

CANADA / JUDGMENT

Singleton Urquhart Reynolds Vogel LLP v. Gerald Roterling

2025 BCSC 198

COURT

Supreme Court of British Columbia

DECIDED

7 February 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 198 Singleton Urquhart Reynolds Vogel LLP v. Roterling IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Singleton Urquhart Reynolds Vogel LLP v. Roterling, 2025 BCSC 198 Date: 20250207 Docket: S245134 Registry: Victoria In the Matter of the Legal Profession Act, S.B.C. 1998, c. 9, s. 70 Between: Singleton Urquhart Reynolds Vogel LLP Law Firm And: Gerald Roterling Client Before: Associate Judge Scarth Reasons for Judgment Counsel for the Law Firm: M.C. Stacey L. Dinwoodie Counsel for the Client: D. Wu Place and Date of Hearing: Written Submissions of the Parties Victoria, B.C. December 18, 2024 January 14 and 16, 2025 Place and Date of Judgment: Victoria, B.C. February 7, 2025

- [1] The law firm, Singleton Urquhart Reynolds Vogel LLP ("Singleton"), applies for an order dismissing the appointment for review filed by Gerald Roterling pursuant to the Legal Profession Act, S.B.C. 1998, c. 9 ["LPA"]. Singleton takes the position that Mr. Roterling does not have standing to seek a review of their bills for legal services provided to Westsea Construction Ltd. ("Westsea") because Mr. Roterling is neither the client nor a "person who has agreed to indemnify" the client, as required by s. 70(1) of the LPA.
- [2] Singleton's application to dismiss was set for hearing along with applications and cross-applications seeking a determination as to whether the review is statute-barred and if so, whether there are special circumstances which apply such that the appointment should proceed: see order of Associate Judge Bouck, April 25, 2024. Given that s. 70(11) of the LPA provides for the latter relief to be addressed by the court, these matters proceeded in chambers before me sitting as an associate judge. DISCUSSION
- [3] The issue of standing turns on the interpretation of the lease agreement governing the relationship between Mr. Roterling as Lessee and Westsea as Lessor at Orchard House in Victoria (the "Lease"). In particular, Article 5 of the lease sets out the covenants Westsea is required to follow in managing and operating the services and facilities at Orchard House. Article 7 entitled "Operating Expenses" defines the expenses incurred by Westsea in the performance of its covenants under the lease and provides as follows: 7.01 "Operating Expenses" in this Lease means the total amount paid or payable by the Lessor in the

performance of its covenants herein contained (save and except those contained in Article 5.11) and includes but without restricting the generality of the foregoing the amount paid or payable by the Lessor in connection with the maintenance, operation and repair of the Building, expenses in heating the common areas of the Building and each of the Suites therein (unless any of the Suites are equipped with their own individual and independent heating system in which even the cost shall be payable by the Lessee of any such suite) and providing hot and cold water, elevator maintenance, electricity, window cleaning, fire, casualty liability and other insurance, utilities, service and maintenance contract with independent contractors or property managers, water rates and taxes, business licences, janitorial service, building maintenance service, resident manager's salary (if applicable) and legal and accounting charges and all other expenses paid or payable by the Lessor in connection with the Building, the common property therein or the Lands. "Operating Expenses" shall not include any amount directly chargeable by the Lessor to any Lessee or Lessees. The Lessor agrees to exercise prudent and reasonable discretion in incurring Operating Expenses, consistent with its duties hereunder. [Emphasis added]

- [4] This issue is presented to the registrar in the abstract in the sense that the bills under review have not been identified other than by year, nor have they been produced to Mr. Rotering. Rather they have been paid by Westsea, who in turn has demanded from Mr. Rotering and his fellow lessees their proportionate share of the fees as Operating Expenses under Article 7. The appointment seeks a review of Singleton's bills paid by Westsea for the years 2020, 2021, 2022.
- [5] Having heard the submissions of the parties, and having reviewed the materials, it is apparent that there is overlap between the review appointment, on the one hand, and, on the other, a petition proceeding involving Westsea as petitioner and Mr. Rotering as one of the respondents: Victoria Registry, File No. 184015 (the "Petition"). In general terms, Westsea as petitioner seeks recovery of operating expenses it alleges are owing by a number of the lessees at Orchard House, including Mr. Rotering, under Article 7. The expenses sought in the Further Amended Petition are for the years 2017, 2018, and 2019.
- [6] In their response to the Petition, the respondents, including Mr. Rotering (the "Petition Respondents"), take the position that they are not required to indemnify Westsea for legal costs unrelated to the lease. They dispute legal costs that they say Westsea did not incur in the performance of the covenants of the lease agreement. They say that this issue has been decided by Justice MacKenzie in *Trenchard v. Westsea Construction Ltd.*, 2016 BCSC 1752; appeal allowed, 2017 BCCA 352. In the alternative, the Petition Respondents submit that if the court concludes that operating expenses under the Lease include legal costs as claimed by Westsea, they are then persons who have agreed to indemnify Westsea under s. 70(1) of the LPA. Thus, the Petition Respondents' alternative claim is that they fall within the meaning of s. 70 and are entitled to receive Singleton's bills and have the registrar review the legal costs. Accordingly, the court must first decide whether the Petition Respondents are responsible for paying the types of legal costs in dispute under the Lease. Otherwise, s. 70

does not apply to them.

- [7] At a Judicial Management Conference in the Petition proceeding held on December 20, 2024, Justice Gaul directed that the Petition be set for hearing for ten days.
- [8] What appears clear is that, on this appointment, the registrar is being asked to address an issue which is already before the court between Mr. Rotering and Singleton's client, Westsea, specifically the interpretation of Article 7 of the Lease as it relates to legal fees claimed as Operating Expenses under the Lease.
- [9] While the legal costs in dispute and the parties in these proceedings are not the same, the main issue to be determined in the Petition bears directly on whether Mr. Rotering has standing under s. 70 of the LPA to initiate a review of Singleton's fees. The registrar is the appropriate arbiter on the issue of fairness of those fees should the review proceed. However, the interpretation of Article 7 is already before the court in the Petition and should be addressed there, in my view.
- [10] Addressing the appointment after the interpretation of Article 7 is dealt with in the Petition aligns with the proper administration of justice. Section 10 of the Law and Equity Act, R.S.B.C., c. 253 provides that the court should avoid a multiplicity of proceedings so that "as far as possible, all matters in controversy between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters may be avoided." Staying the appointment until the Petition is resolved avoids the multiplicity of proceedings.
- [11] Staying the appointment also prevents the re-litigation of issues as an abuse of the court's process. Abuse of process may arise "where allowing the litigation to proceed would nonetheless violate principles as judicial economy, consistency, finality and the integrity of the administration of justice": *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para. 37. In this case, the possibility of conflicting findings as to the lessees' obligations under Article 7 opens the possibility of inconsistent results and the re-litigation of matters that have already been decided, which implicates the policy concerns underlying abuse of process.
- [12] Last, I note that the Petition has the benefit of including other lessees affected by the determination of their obligations under the Lease. On this last point, Mr. Rotering opposed Singleton's application for a direction that the other lessees should be given notice of the review appointment. While acknowledging that their interests were affected, it was his submission that it would be an unreasonable expense for him to be required to bear. This factor further supports this Court first determining the interpretation of Article 7 for all the Petition Respondents before addressing the issue here.

CONCLUSION

- [13] In all the circumstances, therefore, it is appropriate that the appointment be stayed pending the outcome of the Petition.

[14] The parties will bear their own costs. "Associate Judge Scarth"

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/01/2025BCSC0198.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/singleton-urquhart-reynolds-vogel-llp-v-gerald-rotering-2025>

Prepared on 28 October 2026 · Esheria