IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Rasolroveicy v. Adams,*
2025 BCSC 2213

Date: 20251107
Docket: S256448
Registry: Vancouver

Between:

Mohammadreza Rasolroveicy

Petitioner

And

Caroline Adams, Jamie Campbell, Residential Tenancy Branch (RTB) and Attorney General of British Columbia

Respondents

Before: The Honourable Madam Justice W.A. Baker

On judicial review from: Orders of the Residential Tenancy Branch, dated August 7, 2025 and August 12, 2025 (*Adams and Campbell v. Rasolroveicy* No. 910207318).

Reasons for Judgment

The Petitioner, appearing in person:	M. Rasolroveicy
The Respondents, appearing in person:	C. Adams J. Campbell
Place and Date of Hearing:	Vancouver, B.C. October 24, 2025
Place and Date of Judgment:	Vancouver, B.C. November 7, 2025

[1] This is a petition brought by Mr. Rasolroveicy, the landlord, seeking to set aside an order of Arbitrator Campbell of the Residential Tenancy Branch ("RTB"), dated August 7, 2025 (the "Merits Decision"), and an order of Arbitrator Doyon of the RTB, dated August 12, 2025 (the "Review Decision").

[2] This matter arises out of a dispute filed by Ms. Adams and Mr. Campbell, the tenants, pursuant to s. 38.1 of the *Residential Tenancy Act* (the "*Act*"), where they sought the return of an amount double their security deposit.

[3] In the Merits Decision dated August 7, 2025, Arbitrator Campbell found in favour of the respondents and awarded them $2,923.12. against the petitioner.

[4] On August 8, 2025, the petitioner filed an application for reconsideration, claiming that he did not receive notice of the dispute, and did not learn about the dispute until he received the decision of Arbitrator Campbell.

[5] On August 12, 2025, Arbitrator Doyon dismissed the application for reconsideration.

[6] On August 27, 2025, the petitioner filed this application for judicial review.

[7] The Director of the RTB filed a response on October 6, 2025. The Director submits that the petitioner improperly named the Attorney General and the Residential Tenancy Branch as respondents. The Director submits that these two respondents ought to be removed from the style of cause and replaced with the Director of the RTB, who is the delegated authority to resolve disputes under the *Act*. I agree and make this order.

[8] The Director provided submissions on the relevant standard of review, on which decision is properly under review, the relevant statutory provisions, provisions in the Rules, and Guidelines, and on the available remedies on a judicial review.

What is the Appropriate Standard of Review

[9] The appropriate standard of review of an arbitrator's decision under the *Act* has been determined many times by this court, and is grounded in ss. 5.1 and 84.1 of the *Act* and s. 58 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45. Questions of fact, law and discretion are only open to review if such decisions are patently unreasonable: *Campbell v. The Bloom Group*, 2023 BCCA 84 at paras. 11–14. Questions of procedural fairness, however, must be decided "having regard to whether, in all of the circumstances, the tribunal acted fairly": *Campbell* at para. 4. For all other matters, the standard of review is correctness.

[10] Many cases have considered what level of procedural fairness is to be applied in RTB hearings, and have concluded that such hearings require the adjudicator to observe a high degree of procedural fairness, following the analysis in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, 1999 CanLII 699: *Fernandez v. Sakr*, 2012 BCSC 1024 at paras. 25–30; *Ganitano v. Metro Vancouver Housing Corporation*, 2009 BCSC 787 at para. 40; *Fulber v. Doll*, 2001 BCSC 891 at para. 30; *Ndachena v. Nguyen*, 2018 BCSC 1468 at para. 58.

[11] As stated by the Court in *Athwal v. Johnson*, 2023 BCCA 460:

> [23] It is trite law that an administrative decision resulting from an unfair process cannot stand. A determination of what constitutes an unfair process requires a "contextual approach" that looks to the decision being made and its statutory, institutional and social context: *Baker v. Canada (Minister of Citizenship & Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817 [*Baker*] at para. 22; *Cariboo Gur Sikh Temple Society (1979) v. British Columbia (Employment Standards Tribunal),* 2019 BCCA 131 at para. 13.
>
> [24] In the present case, in light of the decision being made and its statutory, institutional and social context, I am of the view that the parties were entitled to a high level of procedural fairness. I would adopt the reasons of Justice Sewell in *Ndachena v. Nguyen,* 2018 BCSC 1468, which I find applicable:
>
> > [56] The duty of procedural fairness is flexible and variable and depends on an appreciation of the context of the particular statute and the rights affected. The purpose of the participatory rights contained within it is to ensure that administrative decisions are made using a fair and open procedure, appropriate to the decision being made and

> its statutory, institutional and social context, with an opportunity for those affected to put forward their views and evidence fully and have them considered by the decision-maker.
>
> [57] Several factors are relevant to determining the content of the duty of fairness: (1) the nature of the decision being made and process followed in making it; (2) the nature of the statutory scheme and the terms of the statute pursuant to which the body operates; (3) the importance of the decision to the individual or individuals affected; (4) the legitimate expectations of the person challenging the decision; (5) the choices of procedure made by the agency itself. This list is not exhaustive.
>
> [58] I am satisfied that the petitioners were entitled to a high level of procedural fairness in the Dispute Resolution Applications. The issues before the Arbitrator were adversarial with serious financial consequences to the petitioners. The statutory scheme under the *RTA* vests the RTB with the same powers in residential tenancy disputes to grant monetary judgments as the provincial court has in other matters.
>
> [59] The RTB Rules govern Dispute Resolution proceedings. They contemplate a high level of procedural fairness. Any person dealing with the RTB would have a reasonable expectation that the RTB Rules would be complied with.
>
> [60] Rule 1.1 states that the objective of the RTB Rules is to ensure a fair, efficient and consistent process for the resolution of disputes between landlords and tenants.
>
> [61] The RTB Rules contain specific provisions for the giving of notice of evidence to be relied upon at a Dispute Resolution hearing. Rule 2.5 requires an applicant for Dispute Resolution to submit copies of all documentary and digital evidence to be relied upon at the hearing of the Dispute Resolution Application. Once the RTB gives notice of the date of the Dispute Resolution hearing, an applicant must serve the other party with copies of all documents required to be filed under Rule 2.5. Rule 3.5 requires the applicant to demonstrate that each respondent was served with all evidence required by the RTB Rules.

(See also *Ganitano v. Metro Vancouver Housing Corporation*, 2009 BCSC 787 at para. 40; *Kikals v. British Columbia (Residential Tenancy Branch)*, 2009 BCSC 1642 [Kikals] at paras. 56–58; *Fulber v. Doll*, 2001 BCSC 891 at paras. 26–30.)

[12] In relation to questions of fact or law, patent unreasonableness has been explained by the court in *Li v British Columbia (Residential Tenancy Director),* 2024 BCCA 202 as follows:

> [32] If the decision contains a finding of fact that is disputed, the standard of review is still patent unreasonableness, but the content of that standard is defined by the common law rather than a statutory provision (*Holojuch*: at

para 18). This Court explained that standard in *Ahmad v. Merriman*, 2019 BCCA 82:

> [37] Section 58(2)(a) of the *ATA* requires that a decision of an expert tribunal, such as the RTB, may not be interfered with unless it is patently unreasonable. The standard of patent unreasonableness requires the decision under review be accorded "curial deference, absent a finding of fact or law that is patently unreasonable": *British Columbia (Workers' Compensation Appeal Tribunal) v. Fraser Health Authority*, 2016 SCC 25 at para. 29. Stated otherwise, it must be "clearly irrational" or "evidently not in accordance with reason": *Canada (Attorney General) v. Public Service Alliance of Canada*, 1993 CanLII 125 (SCC), [1993] 1 S.C.R. 941 at 963–64. A patently unreasonable decision is one that is "so flawed that no amount of curial def[er]ence can justify letting it stand": *Ryan v. Law Society (New Brunswick)*, 2003 SCC 20 at paras. 52–53.

[13] In the challenge to the Merits Decision, the issue before me relates to whether proper notice of the dispute was given. It is a fundamental tenet of procedural fairness that a party knows the case against them, and is given an opportunity to respond. If the petitioner is correct in his submission, this most fundamental tenet has been breached, as he was not told there was a case against him, nor was he given an opportunity to respond.

[14] In the challenge to the Review Decision, the issue relates to whether the arbitrator addressed the correct question, and on that basis I find the correct standard is one of patent unreasonableness.

The Merits Decision

[15] The Merits Decision was made solely on the basis of the written submissions of the tenant. It is common ground that the landlord did not participate in making submissions of any kind to the arbitrator.

[16] Before me, the landlord challenges the conclusion of the arbitrator that he was properly served with the tenants' application. The paragraphs addressing service are:

> The Tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that the Landlord was served with the Notice of Dispute Resolution Proceeding – Direct Request (Proceeding Package). Based on the written submissions of the Tenant:

> I find that Landlord M.R. was served on July 31, 2025, by registered mail in accordance with section 89(1) of the Act, and it is deemed to have been received on August 5, 2025, the fifth day after the registered mailing, as per section 90 of the Act. The Tenant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this service.

[17] Arbitrator Campbell relied on the deeming provision found in s. 90 of the *Act*, which deems service to be made five days after the notice is mailed.

[18] Arbitrator Campbell made his decision pursuant to s. 38.1 of the *Act*, which allows a decision to be made without further process (i.e. no oral hearing), if certain conditions were met. One of those conditions is that the landlord has not applied to the director to claim against the security deposit, within 15 days of receiving the tenants' forwarding address in writing.

[19] Arbitrator Campbell considered the respondents' evidence on how they advised the petitioner of their forwarding address, namely by email. He noted that the respondents did not comply with s. 88 of the *Act*, because the petitioner had not consented to receive notices by email. The arbitrator then relied on s. 71(2)(c) of the *Act* to determine that the petitioner did in fact receive the notice, even though he had not consented to receive such notice by email. The arbitrator based this finding on the fact the petitioner had replied to the respondents' email.

[20] The issue of service of the forwarding address is critical to the arbitrator's ultimate finding that, because the petitioner did not institute his own dispute within 15 days of receiving the respondents' forwarding address, he had no defence to the respondents' application for a return of double the security deposit.

[21] Before me, the petitioner challenges the finding of the arbitrator that he received notice of their forwarding address. He submits that he could not open the attachment that included the forwarding address, and did not appreciate the attachment included such notice. He submits that the email with the respondents occurred in the context of an ongoing email discussion with them about damage to the rental unit and his intention to pursue them for the costs of repair. He submits that, because he did not receive the respondents' notice of dispute, he was not able

to challenge the finding that he did receive notice of their forwarding address, thus beginning the 15 day period in which he was required to commence his own dispute.

The Review Decision

[22] On August 8, 2025, the landlord applied for a review consideration on the basis that he did not learn of the tenants' application for dispute until after the decision was rendered. The landlord described the circumstances of the tenants' leaving the unit, details of a dispute he had with them over the condition of the rental unit, and highlighted the fact that, even though he was in communication with the tenants over the state of the rental unit when they left, the tenants did not advise him they had filed a dispute over the return of their damage deposit. The landlord explained that he was in Germany when the notice of dispute was delivered to his address, and would only be returning to Canada on August 12, 2025.

[23] Arbitrator Doyon rendered her decision on August 12, 2025. The arbitrator did not engage on the issue of service of the notice of dispute. Rather, Arbitrator Doyon focussed on the fact that the landlord had not filed an application for dispute regarding the deposit within 15 days of receiving the forwarding address from the tenants.

[24] Arbitrator Doyon made the following findings under the heading "Unable to Attend the Original Hearing":

> The Residential Tenancy Act allows for a Monetary Order to be issued without a hearing taking place if the Landlord does not return the deposit or file an application requesting to keep it within 15 days of receiving the forwarding address. This is called the Direct Request process.
>
> …
>
> The Landlord claims they received a note indicating a previous dispute filed by the Tenant was withdrawn. The Landlord also claims they were out of the country as of July 31, 2025. The Landlord also states they provided the Tenant a summary of their costs, and the Tenant did not reply until July 29, 2025.
>
> However, the Landlord has not indicated why they could not have filed an Application for Dispute Resolution requesting to keep the deposit by July 22, 2025, when the deadline was approaching and they still had not heard back from the Tenant.

> I find the Landlord has not demonstrated that they could not have requested a hearing, thereby obtaining the opportunity to submit evidence and participate in a teleconference call.
>
> According to section 81(1)(b)(ii) of the Act, I find the Landlord has not disclosed sufficient evidence for this ground of review.

[25] Arbitrator Doyon made the following findings under the hearing "New and Relevant Evidence":

> The Landlord provided e-mails and WhatsApp messages discussing the condition of the rental unit, and the losses incurred by the Landlord.
>
> I note the Landlord is not entitled to unilaterally decide to keep the deposit. When the Landlord has suffered losses, they must obtain either the Tenant's permission or an Arbitrator's order allowing them to keep the deposit.
>
> …
>
> According to section 81(1)(b)(iii) of the Act, even if I were to accept the Landlord's submissions that the Tenant left the rental unit with cleaning and repairs required, I find the decision could not possibly change. The Landlord did not follow the required steps in dealing with the deposit.
>
> For this reason, I dismiss this application for review consideration on the basis that the applicant has new and relevant evidence that was not available at the time of the hearing.

[26] Arbitrator Doyon made the following findings under the heading "Late Evidence Not Before Adjudicator":

> The Landlord must show that they had submitted evidence in time for the original hearing and had given the evidence to the other party, but through no fault of the Landlord, the Adjudicator was not aware of the evidence.
>
> …
>
> The Landlord also claims that the Tenant did not notify the Landlord that a hearing was taking place. As indicated above, there was no participatory hearing for this claim.
>
> I find the Landlord has not described any dispute application or evidence that was submitted late and was not available to the Adjudicator for consideration.
>
> According to section 81(1)(b)(ii) of the Act, I find the Landlord has not disclosed sufficient evidence for this ground of review.
>
> For this reason, I dismiss this application for review consideration on the basis that there was late evidence that was not before the Adjudicator.

[27] Arbitrator Doyon's reasoning under the heading "Administrative Procedural Error", held:

> Arbitrators and Adjudicators have authority to make decisions about how the proceeding will be conducted prior to or during dispute resolution proceedings and their decisions can not be reviewed on this ground.
>
> In their review application, the Landlord claims they were not notified of the hearing, and that this was a procedural error.
>
> The Residential Tenancy Act allows for a Tenant to request the return of the deposit without a hearing taking place: [setting out s. 38.1(2) of the Act].
>
> The Landlord claims they were not notified of the hearing. However, in a Direct Request proceeding, there is no hearing scheduled.
>
> I find that the Landlord has not described an administrative error, made by an RTB staff member, aside from the Adjudicator.
>
> Therefore, I find the Landlord has not disclosed sufficient evidence for this ground for review, as required by section 81(1)(b(ii) of the Act.

Clarification Decision

[28] The petitioner sought clarification from Arbitrator Doyon on her decision. As this decision does change the substance of the Review Decision, I find it is not necessary for me to address it.

Analysis

[29] For the reasons expressed below, I find that both the Merits Decision and Review Decision contain reviewable errors and must be set aside. If I had found no error in the Review Decision, I would not have to address the Merits Decision. However, having found an error in the Review Decision, I have gone on to address the Merits Decision.

[30] In the Review Decision, the arbitrator failed to engage on the fundamental issues that were before her, namely:

a) whether the petitioner was unable to attend the hearing because he was in Germany and did not receive the notice of dispute, and

b) whether, because he was not able to attend, the petitioner had new evidence that could materially affect the outcome of the underlying dispute.

[31] Arbitrator Campbell, in the Merits Decision, relied on the deeming provision of the *Act* to conclude that notice was properly given. However, that deeming provision can be challenged if evidence is presented that rebuts the presumption: *Atchison v British Columbia (Residential Tenancy Act, Dispute Resolution Officers)*, 2008 BCSC 1015.

[32] In the Review Decision, Arbitrator Doyon did not squarely address the issue of service of the notice of dispute. Rather, the arbitrator concluded, essentially, that it did not matter if notice was given or not, because the petitioner did not file his own dispute within 15 days of receiving the forwarding address of the respondents. In the result, Arbitrator Doyon found that the conditions in s. 38.1 were met and Arbitrator Campbell was entitled to proceed with the Direct Request process, which allowed the dispute to be resolved on written submissions made by the tenants (respondents), without a hearing or any further submissions from the landlord.

[33] In addressing the issue of new evidence, whether the petitioner received the respondents' forwarding address is material to the jurisdiction of the arbitrator to make an order under s. 38.1 of the *Act*. The date of receipt of the forwarding address starts the running of time for the petitioner to commence a claim against the deposit. The petitioner's evidence referred to by Arbitrator Doyon was evidence that formed part of the narrative the petitioner sought to put before an arbitrator to establish the context for the email correspondence between the parties at the time the respondents purportedly gave notice of their forwarding address. The respondent had evidence which, he submits, would have rebutted the finding of Arbitrator Campbell that he received the respondents' forwarding address and which would have had a material impact on the ability of the arbitrator to proceed under s. 38.1 of the *Act*. This evidence was not analyzed by Arbitrator Doyon in the context of whether it was new and would have materially affected the outcome. Rather,

Arbitrator Doyon simply referenced the evidence of the petitioner's complaints with the respondents as being insufficient to overcome the fact that the petitioner did not give the respondents notice of dispute in the time frame required by the *Act*.

[34] As I stated in *Moon v Vizi*, 2024 BCSC 1068:

> [26] While not directly analogous, I find the decision of the Ontario Court of Appeal in *R. v. Morillo*, 2018 ONCA 582 is instructive. In *Morillo*, the Court held:
>
> > [10] In my view, appellate courts ought not to take a rigid or technical approach when identifying the grounds of appeal that a self-represented litigant is raising when seeking leave to appeal under *POA*, s. 139.
> >
> > [11] The Canadian Judicial Council's *Statement of Principles on Self-Represented Litigants and Accused Persons* has been endorsed by the Supreme Court of Canada in *Pintea v. Johns*, 2017 SCC 23, [2017] 1 S.C.R. 470, at para. 4, and by this court in *Moore v. Apollo Health & Beauty Care*, 2017 ONCA 383, at paras. 42-45, and in *R. v. Tossounian*, 2017 ONCA 618, 354 C.C.C. (3d) 365, at paras. 36-39. According to these principles, self-represented persons are expected to familiarize themselves with relevant legal practices and to prepare their own case. However, self-represented persons should not be denied relief on the basis of minor or easily rectified deficiencies in their case. Judges are to facilitate, to the extent possible, access to justice for self-represented persons.
> >
> > [12] Appellate judges should therefore attempt to place the issues raised by a self-represented litigant in their proper legal context. In my view, when this is done it is evident that Mr. Morillo is appealing errors of law, and that there is a foundation in the record that those errors may have occurred.
>
> [27] While *Morillo* addressed principles applicable to the courts, these principles have equal application in disputes before administrative bodies, such as the RTB.
>
> [28] In RTB disputes, it is very common for the parties to be self represented. The requirement for the arbitrator to determine the actual dispute between the parties, not necessarily limited to the language used in the notice of dispute, is confirmed in s. 64(2) of the *Act*, which requires the director to "make each decision or order on the merits of the case as disclosed by the evidence admitted".
>
> [29] Self represented parties do not always articulate the basis of their complaints on their originating documents with a level of precision that allows an adjudicator to easily understand what is truly being sought. This can be challenging for adjudicators. However, fairness does require adjudicators to analyze and consider the evidence and positions of the self represented parties to fully understand the issues raised for consideration, and not take a rigid or technical approach when identifying the issues before them.

[35] I find that while the petitioner styled the issues raised on the review in a number of different ways, it is clear from his application for review that in each ground of review he asserted that he did not have notice of the dispute because he was in Germany when the notice was delivered to his address and, as a result, he was unable to provide the arbitrator with his evidence that he did not receive the respondents' forwarding address thus starting the running of time for him to make a claim against their deposit.

[36] I find the Review Decision is patently unreasonable as it fails to address the fundamental questions raised by the petitioner – namely, did his evidence rebut the deemed receipt provision found in s. 90 of the *Act* and, as such, was he unable to attend the original hearing, and did he have relevant new evidence that materially affects the decision on the running of time, and the arbitrator's jurisdiction under s. 38.1 of the *Act*?

[37] I set aside the Review Decision.

[38] I turn now to the Merits Decision. As discussed above, there is no dispute that the petitioner did not appear or make submissions in relation to the respondents' dispute. There is also no dispute that the respondents did not comply with the strict notice provisions in s. 88 of the *Act* when purporting to deliver their forwarding address.

[39] Ordinarily on a judicial review, the record is limited to the record that was before the decision maker. However, where the issue is one of procedural fairness, the petitioner is entitled to put forward evidence that he would have advanced on the hearing, had he been given an opportunity to present his case. Before me, the petitioner produced evidence that tends to support his claim that he was in Germany when the notice of dispute was delivered to his address and that may support his claim that he did not have actual notice of the tenants' forwarding address.

[40] I find that once the petitioner learned that a decision against him had been rendered, procedural fairness required that he be given the opportunity to try to rebut

the deemed receipt of the notice of dispute, pursuant to s. 90 of the *Act*, and an opportunity to address the issue of whether he received actual notice of the respondents' forwarding address such that s. 72(2)I of the *Act* is engaged.

[41] These questions are foundational to the Merits Decision. If an arbitrator concludes, after hearing the petitioner's evidence and submissions, that he did not receive actual notice of the respondents' forwarding address, the arbitrator is not entitled to proceed by way of s. 38.1 of the *Act*.

[42] I find that the Merits Decision was procedurally unfair to the petitioner as he has not been given an opportunity to challenge his deemed receipt of the notice of dispute and his deemed receipt of the tenants' forwarding address.

Conclusion

[43] The Attorney General of British Columbia and the Residential Tenancy Branch are removed as respondents, and replaced with the Director of the Residential Tenancy Branch.

[44] The decision of Arbitrator Campbell made August 7, 2025, and the decision of Arbitrator Doyon made August 12, 2025 are set aside, and the dispute is remitted the RTB for a new hearing.

[45] I make no order for costs.

"W.A. Baker J."