

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Stein v. Ratushny*,  
2025 BCSC 2082

Date: 20251024  
Docket: S234786  
Registry: Vancouver

Between:

**Cheryl Ann Stein**

Plaintiff

And:

**Rany Ratushny, Sylton Holding Management Company Ltd.,  
Pacific Asset Management Corporation (PAMC),  
Rebecca (“Becky”) Hachey Lund, Michael Henderson, Adree Grandison,  
John Doe and Jane Doe**

Defendants

Before: The Honourable Justice G.C. Weatherill

## Reasons for Judgment

The Plaintiff, appearing in person:

C.A. Stein

Counsel for the Defendants:

A.L. Doolittle  
N.E. John

Place and Dates of Hearing:

Vancouver, B.C.  
October 14–17, 2025

Place and Date of Judgment:

Vancouver, B.C.  
October 24, 2025

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**Introduction**

[1] The plaintiff claims damages against the defendants for defamation and for emotional, psychological, and physical injuries flowing from the alleged defamatory conduct and also from allegedly being “illegally locked out” of her apartment.

[2] The action concerns events that occurred in July and August 2021 in or near an apartment building occupied by the plaintiff and other tenants.

[3] The defendants seek an order pursuant to Rule 9-7 of the *Supreme Court Civil Rules*, striking the plaintiff’s claim in its entirety without leave to amend.

[4] The defendants also seek an order that the plaintiff is a vexatious litigant and that she may not commence or carry on any proceedings in this court or in the Provincial Court of British Columbia against any of the defendants or their counsel without leave of the Court.

**Background**

**The Plaintiff’s History as a Litigant**

[5] The plaintiff is a litigious person with a long and problematic history of bringing legal proceedings. Most, if not all, of them were dismissed at a preliminary stage on the basis that they disclosed no reasonable cause of action, were unnecessary, scandalous, frivolous, vexatious or otherwise constituted an abuse of process. In two of the cases, the plaintiff brought civil proceedings against the defendants’ counsel personally after they obtained orders dismissing the plaintiff’s claims as abusive and vexatious.

[6] This court has repeatedly commented on the plaintiff’s repetitive and abusive litigation conduct. On October 19, 2019, she was declared a vexatious litigant in respect of one particular series of actions and was precluded from bringing any further claims in these actions in this court or in the Provincial Court without leave.

**The Present Matter**

[7] The plaintiff is a tenant in an apartment building located at 1305 13th Avenue, Vancouver B.C. (the “Birch Apartment”). The Birch Apartment is owned by the defendant Sylton Holding & Management Ltd. (the “Landlord”). The defendant Pacific Asset Management Corporation (“PAMC”) is the company that manages the Birch Apartment. The defendant, Rany Ratushny (“Mr. Ratushny”), is an employee of PAMC and is the Birch Apartment’s building manager. The defendants, Adree Grandison (“Mr. Grandison”) and Michael Henderson (“Mr. Henderson”) are employees of PAMC. The defendant Rebecca (“Becky”) Hachey Lund (“Becky”) is a former employee of PAMC.

[8] The Birch Apartment is a relatively small building with only 22 units. Its tenants primarily belong to lower- and middle-income classes and elderly living on fixed incomes. Several of the tenants have lived in the Birch Apartment for over thirty years. The plaintiff rents unit 102 pursuant to a tenancy agreement dated November 15, 2004.

[9] The plaintiff claims that she suffered a blow to her head in May 2021 when she slipped on a grape in a grocery store and fell to the floor. She says that, as a result, she suffered a psychotic episode.

[10] Sometime prior to July 18, 2021, the plaintiff left Vancouver and was admitted to the psychiatric ward of the Penticton hospital. On July 18, 2021, at 5:14 a.m., while the plaintiff (who also goes by the name Jemma Jacksen) was in the Penticton hospital, she sent a text message to Becky, who at the time was the Birch Apartment’s caretaker, advising that she was terminating her tenancy in the Birch Apartment effective July 31, 2021 (the “Plaintiff’s Text Message”). The text read:

Becky  
My stove doesn’t work so I moved it out to hallway  
I am moving July 31<sup>st</sup> as I have new warm place  
Please accept this as notice  
As I know you will be happy about this

Cheers

Jem

I will mail you the keys after the 31<sup>st</sup>

You can renovate it and rent for more and have your baby in peace

I don't want a new stove while I am here as fine without

J

[Reproduced as written.]

[11] Becky responded to the plaintiff's text at 7:59 a.m. that same day, as follows:

Your stove in the hallway is another violation of firecode. This must be kept in your suite until maintenance can come look at it.

If you wish to put in a work request for the stove or provide notice to vacate your tenancy you must do [sic] this online at [www.Pamc.ca](http://www.Pamc.ca). Please move your stove back into your unit this morning.

[12] Later that same day, at 1:07 p.m., Becky sent the following text message to the plaintiff:

I've spoken with the office and they accept your notice to [sic] for July 31<sup>st</sup>. Rany will follow up by email.

Thanks.

[13] At 1:36 p.m. that same day, Mr. Ratushny emailed the plaintiff as follows:

Cheryl,

We have received and accept your notice to end your tenancy and move as of July 31, 2021 as delivered to the Caretaker of Birch Apartments at 5:00 AM July 18, 2021 in the copied text [sic] message below.

Please contact our office at 604-980-3889 ext #3 to arrange a time for the move out inspection of your unit once you have cleared your unit and removed all belongings.

Should you have any questions please feel free to call out [sic] office.

[14] Although the defendants understood that the plaintiff's tenancy had come to an end as of July 31, 2021, and that the plaintiff was no longer in Vancouver, all of her belongings, including her cat, remained in her unit.

[15] On July 21, 2021, the plaintiff's mother telephoned Mr. Ratushny regarding the plaintiff's condition, expressed concern that the plaintiff's cat might be in the

apartment, and requested that Mr. Ratushny have someone look into it. The evidence indicates that the Landlord's caretaker checked the apartment and did not find the cat. Some days later, the cat was discovered deceased inside the apartment.

[16] The plaintiff claims to have lost her keys to the apartment while travelling to the Okanagan and maintains that she repeatedly texted Mr. Ratushny during the period from August 13 to 22, 2021, requesting that he provide her with replacement keys. It appears from the evidence that the text messages sent by the plaintiff were to a landline phone. The plaintiff maintains that the messages would have been automatically converted to voice messages. There is no evidence that those alleged text messages or voice messages were received by Mr. Ratushny.

[17] On August 18, 2021, the Landlord submitted an application for dispute resolution to the Residential Tenancy Branch ("RTB"), seeking an order that the plaintiff's tenancy had been terminated.

[18] The plaintiff returned to the Birch Apartment late in the evening of August 22, 2021. She was unable to gain access to the building because she had lost her keys. The plaintiff created a considerable disturbance outside the building, verbally abusing some of the tenants and demanding to be let into the building. Eventually, one of the tenants opened the door for her and she was able to gain access to the inside of the building, where she continued to cause a disturbance by yelling and banging on doors. The disturbances generated a number of complaints to PAMC by other tenants. At some point during these events, the plaintiff learned that her cat had died.

[19] Among the communications received by the defendants from other tenants were the following emails and transcribed voicemails:

"Um, it appears we have a, um, resident, um Jemma, um, in the hallway, um, and, uh, you know, normally I wouldn't, I wouldn't maybe call, but it—she appears to be, um, verbally assaulting a lot of the uh neighbours. Um, kind of threatening for uh, suing, um, accusations of, um, animal abuse, you know, that we've like killed her cat or something like that."

“The lady “is outside of the building buzzing...the buzzer of Becky’s old unit incessantly. ...I looked out the window and she was shouting to let her in the building and saying things like “you’re going to be in trouble” to no one in particular. It’s pretty disruptive...”

“[...] last night the lady eventually gained entry to the building (either she used her key or someone let her in) and was knocking on Becky’s door saying that Becky killed her cat. Quite disturbing. Then I was awoken around 6:45 today to more buzzing... It was really creepy. I called VPD non-emergency and told them about it.”

“As I imagine you’re aware there have been ongoing disturbances from the previous tenant in unit 102 who goes by Gemma, but also Cheryl I believe... We haven’t heard or seen her around in a while and I assumed that she was gone. Last night around 11:30 pm she started buzzing multiple apartments units, at times holding down the buzzer for long periods. She then yelled up from the street at Becky’s apartment trying to get her attention and telling her she would call the police on them if they didn’t let her in. At one point it sounded like someone let her come into the building with them and then she attempted to get into her apartment. She then slept in the hallway outside her door, which is also obstructing...the hallway. She’s making lots of phone calls and saying things out loud like she’s going to sue everyone in the building and find out whoever has her cat. ...This morning she threatened to sue [redacted] as well. She’s now in the hall saying she’s going to sue [redacted]. At this point she’s trespassing in the building and creating a difficult living situation for [redacted] having to run into her...and having her threaten to sue [redacted] for no reason while we’re inside our apartment. ... We’re starting to worry about our safety in the building with Gemma coming around like this and I’m unsure what we should do. We work during the day and aren’t able to deal with her disturbing everyone in the building trying to sleep, and making a commotion in the hallway while trying to be at home or trying to leave. Please let me know what PAMC is able to do about this.”

“I’m just calling to let you know that the police came to my door, um, regarding the lady who lives [redacted] and apparently she was in the hallway all night and um, uh, anyway, um really you know, troublesome, and, um, the police asked me to pass along that, um, if you can share with all tenants not to let her in the building, um, that would be really important just because, um, someone keeps letting her in, um, and then she’s wandering the halls and knocking on doors and stuff, and it’s like really kind of creeping, creeping me out and probably other people I can imagine.”

[20] The defendants obtained a court order allowing them to redact the tenants’ personal information and identities in order to protect their privacy. The defendants rely on the redacted communications not for the truth of their contents but for the fact that the communications were made.

[21] Mr. Ratushny called the police, who attended the building and removed the plaintiff from it. The police advised Mr. Ratushny to tell the tenants of the Birch

Apartment not to provide access to anyone other than their invited guests, and further, that if the tenants did not feel safe at any time, that they should contact the police. Acting on that advice, on August 23, 2021, Mr. Ratushny sent the following email to the other tenants of Birch Apartment:

Dear Birch Apartment Occupants,

Please be advised that the former resident of Unit 102 – Cheryl Stein (aka Jemma Jackson) provided us with notice to end her tenancy for July 31, 2021. We accepted her notice to end her tenancy. We are of the understanding that Ms. Stein left the city, abandoning the unit on or about July 31, 2021.

Ms. Stein is no longer considered a tenant of the Birch Apartments. The Vancouver Police Department attended and removed Ms. Stein from the building this morning and have advised our office to inform all building occupant to **NOT PROVIDE BUILDING ACCESS TO ANYONE OTHER THAN YOUR INVITED GUESTS.**

If you encounter Ms. Stein in the building or on the property, or if you feel unsafe due to her presence, please contact the Vancouver Police using 911 immediately and report the situation. Please report any encounters to our office either by email or by telephone. We hope to have this situation resolved shortly.

[Email addresses and phone numbers omitted.]

Thank you

F.M. Rany Ratushny

(the “August 23 email”)

[22] On September 2, 2021, the Landlord posted a “10 Day Notice to End Tenancy for Unpaid Rent” on the door of the plaintiff’s apartment unit. On September 14, 2021, the Landlord submitted a second application for dispute resolution to the RTB, seeking an order for the recovery of unpaid rent in the amount of \$1,000 for the month of September 2021 as well as an Order of Possession.

[23] On October 1, 2021, the plaintiff submitted an application to the RTB seeking an order cancelling the termination of her tenancy as set out the Plaintiff’s Text Message.

[24] On October 6, 2021, the plaintiff returned to the Birch Apartment, having obtained a spare set of her keys from her mother. She resumed occupation of unit 102. She has continued to occupy her suite since that time.

[25] On December 21, 2021, the RTB conducted a hearing in respect of the Landlord's applications.

[26] On December 23, 2021, the RTB ruled that the Plaintiff's Text Message was not effective as a notice to end a tenancy because it did not comply with the form and content requirements of s. 52 of the *Residential Tenancy Act*, S.B.C. 2002, c. 78 [RTA] specifically because the address of the rental unit was not provided and that it could not be considered as having been signed by the plaintiff. The RTB ruled that the plaintiff was entitled to continue her tenancy. The RTB also ruled that Landlord was entitled to increase the amount of its monetary claim from \$1,000 to \$3,500 and ordered the plaintiff to pay that increased amount to the Landlord (unpaid rent for the months of October, November and December 2021). Curiously, the RTB did not appear to consider s. 44(1)(c) of the RTA, which provides that a tenancy ends when the landlord and tenant agree in writing to end the tenancy.

[27] The plaintiff elected to claim compensation from the Landlord through the RTB process. On May 16, 2022, November 8, 2022 and September 12, 2023, the plaintiff filed Applications for Dispute Resolution with the RTB, seeking damages orders of \$9,000, \$9,000, and \$2,520, respectively, allegedly suffered as a result of being unable to access her unit between August 22 and October 6, 2021. Her claims included damages flowing from "homelessness, physical illness, deterioration of her mental health and traumatic experiences" that allegedly occurred during that time period. These complaints were substantially duplicative of each other and were either settled, were not accepted by the RTB or were otherwise resolved, at least to some extent.

[28] On July 5, 2023, the plaintiff commenced this action, claiming that the defendants illegally locked her out of her apartment, caused the demise of her cat

and defamed her by virtue of the August 23 email. The Notice of Civil Claim (“NoCC”) set out the following as the Legal Basis for her claim:

- The Common law of Contracts – Contractual Law
- The Residential Tenancy Act – RTA
- Unfairness of bargain: Unconscionability.
- The Human Rights Code

Plus the following statutes:

- Business Practices and consumer Protection Act
- Criminal Code
- Law and Equity Act
- Personal Property Security Act
- Constitutional law & statutes in rights to dignity/free from discrimination/ right to self and safety etc
- And Any other law or enactment as may see fit.

[29] The NoCC sought the following particularized damages:

- I seek thusly 2000\$ for paid rent August and September to be returned and I never enjoyed the premises,
- 1000\$ for hotel expenses,
- \$250,000 for getting COVID from the shelter & having long hauler syndrome,
- 3 million for being sexually assaulted when homeless,
- 1 million for changing my locks illegally and locking me out,
- 3 million for killing my dear therapy and rescue cat Bosley (this made me very suicidal) and 2 million for keeping my mail from me and ruining my credit score,
- 1 million for them lying under oath at the RTB hearing,
- 1 million for talking with St. Pauls about my private health,
- 1 million for 2 years plus of poor health due to illegal lockout,
- 1 million for lying to police and telling them I had been evicted and
- 2 million for the trauma of lying on the streets to sleep when I duly paid rent
- And \$500,000 to go to my mom whom endured bad health due to their illegal behaviour.

[30] On September 10 and September 16, 2023, the plaintiff filed two further applications for dispute resolution with the RTB. In the first, she sought \$7,000 in damages for alleged insufficient heating in her rental unit. In the second, she sought

an order that the Landlord comply with s. 28 of the *RTA*, which she claims was violated by the issuance of the noise complaints. These applications were dismissed by the RTB on December 15, 2023.

[31] On November 17, 2023, the plaintiff filed an Amended Notice of Civil Claim (“ANoCC”) which largely repeated the allegations and legal bases set out in the NoCC, but also:

- a) raised a plea of negligence in respect of the death of her cat;
- b) added specific claims of emotional distress; injury to dignity, invasion of privacy and continued a claim of lien against the Birch Apartment; and
- c) amended the monetary claims by deleting some, reducing others and adding claims totalling \$1,560,000 for emotional distress, personal injury, injury to dignity and invasion of medical privacy.

#### **The Plaintiff’s Claim in this Action as Currently Pleaded**

[32] On October 4, 2024, the plaintiff filed her Second Amended Notice of Civil Claim (“Second ANoCC”) which struck out the entirety of her ANoCC and replaced it with a largely repetitive statement of facts and particulars of her alleged emotional distress. Under the heading “Relief Sought”, the plaintiff claims, *inter alia*, general and special damages, an injunction, punitive and aggravated damages and:

Potentially: I am asking for a lien against the building at 1305 west 13<sup>th</sup> ave as I have an interest in suing Sylton Holdings & Management Company Ltd for damages in the amount of approximately 6 million dollars (30% the asking price of 1305 west 13 th ave.). It is applied for herein as a result.

[33] Parsing through the plaintiff’s Second ANoCC in an attempt to determine her cause(s) of action has not been an easy task. Nevertheless, it is discernable that she alleges in this action that the August 23 email was defamatory of her (the “Defamation Claim”) and that that she suffered physical and emotional distress as a consequence of not having access to her apartment from August 22 to October 6, 2021 (the “Lockout Claim”). I find that no other potential cause of action has been pleaded.

**Analysis**

[34] Counsel for the defendants provided the court with organized, helpful, succinct and compelling submissions to justify the orders sought.

[35] In contrast, the plaintiff's submissions, both written and oral, were unstructured, disorganized, rambling, misguided, often incomprehensible and irrelevant and unsupported by admissible evidence. During her submissions, the plaintiff acknowledged that she has for years suffered and continues to suffer from several mental health issues and disabilities including post-traumatic stress disorder, fibromyalgia, and "schizoaffective" disorder which she described as:

[...] a mental health condition that is marked by a mix of schizophrenia symptoms, such as hallucinations and delusions, and mood disorder symptoms, such as depression, mania and a milder form of mania called hypomania. Hallucinations involve seeing things or hearing voices that others don't observe. Delusions involve believing things that are not real or not true.

[My emphasis.]

[36] I found the plaintiff's submissions to be a swirling cocktail of bizarre bafflelegab designed to inflame and distract from the issues to be decided. They amounted to a hodgepodge of disconnected, often immaterial and/or hearsay-laden assertions that did not assist the Court in its task. I did not find them to be worthy of anything more than little consideration.

[37] The harsh reality is that courts are one of the places where facts and pleadings still matter.

**Is the Matter Suitable for Determination by way of Summary Trial?**

[38] All parties to an action must come to a summary trial hearing prepared to prove their claim, or defence, as judgment may be granted in favour of any party, regardless of which party has brought the application, unless the judge concludes that he or she is unable to find the facts necessary to decide the issues or is of the view that it would be unjust to decide the issues in this manner: *Gichuru v. Pallai*, 2013 BCCA 60, at para. 32.

[39] When determining whether it would be unjust to decide the case on summary trial, the chambers judge is entitled to consider, *inter alia*, the amount involved, the complexity of the matter, the cost of taking the case forward to a conventional trial in relation to the amount involved, the course of the proceedings and whether credibility is a critical factor in the determination of the dispute: *Gichuru* at paras. 30–31.

[40] In this case, the facts and issues to be determined are, in my view, straightforward. They are not complex. Despite the plaintiff's insistence that there are numerous inconsistencies in the evidence and that there are issues of credibility with the veracity of Mr. Ratushny's evidence, such that cross examination at trial is necessary, she was unable to point to any coherent or convincing reason why her submissions in this regard ought to be accepted. Each of those submissions was tortured, unfounded, and baseless. The cost of further litigation in this case is disproportionate to the amount of any damages that would likely be awarded if the plaintiff was successful. Adjudicating the case on summary trial will be concomitant with the need to promote a timely and effective judicial process and the efficient use of the court's scarce resources.

[41] I have concluded that there is no genuine issue in this action requiring a trial. I find that I am able to find the facts necessary to adjudicate this matter. There is no need for a full trial in order to provide a just result. A summary trial will provide a proportionate, more expeditious and less expensive resolution to the matters in issue: *Vedic Hindu Cultural Society v. Joshi*, 2014 BCSC 1070 at paras. 16–17 [*Joshi*].

[42] As set out above, there are essentially two purported causes of action asserted by the plaintiff in the Second ANoCC:

- a) Defamation; and
- b) Failure to provide her with access to her apartment.

### Defamation Claim

[43] At the outset, I note that the plaintiff's claim in defamation extends (or it did initially) to individuals, namely Becky, Mr. Henderson, and Mr. Grandison, who had no involvement with the allegedly defamatory communication. There are no material facts or causes of action pleaded to justify the inclusion of them as defendants in this action.

#### ***Was the August 23 email defamatory of the Plaintiff?***

[44] To establish the August 23 email is defamatory, the plaintiff must prove on a balance of probabilities that:

- a) The words were defamatory in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person;
- b) The words referred to the plaintiff; and
- c) The words were published, meaning that they were communicated to at least one person other than the plaintiff.

The plaintiff is not required to show that the defendants intended to do harm or even that the defendants were careless. The tort is one of strict liability. If the plaintiff establishes all three elements, the onus then shifts to the defendants to advance one of the defences to defamation: *Grant v. Torstar*, 2009 SCC 61 at paras. 28–29.

[45] The defendants concede that the last two elements have been made out. However, they submit that that the first element has not been made out. They submit that the words of the August 23 email were not defamatory of the plaintiff.

[46] The plaintiff submits that in their natural and ordinary meaning, or by innuendo, the words in the August 23 email meant and were understood to mean that the plaintiff:

- a) was "unsafe";
- b) was dangerous;
- c) was a criminal or engaged in criminal conduct;

- d) was involved with the police;
- e) had abandoned her apartment; and
- f) had defaulted on her legal or contractual obligations.

[47] The defendants submit that:

- a) Whether the plaintiff is a tenant or not of a specific building is not a matter that would tend to lower the plaintiff's reputation in the eyes of a reasonable person. In any event, Mr. Ratushny's statement that building management no longer considered the plaintiff to be a tenant of the Birch Apartments was true at the time;
- b) Nothing in the August 23 email could be understood to suggest that the plaintiff is a criminal or crazy or struggles with addiction or mental health issues; and
- c) Nowhere in the August 23 email does Mr. Ratushny call the plaintiff a "threat", nor could this reasonably be understood as the meaning of his email. Rather, the communication simply relays the advice received from the police.

[48] The defendants submit that the overall effect of the August 23 email must be considered, and specific words cannot be taken out and viewed in isolation to assess whether the words are defamatory: *P.G. Restaurant Ltd. v. Cariboo Press (1969) Ltd.*, 2005 BCCA 210 at para. 46.

[49] I agree with the submissions of defendants' counsel. The context of the August 23 email was Mr. Ratushny, the building manager of the Birch Apartment, addressing its occupants after several complaints and concerns were raised by tenants. It is clear from the second paragraph of the August 23 email, in which Mr. Ratushny states that the VPD "advised our office to inform all building occupant[s] [...]", that what follows is Mr. Ratushny reporting to the recipients of the email what the VPD advised him to report. Mr. Ratushny did, in fact, report what the police officers he spoke to advised him that he should.

[50] It is noteworthy that, when asked during her submissions to do so, the plaintiff was unable to point to anything in the August 23 email that she claimed to be factually incorrect. Rather, she asserted that her concern with the August 23 email

was that it should not have been sent to all of the other tenants because it was “oversharing”.

[51] I have no difficulty finding that the August 23 email was not defamatory of the plaintiff.

***Defence of Qualified Privilege Applies***

[52] Regardless, in my view, the August 23 email is protected by the defence of qualified privilege.

[53] The defence of qualified privilege arises at common law when statements are made on “an occasion where the person who makes a communication has an interest or a duty, legal, social, or moral, to make it to the person to whom it is made, and the person to whom it is so made has a corresponding interest or duty to receive it.” The legal effect of the defence of qualified privilege is to rebut the inference, which normally arises from the publication of defamatory words, that they were spoken with malice. Where the occasion is shown to be privileged, the *bona fides* of the defendant is presumed and the defendant is free to publish, with impunity, remarks which may be defamatory and untrue about the plaintiff: *Martin v. Lavigne*, 2011 BCCA 104 at para. 33, leave to appeal to SCC ref’d, 34246 (3 November 2011), citing the Supreme Court of Canada in *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, 1995 CanLII 59 (S.C.C.) at paras. 143–144.

[54] However, the privilege is not absolute and can be defeated if the dominant motive for publishing the statement is actual or express malice: *Church of Scientology*, at para. 144; *Joshi* at para. 74.

[55] The plaintiff points to the following as evidence that the August 23 email was sent with malice as its dominant motive:

- a) a notice she received from the Landlord in 2021 to end her tenancy for unpaid rent;
- b) Mr. Ratushny killed her cat;
- c) Mr. Ratushny wanted the plaintiff to be charged with animal cruelty;

- d) Mr. Ratushny knew of the plaintiff's mental health issues and stigmatized her because of them;
- e) Mr. Ratushny would have provided a new set of keys to any other tenant who had lost theirs;
- f) Mr. Ratushny didn't treat the plaintiff equally when it came to noise complaints;
- g) Mr. Ratushny disagreed with the December 23, 2021 decision of the RTB; and
- h) a litany of alleged incidents the plaintiff said occurred after the August 23 email was sent.

[56] The plaintiff argues that there was "oversharing" of the information set out in the August 23 email. She submits that, rather than simply informing the other tenants not to let any uninvited guests into the building, Mr. Ratushny went beyond the breadth of what was required of his duty to inform by:

- a) including her last name (which she says no one knew);
- b) stating the plaintiff gave "notice to end tenancy";
- c) stating "we accepted her notice to end tenancy";
- d) stating that Ms. Stein had "left the city, abandoning the unit";
- e) stating "Ms. Stein is no longer considered a tenant";
- f) stating "Vancouver Police Department attended and removed Ms. Stein from building this morning";
- g) stating "if you encounter Ms. Stein in the building or on the property, or if you feel unsafe due to her presence, please contact the Vancouver Police Department using 911 immediately"; and
- h) stating "please report any encounters to our office".

[57] The plaintiff submits that, accordingly, any defence of qualified privilege was defeated.

[58] The decision in *Martin* provides a helpful illustration of the defence of qualified privilege. The Martins were owners of a residential strata lot who complained to the

Strata Council that after they had raised concerns about the Strata's finances, one of the council members (Mr. Lavigne) had begun a daily routine of staring at them in an intimidating manner from outside through their ground floor window and that this led to a confrontation between Mr. Martin and Mr. Lavigne. The Martins advised they had filed a police complaint about Mr. Lavigne's conduct and requested action by the Strata Council. When the Strata Council approached Mr. Lavigne for his version of events, he denied staring into the Martins' unit and described Mr. Martin glaring at him from his patio while Mr. Lavigne was out with his dog for a walk.

[59] In a newsletter to all strata owners and the property manager, the Strata Council president advised that there was a troubling interaction between Mr. Martin and Mr. Lavigne, that the Strata was concerned about issues with the Martins escalating, that he would be filing a police complaint against the Martins, and that owners should promptly report any concerns or questions with respect to the Martins to them. The Strata Council president ultimately did not file a police complaint.

[60] When the Martins sued for defamation, the Court of Appeal confirmed that the publication was protected by qualified privilege. Among other things, the Court observed that four members of the volunteer Strata Council had met to decide upon a course of action for what they believed to be an urgent and escalating problem and that it was appropriate for the Strata Council, which was elected by the owners to manage and safeguard their interests, to advise the owners in the newsletter: para. 38.

[61] The Court concluded that the president of the strata council "had a common law duty to keep the strata owners informed about the business of the Strata Council", including about the Martins' allegations and the Strata Council's actions to attempt to resolve them. The Court observed, among other things, that the publication was made only after receiving the Martins' complaint describing the incident, and that "the information in the newsletter was relevant to the interests of the strata owners; it indicated how they might be affected by a lengthy, continuing

and escalating dispute between the appellants and the Strata Council”: *Martin* at paras. 38, 43, and 46.

[62] Here, I agree with the submission of defendants’ counsel that tenants who have concerns about their living environment must be afforded the opportunity to express those concerns through the proper channels. Equally, landlords have a duty to inform tenants about issues that concern them and their building and of the courses of action available to them. Such communications are protected by the defence of qualified privilege, much like other communications which aim to fulfill a person’s duty to protect the individuals to whom it is accountable: *Joshi* at paras. 57 and 59; *J.W. v. Van Bibber*, 2013 YKSC 58 at paras. 65–67 and 106, aff’d 2013 YKCA 15; *Rolfe v. Hertz*, 2009 BCSC 1522 at paras. 20, 28–29.

[63] In the circumstances of this case, I agree that the defendants were under a duty to contact the police when the plaintiff was causing the disturbance during the late evening hours of August 22. Two police officers advised Mr. Ratushny, on behalf of the Landlord, to tell the tenants of the Birch Apartment what to do if the plaintiff caused another such disturbance. Mr. Ratushny followed that advice. The August 23 email was a good faith communication based on that advice.

[64] The Birch Apartment tenants had a corresponding interest in being advised by the defendants about how their complaints had been dealt with, including what the police had directed the defendants to tell the tenants.

[65] In this case, the recipients of the August 23 email were a restricted group. They consisted of the registered tenants of the Birch Apartments, all of whom had a reciprocal duty to receive the August 23 email. I disagree that there was “oversharing” of personal information regarding the plaintiff. I find that the August 23 email was a measured and appropriate response to events at the time.

[66] I conclude that, even if the August 23 email was defamatory, which I have found it was not, the defence of qualified privilege applies.

[67] Accordingly, in order to defeat the defence of qualified privilege, it was necessary for the plaintiff to establish more than mere ill-will on the part of Mr. Ratushny. It was incumbent on the plaintiff to demonstrate that the dominant motive for Mr. Ratushny's decision to send the August 23 email was actual or express malice: *Joshi* at para. 83.

[68] The plaintiff has not pointed to any evidence even remotely indicative of malice on the part of any of the defendants.

[69] Accordingly, the defence of qualified privilege would have stood to defeat the plaintiff's defamation claim, had I found that the publication was defamatory.

### **Lockout Claim**

[70] In the RTB's Decision of December 23, 2021, the Arbitrator made various comments critical of the Landlord. These comments included:

Despite repeated attempts by the tenant and her advocates, including the tenant's mother, the landlord refused to provide keys to the tenant to access either her mail or her rental unit.

[...]

Despite this, the landlord insisted the tenancy ended on July 31, 2021 and failed to provide the tenant with replacement keys in the month of August 2021 when he was approached by the tenant and/or her advocates. Furthermore, I find the landlord took deliberate, active and very public steps, by enlisting all other occupants of the residential property, to ensure the tenant could not return to the residential property.

[...]

In addition, I find the aggressive manner in which the landlord prevented the tenant from access to the residential property during the month of August was contrary to their obligations under Section 30(1)(a) of the *Act* and restricting the tenant's access in September was contrary to Section 26(3)(b).

To be clear I find the aggressive manner noted above to include the landlord's refusal to provide the tenant with replacement keys to the property and actively seeking to have other occupants call police to have her physically removed from the property when they had received rent for the month of August and while there were ongoing communications from both the tenant; her mother; and her advocates trying to access the property.

[71] Seemingly emboldened by these comments, the plaintiff launched her claim for damages on the basis that she was illegally locked out of her apartment. The

plaintiff alleges that she suffered significant physical and emotional damage as a result of the defendants changing the locks to her apartment unit on or about July 31, 2021, and thereafter refusing to provide her with access to it. She does not specifically plead a breach of the tenancy agreement.

[72] If there was admissible evidence put before the RTB Arbitrator that warranted the findings and comments noted above, that evidence was not put before me. Accordingly, I give the RTB's findings and comments little, if any, weight.

[73] What is clear on the evidence proffered on this application is that:

- a) The plaintiff left her apartment in mid-July 2021 and ended up in the Penticton hospital;
- b) The plaintiff notified the Landlord that she was terminating her tenancy agreement, effective July 31, 2021;
- c) The Landlord held the plaintiff's rent for the month of August 2021;
- d) Sometime during the period from July 1 to August 22, 2021, the plaintiff lost her set of keys to her apartment;
- e) The plaintiff returned to the apartment late in the evening of August 22, 2021, and caused a disturbance when she could not get access to it because she did not have her keys; and
- f) On October 4, 2021, the plaintiff received a spare set of keys from her mother and gained access to her apartment two days later.

[74] There is no evidence that the defendants or any of them changed the locks to the plaintiff's apartment unit at any time. The plaintiff's suggestion in this regard is based entirely on unsupported conjecture and speculation and inadmissible hearsay evidence. There is simply no air of reality to it.

[75] I agree with the submissions of defendants' counsel that the plaintiff's Lockout Claim is both not pleaded as a recognizable cause of action and is factually "absurd". It is not worthy of further analysis.

**Conclusion**

[76] The defendants' summary trial application is allowed. The plaintiff's action is dismissed in its entirety without leave to amend.

[77] I am satisfied that these proceedings are yet another of the many examples of vexatious proceedings instituted by the plaintiff against persons in this province. She has done so habitually and persistently without reasonable grounds and undeterred by orders of this court. She has usurped to herself far too much of the Court's limited resources. The time has come to put a stop to her antics.

[78] Pursuant to s. 18 of the *Supreme Court Act*, R.S.C. 1985, c. S-26, I declare the plaintiff to be a vexatious litigant. She is accordingly barred from instituting or carrying on any action or proceeding in this court or in the Provincial Court of British Columbia without leave of the court.

[79] The defendants are entitled to an award of costs at Scale B.

[80] The plaintiff's signature approving the order is dispensed with.

"G.C. Weatherill J."