

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Norris v. Brightside Community Homes
Foundation,*
2025 BCSC 1862

Date: 20250925
Docket: S253298
Registry: Vancouver

Between:

Dana William Norris

Petitioner

And

Brightside Community Homes Foundation

Respondent

Before: The Honourable Justice Latimer

On judicial review from: An order of the Residential Tenancy Branch dated March
19, 2025

Reasons for Judgment

In Chambers

No one appearing on behalf of the
Petitioner.

Counsel for the Respondent:

O.P. Onyema

Place and Date of Hearing:

Vancouver, B.C.
September 18, 2025

Place and Date of Judgment:

Vancouver, B.C.
September 25, 2025

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Introduction

[1] The petitioner (“Tenant”) applies for judicial review from a decision of the Residential Tenancy Branch (“RTB”) made under the *Residential Tenancy Act*, S.B.C. 2002, c. 78 [RTA].

[2] The petition respondent (“Landlord”) is a non-profit society which operates subsidized rental units in accordance with agreements between the Landlord and Canada Mortgage and Housing Corporation, BC Housing Management Commission and others providing contribution towards rent.

[3] The Tenant entered into a tenancy agreement (“Agreement”) with the Landlord on February 1, 2020 to rent a unit (“Unit”) for one year, after which the tenancy continued on a month-to-month basis.

[4] On February 13, 2025, the Landlord issued a ten-day notice to end tenancy for unpaid rent or utilities (“Notice”).

[5] On February 19, 2025, the Tenant filed an application for dispute resolution with the RTB requesting cancellation of the Notice.

[6] On March 19, 2025, an RTB hearing was held (“Hearing”). The Tenant was represented by an Advocate at the Hearing. The Landlord was represented by an agent.

[7] In a decision issued the same date (“Decision”) the arbitrator explained:

Under section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute. If the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle their dispute.

Both parties agreed to the following terms of a final and binding resolution of the Tenant’s application and the issues in dispute arising out of this tenancy at this time and that they did so of their own free volition and without any element of coercion:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on April 30, 2025, by which time the Tenant agreed to have vacated the rental unit.

2. Both parties agreed that the Landlord is entitled to a monetary order for four months of unpaid rent up to and including March 2025 in the amount of \$1,900.00.

3. Both parties agreed that the Advocate would assist the Tenant to ensure the rent due on April 1, 2025 is paid on time to allow the Tenant use and occupancy of the unit until the Order of Possession takes effect.

4. Both parties agreed that these particulars comprise the full settlement of all aspects of the Tenant's current application for dispute resolution.

[8] On March 21, 2025, the Tenant applied for a review consideration of the Decision on the grounds of: (a) new and relevant evidence not available at the time of the hearing; (b) late evidence not before the arbitrator; and (c) no jurisdiction for issue determined.

[9] With respect to the first two grounds, the review arbitrator concluded that the Tenant had not identified new evidence that would likely have an effect on the outcome and had not sufficiently described circumstances that were beyond their control, and which could not have been anticipated. With respect to the third ground, the review arbitrator concluded that no documentation was provided to support this portion of the application nor were any submissions or arguments presented about whether the RTB had jurisdiction to hear the matter.

[10] The Tenant did not move out on or before April 30, 2025.

[11] Instead, on May 1, 2025, the Tenant filed the within petition for judicial review.

[12] On May 5, 2025, the Tenant applied to court without notice to the Landlord and obtained an interim stay of the order of possession effective April 30, 2024 until May 26, 2025, unless further extended by the Court ("Interim Stay"). This Court made directions that the Tenant serve various materials on the Landlord and the RTB and also that the hearing of the judicial review be set for May 26, 2025.

[13] On or around May 13, 2025, the Landlord filed and served its response.

[14] On May 26, 2025, the petition was not heard. The Tenant had not served the Attorney General of British Columbia and sought an adjournment and an extension of the Interim Stay until June 27, 2025. Those orders were granted.

[15] Despite these orders, the Tenant did not serve the Attorney General. Instead, the Landlord served the Attorney General on June 13, 2025.

[16] Nevertheless, on June 27, 2025, the petition was not heard.

[17] On August 12, 2025, the Landlord filed and served a notice of hearing on the Tenant and the Attorney General setting a hearing date of August 19, 2025. On August 19, 2025, the Registry informed the Landlord's counsel that an order of the court was required to set the matter for a hearing on a certain date.

[18] On September 8, 2025, the Landlord applied for and was granted, among other things, an order that the hearing date for the petition be set for September 18, 2025.

[19] The Landlord served the order on the Tenant and the Attorney General. As noted above, the Tenant had also been served with the Landlord's materials in defence of the judicial review on multiple prior occasions including as far back as May.

[20] On September 18, 2025, the Landlord appeared before this Court. No one appeared on behalf of the Tenant. The Landlord's counsel explained that she had called the Tenant and the Tenant confirmed that they had notice of the hearing, cursed at counsel on the phone, and did not intend to appear at the hearing.

Issues

[21] The issues for determination are:

- a) Whether this Court should proceed to adjudicate the petition for judicial review in the absence of the Tenant?

- b) If so, whether the Decision is patently unreasonable and/or reached in a manner that lacked procedural fairness?

Analysis

Adjudicating in the Absence of the Petitioner

[22] The Court is always very reluctant to adjudicate a matter when all parties are not present. However, I have been persuaded in this case to do so because the Tenant's failure to participate in the proceeding after obtaining the Interim Stay appears to be an attempt to frustrate the Landlord's ability to have a determination on the merits and as such is a misuse the Court's process.

[23] Rule 22-1(2) of the *Supreme Court Civil Rules* provides that:

Failure of a party to attend

(2) If a party to a chambers proceeding fails to attend at the hearing of the chambers proceeding, the court may proceed if, considering the nature of the chambers proceeding, it considers it will further the object of these Supreme Court Civil Rules to do so, and may require evidence of service it considers appropriate.

[24] The object of the rules is to secure the just, speedy and inexpensive determination of every proceeding on its merits. In so far as is practicable, that includes conducting proceedings in a way that is proportionate to (a) the amount involved in the proceeding, (b) the importance of the issues in dispute, and (c) the complexity of the proceeding.

[25] In the present case, the Tenant has been provided multiple opportunities to be heard in court. The Tenant was granted an Interim Stay without notice to the Landlord on May 5 until May 26. The Tenant was ordered to set this matter down for hearing by that date.

[26] Despite the terms of that Interim Stay, as I have set out above, the hearing of the petition on the merits did not occur on May 26. Instead, the Tenant was granted an adjournment and extension of the stay until June 27 and the hearing was to be set on that date. Again, the petition did not proceed on June 27, 2025.

[27] The rationale for making such interim stay orders time limited is to ensure that a balance is struck between the interests of the parties. Here, that balance struck by the prior orders has been disrupted. Despite the expiry of the extension of the Interim Stay, counsel has advised that the registry refuses to renew the Writ of Possession until this judicial review is heard. The practical effect is that although no stay is currently in place, the Landlord is and has been effectively prevented from taking possession and offering this subsidized rental unit to another qualified applicant for several months. Meanwhile, the Tenant refuses to move this matter along. The Tenant continues to reside in the Unit despite many months of continued non-payment of rent.

[28] In these circumstances, I am satisfied that, having regard to the nature of the matter before me, which is a judicial review which must occur on the record, I am able to proceed in the absence of the petitioner and that doing so will further the object of the Rules.

Was the Decision is patently unreasonable and/or reached in a manner that lacked procedural fairness?

[29] In this case, the parties reached a settlement agreement with the assistance of an arbitrator at the Hearing pursuant to s. 63 of the *RTA*. In the settlement, the parties agreed, among other things, to end the tenancy and agreed on a move out date. The Arbitrator recorded the agreement as a Decision pursuant to 64.2 of the *RTA*. When the Arbitrator endeavoured to affect a settlement pursuant to s. 63, and when they recorded the settlement as a Decision, they were exercising a discretion conferred by the *RTA*.

[30] This Court has confirmed that a decision to record a settlement agreement reached during an RTB hearing can amount to an exercise of a statutory power of decision, subject to judicial review: *Shaikh v. Brar*, 2023 BCSC 1285, at para. 114.

[31] A party seeking to set aside such a decision can succeed on judicial review if they demonstrate that it was patently unreasonable to record a settlement as a

decision or that the process that led to the settlement was procedurally unfair: *Shaikh*, at paras. 90–115.

[32] The standards of review are prescribed by s. 58 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 [ATA], which provides in relevant part:

- (2) In a judicial review proceeding relating to expert tribunals under subsection (1)
 - (a) a finding of fact or law or an exercise of discretion by the tribunal in respect of a matter over which it has exclusive jurisdiction under a privative clause must not be interfered with unless it is patently unreasonable,
 - (b) questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly, and
 - ...
- (3) For the purposes of subsection (2) (a), a discretionary decision is patently unreasonable if the discretion
 - (a) is exercised arbitrarily or in bad faith,
 - (b) is exercised for an improper purpose,
 - (c) is based entirely or predominantly on irrelevant factors, or
 - (d) fails to take statutory requirements into account.

[33] A judicial review application will be dismissed if the petition does not identify errors relating to a relevant standard of review as required by s. 14 of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c.241: *Baun v. British Columbia (Attorney General)*, 2019 BCSC 836, at para. 21.

[34] The petition is brief. The facts pleaded include some biographical information about the petitioner and an assertion that their short-term memory is not good. The petition then pleads:

- 9. This past year, the landlord made it mandatory for us to pay rent via direct deposit. I had some technical issues with the direct deposit.
- 8. I don't remember the RTB hearing very well, but I did not agree to the terms of the settlement agreement written in the RTB decision. The hearing and the decision and settlement agreement are unfair and patently unreasonable.

[35] The legal basis provided is as follows:

1. The petitioner will rely on the following:
 - (a) *Residential Tenancy Act*, [SBC 2002] c 78;
 - (b) *Judicial Review Procedure Act*, [RSBC 1996] c 241;
 - (c) *Administrative Tribunals Act*, [SBC 2004] c 45;
 - (d) *The Residential Tenancy Regulation*, BC Reg 477/2003;
 - (e) The Residential Tenancy Branch Rules of Procedure; and
 - (f) *The Supreme Court Civil Rules*, BC Reg 168/2009.
2. The legal grounds on which this petition is brought are as follows:
 - a. The RTB Decision and Review Consideration Decision are procedurally unfair and patently unreasonable.

[36] The petition does not identify errors relating to the standards of review as required by s. 14 of the *Judicial Review Procedure Act*. For example, it does not explain why specific actions or omissions gave rise to procedural unfairness at either the Hearing or the review hearing. It does not identify any grounds which might support a finding of patent unreasonableness.

[37] In absence of such grounds, in my view, the petition is doomed to fail and it serves no purpose to allow it to continue.

[38] This petition for judicial review must be dismissed.

[39] The parties will bear their own costs.

“Latimer J.”