

CANADA / JUDGMENT

Han v. Baune

2020 BCSC 2223

COURT

Supreme Court of British Columbia

DECIDED

6 January 2020

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2020 BCSC 2223 Han v. Baune IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Han v. Baune, 2020 BCSC 2223 Date: 20200106 Docket: S186355 Registry: Vancouver Between: Moonhee Han Petitioner And Stefan Baune and New Chelsea Society Respondents Before: The Honourable Mr. Justice Macintosh On Judicial Review from: a Decision of the Residential Tenancy Board, dated April 4, 2018 Oral Reasons for Judgment In Chambers Counsel for the Petitioner: A. Schleichkorn Counsel for the Respondents: E. Cordonier Place and Date of Hearing: Vancouver, B.C. January 6, 2020 Place and Date of Judgment: Vancouver, B.C. January 6, 2020

- [1] Ms. Han seeks judicial review of an arbitrator's award in the matter of the Residential Tenancy Act, S.B.C. 2002, c. 78, the award being dated April 4, 2018, about a year and eight months ago.
- [2] The parties are on common ground that there are two issues. The first is whether the arbitrator erred in dismissing Ms. Han's monetary claim. The second is whether she erred in concluding that the landlord was not required to perform mold remediation. The parties are also on common ground that the conclusions of the arbitrator are to be left in place unless she was patently unreasonable.
- [3] Regarding the first issue, the arbitrator's analysis begins at the bottom of page 6 of her award. She begins by setting out the four-part test a tenant must meet to support a monetary claim:
- (1) that the damage or loss exists;
 - (2) that the damage or loss exists as a result of the landlord's failure to comply with the Act or the tenancy agreement;
 - (3) the amount of such damage or loss; and
 - (4) what efforts the tenant made to mitigate any damage or loss suffered.
- [4] It is the tenant who must satisfy all four parts of the test. At the top of page 8 of her award, the arbitrator concluded that the tenant failed in meeting elements (1), (2) and (4) of the test, and dismissed the tenant's damages claim.

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- [5] While I say with respect that the award is less clear than it might be, I am satisfied after reading the award and hearing counsel's submissions that the arbitrator was not patently unreasonable in any of her three findings against the tenant regarding the first issue.
- [6] Turning to the second issue, the arbitrator had before her an expert report on mold from each side in the dispute. She found that the tenant's report was based largely on what the tenant had told the report technician. The arbitrator correctly found the reports to be "somewhat conflicting". She also found, at page 6 of her award, that only very small indications of mold, not necessitating a landlord's remediation, were present.
- [7] Reading the award as a whole, I conclude that the arbitrator preferred the landlord's evidence on the question of mold over that of the tenant, and I cannot find patent unreasonableness on the part of the arbitrator on this second issue.
- [8] I therefore must dismiss the petition. "Macintosh J."
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Prepared on 25 October 2026 · Esheria