

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA  
cite as: *Popenko v. Killam Apartment REIT* 2020 NSSM 29

SCCH 501114

Between:

Serhiy Popenko

Appellant

— and —

Killam Apartment REIT

First Respondent

— and —

The Bank of Nova Scotia,  
carrying on business as Scotiabank Canada Collections

Second Respondent

**Adjudicator:** Augustus M. Richardson, QC

**For the Appellant:** Serhiy Popenko

**For the First Respondent:** Alla Fiddes and Mr Sampson

**For the Second Respondent:** Stephen Kingston

**Heard:** December 15<sup>th</sup>, 2020 (by teleconference)

**Decision:** November 22<sup>nd</sup>, 2020

**FINAL ORDER**

[1] This matter first came on before me by way of an appeal by the tenant Mr Popenko of a Residential Tenancy Order dated October 7<sup>th</sup>, 2020 (the “RTO Order”): see *Popenko v. Killam Apartment REIT* 2020 NSSM 23. At that time it appeared that the tenant’s rent arrears were due in

part to actions of The Bank of Nova Scotia, carrying on business as Scotiabank Canada Collections Scotiabank Canada Collections (“BNS”). It had been taking money out of his account to pay his credit card debt. I ordered that BNS be made a second respondent and that it return to Mr Popenko the monies it had deducted from his account. A return date of December 15<sup>th</sup>, 2020 was set to deal with the issues in the appeal and the issue of the deductions from Mr Popenko’s account.

[2] The hearing took place on December 15<sup>th</sup> by teleconference. Mr Kingston appeared on behalf of SBCC. He advised that notwithstanding BNS’s concerns about this court’s jurisdiction to add it to these proceedings, either without notice or at all, it complied with the order, repaid into Mr Popenko’s bank account the monies it had deducted and did not deduct any further funds. I should add BNS is to be commended for its actions as a good corporate citizen, especially given its not unreasonable concern about how it had been brought into these proceedings without notice. Mr Kingston also advised that BNS was prepared to work with Mr Popenko to see if they could come up with a mutually agreeable to the issues involving his bank account and whether BNS could deduct portions of his social assistance payments from his account. He submitted as well that if Mr Popenko and BNS could not resolve their dispute that the proper next step would be for Mr Popenko to commence an action against BNS.

[3] At the hearing Mr Popenko acknowledged that the monies had been repaid, though he suggested that he was short about \$100.00 or so. However, he did not appear too interested in a possible suit against BNS. He advised that the BNS’s deductions from his account were not the principal source of his problems paying rent. He said the main problem was the failure of his government pension and social assistance payments to keep up with inflation. He advised that he was looking for a lawyer to represent him, and that he intended to sue the federal and provincial governments for millions of dollars. He advised that he could pay \$550.00 every month but that he could not pay his rent of \$720.00, and that he intended to proceed with his proposed claims against the government.

[4] I advised Mr Popenko that the landlord was not obligated to wait for him to resolve his differences or claims against the federal or provincial governments or, for that matter, BNS. Taking this into account, and recognizing the season, I have decided to amend the RTO Order as follows:

IT IS ORDERED that the RTO Order dated October 7<sup>th</sup>, 2020 be amended as follows:

- (1) Mr Popenko’s arrears in rent as of the end of December 2020 are in the total amount of \$2843.96;

- (2) Mr Popenko shall pay \$500.00 towards his current rent of \$720.00 a month for January, February and March 2021;
- (3) Mr Popenko's total arrears of rent as of March 31, 2021 if he pays the monthly amounts of \$500.00 will be \$660.00 plus \$2,843.96 for a total of \$3,550.96;
- (4) Mr Popenko shall pay the arrears of \$3,550.96 on or before March 31, 2021;
- (5) In the event Mr Popenko has not paid the arrears totalling \$3,550.96 by March 31, 2021, or fails to abide by the terms of this Order, then his lease with the respondent Killam Apartment REIT shall terminate and he shall deliver up vacant possession of the unit known as 57 Westgrove Place, Apt 37, Halifax, Nova Scotia.

IT IS FURTHER ORDERED that the Second Respondent The Bank of Nova Scotia, carrying on business as Scotiabank Canada Collections, be and the same is hereby removed as a party from these proceedings, without prejudice to any proceedings Mr Popenko may wish to bring against it.

DATED at Halifax, Nova Scotia  
this 22<sup>nd</sup> Day of December, 2020

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Augustus M. Richardson, QC  
Adjudicator