

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

C.H. 63746
C.H. 64047

IN THE COUNTY COURT
OF DISTRICT NUMBER ONE

BETWEEN:

LORETTA KNUTSON

Applicant

- and -

TWENTIETH CENTURY DEVELOPMENTS LIMITED

Respondent

Christopher Manning, Esq., Counsel for the applicant.
Craig Garson, Esq., and Yvonne La Haye, Counsel for the respondent.

1989, January 18th, Palmeto, C.J.C.C.:— This matter involves two notices of objection by the respondent/landlord to two separate reports of the Halifax and County West Residential Tenancies Board, dated October 27th, 1988 and November 25th, 1988 involving the same premises known as Apartment 107, 1585 Barrington Street in the City of Halifax.

At the hearing of this matter counsel for the respondent withdrew the objection to the October 27th report, which is entered as C.H. No. 63746. This was an objection based on the question of jurisdiction. I had considered this file prior to hearing and had read briefs submitted by the applicant and the respondent and had the objection not been withdrawn I would have dismissed it in any event as I considered the objection to have no merit.

Dealing with the second objection, that is to the report C.H. No. 64047, it is not necessary for me to set forth the facts herein. Suffice it to say that the applicant/tenant was treated in a most reprehensible manner by the respondent and the Board so found. Not only was the conduct reprehensible but it was carried out in the face of a previous report and recommendation of the Board which was still before this court. To paraphrase a comment made by a judge in one of the cases cited by the applicant the tenant has been treated with an appalling lack of respect and as a human being she was entitled to be treated with respect.

The respondent objects on two grounds, namely bias and the quantum of the award recommended. With regard to bias it must be noted that the Board and indeed its Chairman is merely acting as a referee for this court and it is for this court to make the final determination. In reading the report I can find no positive evidence of bias on the part of the Chairman. Indeed, I believe he acted with considerable restraint given the circumstances.

The **Residential Tenancies Act** is designed to be flexible and to give aggrieved parties prompt and fair deliberations without the necessity of formal, structured court hearings. The Chairman was perfectly within his rights to adjourn the matter and further to advise counsel for the applicant that it was not necessary for him to split his case and that the matter of damages, if any, could be dealt with by this court under the application.

The mere mentioning of bias does not mean that a Board or a member thereof must disqualify itself or himself. The apprehension of bias must be reasonable and must be substantial (See: Committee For Justice and Liberty v. N.E.B. (1978), 1 S.C.R. 369 (S.C.C.)). I do not find any apprehension of bias in this matter to be either reasonable or substantial. I will dismiss this ground in the objection.

On the matter of quantum there are two items. The first is an item of \$240.00 included in the special damage recommendation of \$723.94. There is some error by the Board on the total calculation of special damages which I believe should have totalled \$695.74. In any event, I agree that this \$240.00 should not have formed part of the special damages. It was apparently an ex gratia payment made by the tenant and there was not much evidence thereon. It is a matter which in my opinion should be more properly considered in any award of general damages. I will allow and award therefore the sum of \$456.84 under special damages.

The respondent argues that in recommending the amounts for general damages the Board made a duplication. In particular counsel submits the recommendation of \$2,000.00 for general damages is inordinately high. I do not agree. The applicant suffered loss of income from work which could not be particularly itemized, she suffered considerable emotional trauma and upset and she had to request a companion to stay

with her to whom payment was made. I will accordingly allow the sum of \$2,500.00 as general damages.

This court has the jurisdiction to award exemplary or punitive damages for the reasons set out in the report of the Board and in reference to the cases cited. The circumstances of this matter in my opinion dictate that such damages should be awarded. I accept the figure of \$1,000.00 suggested by the Board.

Accordingly I will vary somewhat the report of the Board and award the applicant \$456.84 for special damages, \$2,500.00 for general damages and \$1,000.00 for aggravated, exemplary or punitive damages for a total of \$3,956.84. As I indicated at the hearing I wish I had the jurisdiction to award costs to the applicant.

A handwritten signature in black ink, appearing to read "Franklin S. ...", written over a horizontal line.

A Judge of the County Court of
District Number One