

[29] The adjudicator applied the legal framework to the findings of fact that he made, in the process assessing credibility and weighing competing accounts. Beyond the appellant's subjective disagreement, there is no indication that the adjudicator misapplied the law, misunderstood the legal test, or failed to support his conclusion. The appellant has not made out any error of law by the adjudicator.

There Was No Jurisdictional Error

[30] Jurisdiction refers to the power of an adjudicator to entertain, hear, and determine a case. The narrow scope of jurisdictional error was described in *Salem v. Air Canada*, [1999] NSJ No. 13, at para. 17:

> 17 The Appellant alleges that the Adjudicator committed jurisdictional error. He never says what jurisdictional error he has in mind. It is apparent that the Appellant does not understand what is meant by jurisdictional error. Jurisdiction refers to the power of an Adjudicator to entertain, hear and determine a case. The jurisdiction of the Small Claims Court is dealt with in Section 9 to 15 inclusive, and various other provisions, of the **Act**. The Appellant refers to many facts, all of which were introduced into evidence at the trial, but none of the facts supports a bare allegation that the Adjudicator committed any jurisdictional error.

[31] Disputes between landlords and tenants are dealt with under the RTA before the Director of Residential Tenancies. If a party is dissatisfied with the outcome of that proceeding, the RTA (Section 17C(1)) provides that either party may appeal to the Small Claims Court.

[32] Section 6 of the *Small Claims Court Act*, RSNS 1989, c. 430, authorizes adjudicators to preside over appeals. When a matter is appealed from Residential Tenancies to the Small Claims Court, an adjudicator has the power and authority to hear and determine the appeal.

[33] The appellant asserts that the adjudicator exceeded his jurisdiction when he requested the appellant's credentials when using diagnostic language and making comments allegedly outside his qualifications. These assertions, even if true, do not establish jurisdictional error. A bald allegation of jurisdictional error is not sufficient. No particulars have been provided to explain how these allegations fall within the narrow scope of jurisdictional error. The appellant has not made out any jurisdictional error.

There Was No Failure to Follow the Requirements of Natural Justice

[34] This appears to be the primary ground of appeal.

[35] In *Belshaw v. Roberts*, 2016 NSSC 127, Justice LeBlanc reviewed the principles of natural justice at paras. 11-12:

> [11] Mr. Belshaw's primary ground of appeal relates to the timing of the Adjudicator's site visit. This is an allegation of a failure to follow the requirements of natural justice. Regarding the meaning of natural justice, I recently set out the following principles in *C.M. MacNeill & Associates v. Toulon Development Corp.,* 2016 NSSC 16, [2016] N.S.J. No. 26:
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> > **69** An allegation of a failure to follow the requirements of natural justice does not engage the standard of review analysis in the traditional sense. The burden is for the court to determine if the process was fair to the claimant: *Inaxess Marketing Inc. v. Curtis Custom Designs Inc*., 2015 NSSC 99, [2015] N.S.J. No. 129 at para. 15.
> >
> > **70** Rosinski J. recently considered the meaning of natural justice in *Weller v. Moser (c.o.b. Hailey's Auto Sales)*, 2015 NSSC 120, [2015] N.S.J. No. 162 [*Weller*]:
> >
> > > 11 In relation to the term "the requirements of natural justice", I note that the *Small Claims Court Act* itself contains some reference in this respect.

12 Section 2 of the Small Claims Court Act sets out the purpose of that legislation in the following words:

2 It is the intent and purpose of this Act to constitute a court wherein claims up to but not exceeding the monetary jurisdiction of the court are adjudicated informally and inexpensively but in accordance with established principles of law and natural justice.

13 Our Court of Appeal has recently commented on what is "natural justice" in *Waterman v. Waterman*, 2014 NSCA 110, per Beveridge J.A.:

63 Natural justice has two important and distinct rules: an adjudicator must be impartial, and the parties must have adequate notice, and an opportunity to be heard. These rules have been historically described by the courts using Latin phrases. Gonthier J., in *Consolidated-Bathurst Packaging Ltd. v. International Woodworkers of America, Local 2-69*, [1990] 1 S.C.R. 282, described the rules as follows:

[66] ...It has often been said that these rules can be separated in two categories, namely "that an adjudicator be disinterested and unbiased (nemo judex in causa sua) and that the parties be given adequate notice and opportunity to be heard (audi alteram partem)

71 Saunders J. (as he then was) in *Brett Motors*, *supra*, explored the meaning of natural justice in the context of Small Claims Court hearings:

12 I think it helps to recall that the small claim court's purpose is to provide an informal and inexpensive forum for the resolution of disputes falling within its jurisdiction. It is meant to be accessible to those citizens who need it. To keep costs down there is no transcript of the evidence. Depending on whether the parties are represented by counsel, or other circumstances, an adjudicator may often adopt a more active, inquisitorial role than do judges in other levels of court.

...

72 In *Gallant, supra* at para. 12, Rosinski J. quoted with approval para. 12 of *Brett Motors*, but then noted at para. 13:

13 Nevertheless, a minimum level of procedural fairness must always remain. The parties are equally entitled to such protections to ensure the outcome is "just" as between them.

73 Of similar effect are the findings of Van den Eynden J. in *Parslow, supra:*

33 "Natural justice" is not a defined term in the *Small Claims Court Act*. Natural justice was discussed in *Spencer v. Bennett*, 2009 NSSC 368 at para. 15 and 16 therein provide as follows:

15 Natural Justice is not defined in the Small Claims Court Act. Nevertheless it is a familiar concept to the common law, although elusive of definition. In *Lloyd v. McMahone*, [1987] A.C. 625 at 702, Lord Bridge puts it this way:

> ...the so called rules of natural justice are not engraved on tablets of stone...what the requirements of fairness demand when any body, domestic, administrative or judicial, has to make a decision which will affect the rights of individuals depends on the character of the decision-making body, the kind of decision it has to make and the statutory or other framework in which it operates.
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> These criteria have been echoed and amplified in *Baker v. Canada*, [1999] S.C.J. No. 39; [1999] 2 S.C.R. 817;(1999), 174 D.L.R. (4th) 193 (S.C.C.), (per L'Heureux-Dube).
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> 16 Natural Justice really means that the parties are entitled to a fair process... no one should be a judge in his own cause (the adjudicator must be independent) and that one should always hear "the other side."
>
> [12] Simply put, natural justice requires that every proceeding be fair to both parties. The question in this case is whether the Adjudicator's site visit was in accordance with natural justice, i.e. was it fair?

[36] In *Jebailey v. Hawa's Electric Limited*, 2022 NSSC 101, Justice Arnold clarified when natural justice might be engaged:

> [28] Similarly, in *Dupere v. Evans*, 2006 NSSC 4, Leblanc J. said:
>
> > [21] Before this Court can interfere with an adjudicator's decision, there must be a clear error or failure to follow the requirements of natural justice. The appellant must show that the adjudicator misinterpreted documents or other evidence, that there was no evidence to support the conclusion reached, that the adjudicator clearly misapplied the evidence, producing an unjust result or that he failed to apply important legal principles. Only in such instances may I overturn the decision of the adjudicator: see *MacIntyre v. Nichols*, 2004 NSSC 36 (S.C.) at paras. 35-38 and *Desmond v. McKinlay*, 2001 NSCA 24 at para. 5.
>
> ...
>
> > [42] As to negligent or fraudulent misrepresentation, the adjudicator made factual findings which are clearly wrong. I am mindful of the high standard required to override a finding of fact; there would have to be a total misapprehension of the evidence leading to an unjust result. In my view, however, the adjudicator made such an error. He determined that the Whitford report referred to a smell of oil under the front steps. He stated at para. 6 that Jacques Whitford Ltd. "was told by the Defendants there was one spill in basement plus a smell noticed by [Ms. Evans] coming from the tank located under the front steps." Later, at para. 26, he stated that Whitford "was advised of, one oil spill, that being in the basement; however, they were also advised of the removal and replacement of the oil tank under the steps as a result of ... Mrs. Evans, smelling oil."

> [43] In fact, the February 2004 Whitford report makes no reference to the smell of oil or to the replacement of the tank under the front steps...
>
> [29] It must be kept in mind that a trier of fact is not obligated to reference every single piece of evidence that is elicited at trial.
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> …
>
> [31] Like every trier of fact, an adjudicator can accept some, none, or all of a witness's evidence.

[37] The appellant's allegation that the adjudicator failed to provide a fair hearing is unsupported by the record. Given the length of the proceeding, the number of witnesses and the volume of evidence, it is apparent on the face of the Decision that the appellant was given ample opportunity to present her case. Throughout the Decision and the interim decisions the adjudicator was transparent and detailed in describing the procedural steps taken and the reasons for them.

[38] One particular argument advanced by the appellant is that the adjudicator erred by requiring that the respondent present their case first. This complaint had been raised with the adjudicator:

> [42] Because the original application was the landlord's, I required the Respondent to present its evidence first[23].
>
> > 23 Throughout the hearing, the Appellant asserted that this order prevented her from presenting her case and that the order of evidence was designed to undermine or limit the evidence she could present.

[39] The reasoning for this approach was explained by the adjudicator in the Decision, beginning at para. 46:

> [46] The process for appeals from orders of the Director of Residential Tenancies is contained in s. 17C of the Act.
>
> Appeal to Small Claims Court
>
> > 7C (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.
>
> (4) The Small Claims Court shall conduct the hearing in respect of a matter for which a notice of appeal is filed.
>
> (5) The Small Claims Court shall determine its own practice and procedure but shall give full opportunity for the parties to present evidence and make submissions.
>
> (6) The Small Claims Court may conduct a hearing orally, including by telephone.
>
> (7) Evidence may be given before the Small Claims Court in any manner that the Small Claims Court considers appropriate, and the Small Claims Court is not bound by rules of law respecting evidence applicable to judicial proceedings. (8) 2002, c. 10, s. 26.

(8) The evidence at a hearing shall not be recorded. 1997, c. 7, s. 7;

[47] Appeals to the Small Claims Court under the Act are hearings '*de novo'*. The rationale and authority for this was addressed in detail by Adjudicator Barnet in *Opus 3 Investments Ltd. v. Schnare*, 2009 NSSM 12:

> [33] **STANDARD OF REVIEW**: Despite authorities that might suggest otherwise, I believe that the weight of the case law indicates that a decision of a Residential Tenancy Officer is not entitled to any deference on an appeal. In fact, an appeal to the Small Claims Court from an Order of the Director of Residential Tenancies requires a hearing de novo.
>
> [34] Reference can be made to the decision of Justice Freeman for the unanimous Nova Scotia Court of Appeal in *MacDonald v. Demont*, 2001 NSCA 61.
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> [35] At the time of that decision, appeals from Orders of the Director of Residential Tenancies were made to the Residential Tenancies Board pursuant to 1997 amendments to the *Residential Tenancies Act*, R.S.N.S. 1989, c. 401, and, in particular, Section 17C. I note that this section was further amended in 2002, and the only true substantive change was that the Small Claims Court was substituted for the Residential Tenancies Board. In all other material respects, the wording of Section 17C remains the same as it was at the time of the decision in MacDonald v. Demont (with the minor addition of a provision with respect to service of documents).
>
> [36] In *MacDonald v. Demont*, the Nova Scotia Court of Appeal took the opportunity to review the residential tenancy appeals procedure in light of the 1997 amendments to the relevant statute.
>
> [37] The Court summarized the basic position of the appellant tenant as follows at paragraph 10:

> "The appellant submits that the hearing before the [Residential Tenancies] Board is the first stage at which considerations of procedural fairness come into play. The Director's order could be based on information that arose in the course of the Director's investigation or mediation attempts, to which the parties may have had no notice or opportunity to reply. Therefore, the Board should not consider any information received as the result of a proceeding before the Director, and the Board cannot adopt or defer to the Director's conclusions. While the statute does not specify that the hearing before the Board be a hearing de novo, such a hearing is the only means of ensuring that the evidence considered by the Board is not tainted by unfairness."

[38] It is clear that the Court of Appeal accepted the appellant's argument that deference should not be accorded by the Board to the decision of a Director under the Residential Tenancies Act for reasons of procedural fairness: see paragraph 1 It is also clear that the Court of Appeal required that the Residential Tenancies Board hold a hearing *de novo* and that the Board make an independent adjudication based upon findings of fact made in light of the evidence presented to the Board.

[39] I note that the instructions that accompany Notices of Appeal in residential tenancy matters clearly state, under the heading "How to prepare for a hearing," that:

> "An appeal from a Residential Tenancies Director's Order is a brand new hearing. You must present all arguments and evidence at this appeal hearing, including any new evidence that was not presented at the Residential Tenancy hearing.
>
> "An appeal is decided on the evidence provided at the hearing. You must arrange to bring witnesses and important papers, documents, and other evidence for the adjudicator on the day of the hearing."

[40] These instructions appear to follow the Court of Appeal's suggestion that similar wording be set out on notices of appeal in residential tenancy matters: see para. 17.

[41] Two months before the Court of Appeal's decision in *MacDonald v. Demont*, Justice Haliburton reached the same conclusions respecting the residential tenancies appeal process in the case of *Dowling v. Vanderweit*, 2001 NSSC 79. He held, at paragraph 17, as follows:

> "The Residential Tenancies Board is authorized to reconsider the entire dispute between the parties under the authority of s. 17C of the Act. While the method of getting before the Board is said to be by way of "appeal" the Board is not confined in its deliberations to anything that may have transpired before it became seized with the process. The hearing before the Board is a hearing de novo and as

> specified in s. 17C (5) and (6) the parties must be given a "full opportunity … to present evidence" etc. It goes without saying then that the appellant is quite wrong in arguing that the Board
>
> "had no right to interfere with the decision of Mr. Bacon [the Director] without further determining that he had made an error of law or jurisdiction and had thereby erred in law;"

[42] Justice Haliburton continued at paragraph 18:

> "The Board was obliged, in fact, to hold a hearing, and to hear the whole matter anew. The Board is obliged to reach its own conclusions based upon the material and evidence presented at that hearing. It is not bound by any conclusions reached by the Director."

[43] I do not believe that either of the aforementioned cases can be distinguished in this case. The amendments to the *Residential Tenancies Act* in 2002 do not change, in any substantive way, the appeal process set out in the 1997 amendments, other than that the Small Claims Court has replaced the Residential Tenancies Board.

[44] In the circumstances, it is clear to me that matters heard before this Court on appeal from Orders of the Director are heard de novo and this Court is not bound by any conclusions previously reached in a matter by a Residential Tenancy Officer.

[48] Based on this precedent, applied frequently in his Court, because evidence is presented anew at an RT Appeal, any factual or procedural deficiencies that occurred at the RT hearing are not of concern, as alleged irregularities in the process or findings are subsumed in this Court's *de novo* appeal hearing.

[49] Findings by the RTO are owed no deference.

[50] In light of this, the grounds identified from the Notice of Appeal are subsumed into a single one dealing with **whether there was a factual and legal basis for an order for vacant possession**. The second issue, identified earlier in these reasons, is **whether the conduct of the Respondent warrants a finding in favour of the Appellant**. The conduct of the hearing before the RTO is therefore not before me. I will consider the evidence from the beginning.

[51] In light of that, the burden is on the Respondent/landlord to prove on the balance of probabilities that the behaviour of the Appellant constituted a breach of her obligations of good behaviour under Statutory Condition 3. This provision also governs a review of the Landlord's behaviour as the Respondent owes a duty to the Appellant… to conduct himself so as not to interfere with the possession or occupancy of the tenant…'

[40] No authority was submitted by the appellant that this procedural approach was unfair to the appellant. For the reasons expressed by the adjudicator, I find no denial of the rules of natural justice by this approach.

[41] It is apparent from the Decision that the adjudicator made accommodations for the appellant, including suggesting that the appellant provide written direct evidence to alleviate the pressure of testifying, arranging hearing times to allow a support person to be present with the appellant, accommodating health breaks, providing over 30 hours of hearing time for the appellant to present her case, and allowing her to submit evidence after the deadline.

[42] Where the adjudicator did impose limitations on the appellant's evidence, including that she refrain from sending emails directly to him, these measures were a proper exercise of his discretion to manage the proceedings. They must be viewed objectively in the context of considerable latitude afforded to the appellant and balanced against the obligation to ensure fairness to both parties.

[43] The appellant has not made out the claim that the process was procedurally unfair.

Conclusion

[44] The appellant has not demonstrated any error of law, jurisdictional error or failure to follow the requirements of natural justice. The adjudicator acted within the scope of his authority, applied the correct legal tests, and provided a thorough examination and transparent record of the evidence, analysis and procedural decisions throughout the hearing.

[45] The appellant's allegations are largely speculative, unsupported by the record and focus on disagreements with findings of fact or subjective perceptions of unfairness.

[46] The Notice of Appeal is framed on an attack on the adjudicator. If the appellant disagrees with a finding, she accuses the decision-maker of "lies" and "fraud". She repeats charges of bad faith, prejudice, or malfeasance against every justice official she encounters.

[47] I note the adjudicator's comments in his Summary Report to this court:

> The Appellant accuses the Adjudicator of bad behaviour, motive, and misconduct, shrouded in language that suggests personality and conduct ranging from

> narcissism and misogyny to rape. They are personal and vindictive towards both the decision-maker, many who she has encountered during her tenancy, and all others who have faced and ruled against her.

[48] For the foregoing reasons the Appeal is dismissed. The Decision of the Small Claims Court granting vacant possession of the Premises to the respondent is upheld and confirmed with the date for vacant possession varied to September 30, 2025.

Norton, J.