

COURT OF APPEAL OF YUKON

Citation: *Boles v. Yukon Residential Tenancies Office*,
2025 YKCA 2

Date: 20250128
Docket: 24-YU926

Between:

Carrie Boles

Appellant
(Applicant)

And

Yukon Residential Tenancies Office and Gerry Kuhn

Respondents
(Respondents)

Before: The Honourable Justice Griffin
(In Chambers)

On appeal from: An order of the Supreme Court of Yukon, dated
July 5, 2024 (*Boles v. Yukon Residential Tenancies Office*, 2024 YKSC 33,
Whitehorse Docket 23-AP009).

Oral Reasons for Judgment

The Appellant, appearing in person
(via videoconference):

C. Boles

Counsel for the Respondent, Yukon
Residential Tenancies Office
(via videoconference):

L. Morris

No one appearing on behalf of the
Respondent, Gerry Kuhn

Place and Date of Hearing:

Whitehorse, Yukon
January 28, 2025

Place and Date of Judgment:

Whitehorse, Yukon
January 28, 2025

Summary:

A tenant succeeded on judicial review of a decision by the Residential Tenancies Office, in establishing that the hearing was procedurally unfair as she was not given an opportunity to see and respond to the evidence submitted by the landlord, which evidence she disputed. However, no remedy was granted. She seeks an extension of time to file her notice of appeal, as she wants a forum to be able to challenge the evidence submitted by the landlord. Held: Application for an extension of time dismissed. Residential tenancy disputes are meant to proceed expeditiously to give finality to the parties. There is no practical utility in an appeal and it is not in the interests of justice to grant an extension of time.

GRIFFIN J.A.:

Overview

[1] This is an application by the appellant, Ms. Boles, to extend the time to file her notice of appeal from a judgment of the Supreme Court of Yukon dismissing her petition for judicial review of a decision of the Yukon Residential Tenancies Office (“RTO”). The judge released the judgment on July 5, 2024, and it is indexed at 2024 YKSC 33.

Background

[2] The applicant was a tenant of the respondent, Mr. Kuhn.

[3] In April 2023, Mr. Kuhn sent Ms. Boles an eviction notice for cause, alleging disruptive behaviour by Ms. Boles. Ms. Boles filed an application with the RTO disputing the notice.

[4] The RTO proceeded by written hearing. The adjudicator set a deadline of May 5, 2023 to receive submissions from the parties. The parties each emailed submissions to the RTO before the deadline. However, three witnesses in support of Mr. Kuhn submitted letters after the deadline. These were not provided to Ms. Boles until after the RTO reached its decision in June 2023.

[5] The RTO adjudicator determined that Mr. Kuhn had valid cause to end the tenancy. The adjudicator found that Mr. Kuhn had submitted compelling evidence that Ms. Boles’ actions had significantly interfered with or unreasonably disturbed

another tenant or another occupant of the residential property, entitling him to evict her with 14 days' notice under s. 52(1)(d)(i) of the *Residential Landlord and Tenant Act*, S.Y. 2012, c. 20. The RTO ordered that Ms. Boles deliver vacant possession of the cabin she rented on June 30, 2023. I pause to note that Ms. Boles strongly contests the evidence and conclusion that she ever did significantly interfere with or unreasonably disturb other tenants or occupants.

[6] Ms. Boles applied for a review of the decision pursuant to the RTO's internal process, which was refused.

[7] On June 30, 2023, Ms. Boles was evicted. She subsequently applied for judicial review of the RTO's decision.

[8] In the judicial review decision made July 5, 2024, the judge found that the adjudicator breached Ms. Boles' right to procedural fairness by not providing her with the letters that Mr. Kuhn submitted and an opportunity to respond. However, she found that the matter was moot, and therefore should not be remitted back to the RTO. She invited the parties to speak to costs in case management if they were unable to agree, noting that Ms. Boles had been substantially successful in her application.

[9] There is correspondence with the court on the costs issue. It was clear Ms. Boles was not happy with the decision.

[10] On September 26, 2024, Ms. Boles gave notice to counsel for the RTO that she wanted to appeal.

[11] Ms. Boles filed a notice of appeal in this Court on December 4, 2024. As the notice was approximately four months out of date, Ms. Boles also filed this application for an extension of time on December 10, 2024.

Application to extend time to file the notice of appeal

[12] Under s. 10 of the *Court of Appeal Act*, R.S.Y. 2002, c. 47, a notice of appeal must be filed 30 days from the date that the judgment being appealed from is

pronounced. Under R. 52(1) of the *Court of Appeal Rules*, a justice may extend the time within which an appeal is brought.

[13] This Court adopts the criteria in an application to extend the time to file a notice of appeal as set out in *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256 at 259–260 (C.A.):

- 1) Was there a *bona fide* intention to appeal?
- 2) When were the respondents informed of the intention?
- 3) Would the respondents be unduly prejudiced by an extension of time?
- 4) Is there merit in the appeal?
- 5) Is it in the interest of justice that an extension be granted?

[14] The final factor is the decisive question, encompassing all other factors: *Ramirez v. Gale*, 2017 YKCA 18.

[15] As mentioned, Ms. Boles filed her notice of appeal approximately four months out of date. However, counsel for the respondent RTO does accept that she had an intention to appeal and that the delay could be attributed to some of the barriers facing Ms. Boles as a self-represented litigant.

[16] The RTO also does not take the position that it is prejudiced in an extension of time.

[17] However, I note there is some prejudice to the landlord and other witnesses that Ms. Boles seeks to challenge if she was to succeed on appeal and have the matter remitted to the RTO. That is the key problem with Ms. Boles' application. Namely, what she is seeking is to put the record straight by disputing some of the evidence that was used against her at the initial RTO hearing. She appears to want to question the witnesses who provided evidence against her and question whether the initial eviction was valid. She feels quite strongly that evidence was wrong and has tarnished her reputation. However, the eviction took place over a year and a half ago. The judgment being appealed from was rendered almost six months ago.

Residential tenancy matters are meant to be dealt with quickly, so that both tenant and landlord can go about their lives and rely on the finality of decisions.

[18] Ms. Boles is no longer a tenant of Mr. Kuhn. She does not seek to have her tenancy restored, which is not a remedy she could obtain. She did succeed on the judicial review application in establishing that the RTO hearing was procedurally unfair. That means the analysis of the evidence by the RTO should be given no weight.

[19] The RTO has no authority to reinstate her tenancy, and Ms. Boles, quite fairly, concedes she is not seeking damages. Her goal is simply to clear her name and challenge the conclusion that there was any cause for her eviction.

[20] While I am sympathetic to Ms. Boles' reasons for wanting to appeal, I see little practical utility in her appeal because what she is seeking is not a remedy this Court could give her. On any appeal, this Court would not make findings of fact as to the interactions between the tenant, other tenants and landlord. For this reason, I am not satisfied that the interests of justice are served in allowing an extension of time to appeal.

[21] Given this conclusion, it is not necessary to comment further on the merits of the appeal and whether the judge was correct or incorrect in concluding that it was moot.

Disposition

[22] I dismiss Ms. Boles' application for an extension of time to appeal.

[23] I have added in the written version of this judgment, this explanation to Ms. Boles: this decision has the effect of meaning that the appeal is dismissed as abandoned.

“The Honourable Justice Griffin”