

CANADA / JUDGMENT

Provincial Rental Housing Corp. v. Hall

2003 BCCA 67

COURT

British Columbia Court of Appeal

DECIDED

3 February 2003

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2003BCCA0067 Citation: Provincial Rental Housing Corporation v. Hall Date: 20030203 Docket: CA030118 2003 BCCA 67 COURT OF APPEAL FOR BRITISH COLUMBIA BETWEEN: PROVINCIAL RENTAL HOUSING CORPORATION RESPONDENT (PLAINTIFF) AND: TERRY HALL APPELLANT (DEFENDANT) AND: JOHN DOE, JANE DOE and PERSONS UNKNOWN (DEFENDANTS) Before: The Honourable Madam Justice Rowles (In Chambers) A. C. Ward Counsel for the Appellant R. G. Kuhn Counsel for the Respondent Place and Date of Hearing: Vancouver, British Columbia January 27, 2003 Place and Date of Judgment: Vancouver, British Columbia February 3, 2003 Reasons for Judgment of the Honourable Madam Justice Rowles:

- [1] This is an application for leave to appeal an interim injunction and an enforcement order made by Madam Justice Loo on 16 September 2002. The orders were sought by the respondent after a number of people had occupied the old Woodward's Building on West Hastings Street in Vancouver.
- [2] The ground the applicant wishes to go forward to appeal is one of process. In my opinion, the ground is arguable and the issue is one of importance both to the public and to practice.
- [3] The respondent argues that leave ought not to be granted based on the doctrine of mootness and has referred to *Canada Post Corp. v. Canadian Union of Postal Workers* (1993), 27 B.C.A.C. 12, [1993] B.C.J. No. 3065 (Q.L.), to support that position. The respondent has discontinued the action as against the applicant but not the action itself.
- [4] The fundamental requirement for an adversarial context is discussed in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342 at 358-359. It is common ground that in this case the applicant continues to be bound by the terms of the injunction even though the action as against him has been discontinued.
- [5] I note as well that leave to appeal an order for costs made against the respondent by Dillon J. on 7 November 2002 was granted by Ryan J.A. in Court of Appeal Registry No. CA030302 on 10 January 2003. While the applicant's interests will not be affected by a decision in that appeal, the fact that the appeal of Madam Justice Dillon's order is being pursued by the respondent suggests to me that the process issue the applicant wishes to go forward to appeal will be well and fully argued. In my view, the requirement for an adversarial context

is met in this case and granting leave would not be inappropriate.

- [6] Counsel drew to my attention that leave to appeal on grounds similar but not identical to the ground on which the appellant seeks leave was granted by Southin J.A. in *City of Vancouver v. Maurice, Pakarinen and Pilippa*, CA030345, on December 11, 2002. As I understand it, the order under appeal in that case enjoined certain activity on the sidewalks outside the old Woodward's building.
- [7] Counsel may wish to consider having the appeals in which Southin and Ryan JJ.A. granted leave heard at the same time as this appeal.
- [8] Leave to appeal is granted. "THE HONOURABLE MADAM JUSTICE ROWLES"

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Prepared on 28 October 2026 · Esheria