

CANADA / JUDGMENT

Stein v. British Columbia (Human Rights Tribunal)

2020 BCSC 1431

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Supreme Court of British Columbia

DECIDED

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2020 BCSC 1431 Stein v. British Columbia (Human Rights Tribunal)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Stein v. British Columbia (Human Rights Tribunal),

2020 BCSC 1431

Date: 20200925

Docket: S1911464

Registry: Vancouver

Between:

Cheryl Stein

Plaintiff

And

British Columbia Human Rights Tribunal and

Attorney General of British Columbia

Defendants

Before: The Honourable Madam Justice W.A. Baker

(via Teleconference)

Reasons for Judgment

Appearing on her own behalf:

C. Stein

Counsel for the British Columbia Human Rights Tribunal:

K. Hardie

Counsel for the Attorney General of

British Columbia:

K. Wolfe

Place and Date of Hearing:

Vancouver, B.C.

July 27, 2020

Place and Date of Judgment:

Vancouver, B.C.

September 25, 2020

S

- [1] This is an application brought by the defendant British Columbia Human Rights Tribunal ("BCHRT") seeking to have the notice of civil claim against it dismissed. The application is brought pursuant to the Supreme Court Rules, Rule 9-5(1)(a),(b), and (d). In other words, the BCHRT seeks to have the claim dismissed on the basis that it discloses no reasonable claim; is unnecessary, scandalous, frivolous, or vexatious; and is an abuse of process.
- [2] The defendant Attorney General has not brought its own application but in its response it asserts that if the claim against the BCHRT is struck, the claim against the Attorney General should also be struck on the same basis.
- [3] The claimant in this matter has been engaged in a number of different petitions and actions before the court over number of years.
- [4] In *Stein v. Allan* 2019 BCSC 1734, Mr. Justice Milman set out the background facts which were the foundation to Ms. Stein's claim in that action, and which are also foundational to the application before me. I will not repeat the detailed summary provided by Milman, J., and I accept his recitation as an accurate recounting of the relevant factual background to the case before me. Milman, J. also provided a very brief summary of the foundational facts which underlie all of the different applications, which I set out below:

- [4] This is the latest in a long series of proceedings commenced by Ms. Stein in this Court and elsewhere through which she has been seeking redress for alleged mistreatment at the hands of her former employers, Dr. Conrad G. Keebler, his wife, Lois Keebler (the "Keeblers") and others. Ms. Stein worked in the Keeblers' medical office as a cardiac technologist for a period of time between December 12, 2011 and February 4, 2014.
- [5] Ms. Stein's central allegation against the Keeblers is that they forced her to administer too many stress tests, as many as ten or twelve per day, after promising in September 2012 or earlier to accommodate her by limiting the number of stress tests she must administer each day to eight. She alleges that the excess work that she was made to do in this way caused her various kinds of harm.
- [6] Ms. Stein has also alleged that the Keeblers, in an effort to suppress the truth of the matter, lied in their testimony in various fora and have falsified records (in particular, day sheets and a medical services plan ["MSP"] billing record) purporting to show the number of stress tests that she actually administered during the relevant period.
- [7] Ms. Stein has been unsuccessful in every one of these proceedings, although a few remain under appeal.
- [5] On the application before Milman, J. the defendants sought to have the claim against them struck out pursuant to Rule 9-5(1), and to have Ms. Stein declared a vexatious litigant. The defendants were successful on their application.
- [6] The claim before me was filed on October 10, 2019, the same day the decision of Milman, J. was released. In this claim, the plaintiff seeks the following relief:
- a) "compensation for pain & suffering both in past and future, financial losses paid back too. career loss compensated, past and future earnings",
 - b) punitive damages,
 - c) "retroactive anonymity in decisions they have made regarding Ms. Stein",
 - d) "costs of litigation and losses attributed to them",
 - e) Charter damages, and
 - f) "a promise and commitment they not commit this again against a disabled litigant"
- [7] The legal basis put forward by the plaintiff for the relief she seeks includes the following:
- a) section 12 of the Charter of Rights and Freedoms [Charter], which prohibits cruel or unusual punishment

- b) section 15 of the Charter, which requires equal treatment of people and "there has been much bias in regard to Ms. Stein and her not treated equally in regards to her fighting her cases and the broken accommodations at her hearings by BCHRT. Bias has also been demonstrated where Ms. Stein was not granted anonymity and others have",
- c) "anonymity should be granted where it threatens ones life and privacy and this supersedes that of public interest. It harms a person in past and future to not be granted and this should be fully compensated for", and
- d) "BCHRT should not be able to harm disabled litigants like it has Ms. Stein. They break their own code even."

[8] The statement of facts set out by the plaintiff includes the following facts and assertions:

- a) facts relating to the plaintiff's background as a registered cardiac technologist who worked at the Keeblers' private clinic, and her allegations that the Keeblers discriminated against her in contravention of the Human Rights Code ("Code"),
- b) her history of complaints before the BCHRT, including her applications to have the decisions in her proceedings anonymized,
- c) her allegations that the BCHRT engaged in cruel and unusual punishment by denying her requests to have their decisions anonymized retroactively,
- d) reference to the decision of Mr. Justice Myers heard in May 2019 with a decision delivered on July 22, 2019,
- e) allegations that she was not treated equally by the BCHRT and the tribunal was always biased towards her,
- f) allegations that the BCHRT made her life worse by being biased against her and engaging in cruel and unusual punishment by exposing her unnecessarily, which I take to mean refusing to anonymize their decisions and by publishing her medical information in the decisions,
- g) references to judicial reviews of the BCHRT, and to the fact that she was granted anonymity several times by the British Columbia Supreme Court,
- h) allegations that the actions taken by the BCHRT have affected her greatly, including "financial losses, dignity, livelihood, suffering, mental anguish, shock, PTSD, strain on relationships, exposure of medical diagnoses on the Internet as well as mistruths, exposure to future employers, loss of career, great duress etc., her pain and suffering is endless and she will never regain her prior status before BCHRT happened to her",
- i) an allegation that the BCHRT did not protect her rights as a disabled person, and did not respect her or support her conditions and privacy, and
- j) a statement that she must "be granted anonymity and be compensated for all her losses and suffering due to the BCHRT".

- [9] On December 5, 2019 this application was set for hearing before Mr. Justice Groves. On hearing submissions from the plaintiff, Groves, J. adjourned the hearing, but did so on terms barring the plaintiff from commencing any further actions in this Court or the Provincial Court of British Columbia against the BCHRT, its members or former members or its counsel without leave of the court, and staying these proceedings until this application was heard.
- [10] The plaintiff argued before me that because of the order of Groves, J. she has not been able to amend her pleadings, and she does intend to amend her pleadings to make it clear that her claim is about the BCHRT disclosing her medical information in its decisions and to add a breach of s. 7 of the Charter. In my analysis, I have considered whether any amendments in line with the arguments advanced before me by the plaintiff would impact my decision.
- [11] While evidence is not admissible on an application under Rule 9-5(1)(a) the court is able to refer to decisions of the tribunal and the courts as pleaded in the claim. In *Von Rummelhoff v. Worker's Compensation Appeal Tribunal*, 2015 BCSC 246, on an application to strike, the Court found at para 24, "the purpose of Rule 9- 5(1)(a) is to ensure the parties and the court have a clear understanding of the nature of the claims advanced." On this basis the court allowed the applicant to reference the decision which was the subject of the proceeding. In the case at bar, I find that the decisions of the BCHRT which are referred to by the plaintiff as the basis of her claim, including any reviews or appeals from those decisions, can be considered on this application to strike.

History of Proceedings

- [12] The plaintiff has filed three human rights complaints with the BCHRT, and a series of applications to anonymize the BCHRT decisions.

Stein v. Vancouver Coastal Health Authority

- [13] The first complaint was heard on its merits, and the tribunal dismissed the plaintiff's complaint that she had been discriminated against on the basis of age: *Stein v. Vancouver Coastal Health Authority* and another (No. 2), 2014 BCHRT 227. The claimant filed an application for judicial review alleging bias and unfairness, which review was dismissed by the BC Supreme Court (*C.S. v. BC (Human Rights Tribunal)*, 2017 BCSC 1268). An appeal was taken and that appeal was also unsuccessful: *Stein v. BC. (Human Rights Tribunal)*, 2018 BCCA 264). Finally the Supreme Court of Canada denied Ms. Stein's leave application: *Cheryl Stein v. British Columbia Human Rights Tribunal, et al.*, 2019 CanLII 23870 (SCC).

Stein v. Keebler (1)

- [14] The second complaint was filed against Conrad Keebler Inc. and others alleging discrimination, which was dismissed by the tribunal without a hearing on its merits. The plaintiff filed an application for judicial review of this decision. In the judicial review she raised claims under ss. 12 and 15 of the Charter, and advanced allegations of harm rooted in

the disclosure of personal medical information in the BCHRT decisions and the failure of the BCHRT to anonymize its decisions. The harm alleged included impacts on her career, her dignity, and her life, all of which she said flowed from the failure of the BCHRT to anonymize its decisions. On July 22, 2019 Mr. Justice Myer dismissed this judicial review: *Stein v. Keebler*, 2019 BCSC 1194 [*Stein v. Keebler*].

[15] In *Stein v. Keebler*, Mr. Justice Myers denied the plaintiff's application for anonymization, and found that her claims under sections 12 and 15 of the Charter had no merit. Specifically, he found that:

101 Even assuming that her claim for Charter damages has been properly brought and that the Tribunal's decision could be construed cruel and unusual punishment or treatment, a decision that is neither patently unreasonable nor given in a breach of fairness cannot constitute cruel and unusual punishment.

102 For the same reason, any claim under s. 15 [of the Charter] has no merit.

104 I wish to be clear that I am not ruling that the Tribunal could, in any circumstance, be liable for Charter damages as a result of a decision or treatment of a party. It is not necessary for me to deal with that because on any analysis of these facts, there has been no cruel or unusual treatment or discriminatory treatment by the Tribunal here.

119 I said I would return to Ms. Stein's Charter damages claim against the Tribunal for its failure to anonymize one or more decisions. Even if the Tribunal could be sued for Charter damages (something I express no opinion on), for the same reasons I have outlined here any decision refusing anonymization cannot have constituted cruel and unusual punishment or treatment.

[16] In the context of his discussion of ss. 12 and 15 of the Charter (see para. 96-104), Myers, J. references the fact that the plaintiff raised a complaint that the BCHRT disclosed personal medical information in the 2016 BCHRT decision, and refused to anonymize its decision.

[17] The plaintiff filed three separate appeals arising out of this judicial review proceeding.

Stein v. Keebler (2)

[18] The third complaint was brought against Conrad Keebler and Lois Keebler alleging retaliation contrary to s. 43 of the Human Rights Code. That complaint was dismissed by the BCHRT without a hearing on its merits. The plaintiff filed a petition for judicial review and this was resolved by way of a consent dismissal order.

Requests for Anonymization

[19] The plaintiff applied to the BCHRT to have the previously released decisions regarding the Keebler complaints and the Vancouver Health Authority complaints anonymized. The BCHRT dismissed these applications on March 14, 2019. The plaintiff applied to the BCHRT to have the March 14, 2019 decisions reconsidered, and these applications were dismissed on April 11, 2019. The plaintiff filed further applications to the BCHRT to reconsider the

April 11, 2019 and March 14, 2019 decisions, which further applications were dismissed on September 24 and October 24, 2019.

- [20] On May 13, 2019 the plaintiff filed applications for judicial review of the two April 11, 2019 decisions refusing to grant anonymity and the two March 14, 2019 decisions refusing to reconsider the anonymity decisions. These petitions have not been heard.

Does the plaintiff's claim disclose a reasonable cause of action?

- [21] In *Odhavji Estate v. Woodhouse*, [2003] 3 S.C.R. 263, the Supreme Court of Canada confirmed the test for striking out a statement of claim on the basis that it disclosed no reasonable claim:

- [15] An excellent statement of the test for striking out a claim under such provisions is that set out by Wilson J. in *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959, at p. 980:

... assuming that the facts as stated in the statement of claim can be proved, is it "plain and obvious" that the plaintiff's statement of claim discloses no reasonable cause of action? As in England, if there is a chance that the plaintiff might succeed, then the plaintiff should not be "driven from the judgment seat". Neither the length and complexity of the issues, the novelty of the cause of action, nor the potential for the defendant to present a strong defence should prevent the plaintiff from proceeding with his or her case. Only if the action is certain to fail because it contains a radical defect ... should the relevant portions of a plaintiff's statement of claim be struck out

The test is a stringent one. The facts are to be taken as pleaded. When so taken, the question that must then be determined is whether it is "plain and obvious" that the action must fail. It is only if the statement of claim is certain to fail because it contains a "radical defect" that the plaintiff should be driven from the judgment.

- [22] The BCHRT argues that it is plain and obvious that the claims against it cannot succeed for a number of reasons:

- a) the BCHRT is protected from such claims by statutory immunity,
- b) the claim seeks relief which cannot be brought in an action, and
- c) the claim does not assert facts which could support the legal claims asserted.

Statutory Immunity

- [23] The Administrative Tribunals Act, SBC 2004, c. 45, [ATA] s. 56(2) states that, "no legal proceeding for damages lies or may be commenced or maintained against a decision maker, the tribunal or the government because of anything done or omitted" in the performance of a duty, or the exercise of authority, provided by an enactment. The BCHRT is a tribunal designated under the ATA, and so receives the benefit of this immunity.

- [24] The statutory immunity afforded to the BCHRT does not apply where a person referred to has acted in bad faith. A bare allegation of bad faith is not sufficient to overcome the statutory immunity. As stated by the court in *Olumide v. B.C. Human Rights Tribunal*, 2019 BCSC 399 [Olumide] at para. 6:
- [6] Moreover, s. 56 of the Administrative Tribunals Act, S.B.C. 2004, c. 45, provides that no legal proceeding may be commenced against a tribunal for anything done in the performance of its duties, unless there is bad faith. The Notice of Civil Claims makes bald accusations of bad faith, but, in spite of its length, it does not set out any facts to support them. The court has held that it is not sufficient to make such bald allegations. For example, in *Stephen v. HMTQ*, 2008 BCSC 1656, Joyce J. stated:
- [70] The Plaintiff does not plead facts in support of his bare assertions that the Tribunal Defendants acted in bad faith. The Plaintiff has only speculated that the outcomes of quasi-judicial functions which are unacceptable to him are attributable to bad faith. I agree with counsel for the Tribunal Defendants that this is not enough to strip an adjudicator of their immunity to suit under s. 56(3) of the ATA.
- [25] In the case before me, the notice of civil claim does make any allegations of bad faith on the part of a person making a decision. The essence of the plaintiff's complaint is that the BCHRT, in failing to anonymize its previous decisions and in including personal health information, acted in contravention of ss. 12 and 15 of the Charter. In the hearing before me, the plaintiff stated that her real complaint was that the BCHRT decisions included details of her medical history. Her case is advanced as a claim that the BCHRT breached her Charter rights; therefore, I understand her oral submissions to mean that the publication of her medical information is another instance of a Charter breach. However, an allegation of a Charter breach is not an allegation of bad faith.
- [26] In argument before me, the plaintiff asserted that the BCHRT had committed the tort of intentional infliction of mental suffering. That tort is not pleaded, and nor are the material facts pleaded which would support such a claim. The elements of the tort are: "(1) flagrant or outrageous conduct; (2) calculated to produce harm; and (3) resulting in a visible and provable illness": *Prinzo v. Baycrest Centre for Geriatric Care* (2002), 60 O.R. (3d) 474 (C.A.), as cited in *Young v. Borzoni*, 2007 BCCA 16 [Borzoni] at 24.
- [27] The plaintiff appears to have focussed on the words of the adjudicator in refusing to award costs against her, when he stated "Costs awarded under s. 37(4) of the Code are intended to be punitive. I am satisfied that this decision has sufficiently punished Ms. Stein for her behaviour." This comment by the adjudicator was made in the context of him dismissing her complaint, which he found was punishment enough. I am satisfied that this statement in a decision which has been upheld on judicial review is not sufficient to support the tort of intentional infliction of mental suffering, nor could it be read as an allegation of bad faith.

[28] I am satisfied that it is plain and obvious that the BCHRT is protected by s. 56 of the ATA in light of the facts pleaded, and no claim for damages may be brought against it in the manner pleaded by the plaintiff. Further, I am satisfied that no facts can be properly pleaded which would allow the plaintiff to defeat the immunity provided by the ATA: *Walkom v. Law Society of British Columbia*, 2019 BCCA 391 at 19, 80-81; *Olumide v. British Columbia (Human Rights Tribunal)*, 2019 BCSC 399, aff'd 2019 BCCA 386

Relief which cannot be brought in a Notice of Civil Claim

[29] The plaintiff seeks a variety of relief. While some of the relief claimed is available in an action, the following pleas for relief are improper in a notice of civil claim:

- a) "retroactive anonymity in decisions they have made regarding Ms. Stein", and
- b) "a promise and commitment they not commit this again against a disabled litigant".

[30] The court may only make mandatory orders against a tribunal in an application for judicial review, not in an action such as the case before me. As such, the plea seeking an order that the BCHRT anonymize its decisions is not relief available in this proceeding. Similarly, this Court has no power to order the BCHRT to make a promise or commitment in the manner sought by the plaintiff, whether in an action or on a judicial review.

[31] As such, I am satisfied that it is plain and obvious that the claims for the relief sought as outlined above cannot succeed.

The claim does not assert facts which could support the legal claims asserted

[32] The facts in this notice of civil claim are essentially a recitation of complaints made by the plaintiff to the BCHRT, orders made by the BCHRT in the context of those complaints, refusals by the BCHRT to make the orders for anonymity sought by the plaintiff, the hearing before Mr. Justice Myers in May 2019, and the impacts of the various decisions made by the BCHRT on her life and health.

[33] These facts are pleaded as material facts in support of plaintiff's claim that the BCHRT breached ss. 12 and 15 of the Charter in its dealings with her.

[34] All of the decisions of the BCHRT involving the plaintiff have been the subject of judicial reviews by her, and with the exception of two outstanding judicial reviews, none of those judicial reviews have been successful. The only judicial reviews which have not been decided by the court are the two filed in September and October 2019, reviewing the BCHRT's refusal to reconsider its decision not to anonymize its decisions.

[35] Contrary to the facts stated in paragraph 7 of the "Facts" in the notice of civil claim, Mr. Justice Myers did determine whether the decision of the BCHRT, including the decision not to anonymize its decision, could support a claim for breaches of ss. 12 and 15 of the Charter. Myers, J. found that no claim for a Charter breach could be based in the BCHRT decision under review before him because the decision had been upheld and was not patently

unreasonable or in breach of fairness. In such circumstances, Myers, J. found that the decision could not be made in breach of the plaintiff's Charter rights. He found "there has been no cruel or unusual treatment or discriminatory treatment by the Tribunal". Myers, J. also expressly found that for the same reason, "any decision refusing anonymization cannot have constituted cruel and unusual punishment or treatment".

- [36] I find that it is plain and obvious that the plaintiff cannot establish material facts which would support her claims for Charter breaches, including any potential amendments asserting other Charter breaches, in the face of rulings by this Court and the Court of Appeal upholding the very decisions of which she complains.

Vexatious Litigation and Abuse of process

- [37] As outlined above, the plaintiff has commenced judicial review proceedings of all of the decisions of the BCHRT in which she was involved. All but the two filed in the September and October 2019 have been dismissed, and any appeals taken have also been dismissed.
- [38] There is nothing in the Claim before me which has not been addressed in earlier or concurrent proceedings. The claims asserted in this notice of civil claim are a collateral attack on decisions already made, and are redundant of claims made in the two outstanding petitions for judicial review: Olumide at para 9.
- [39] In *Stephen v. HMTQ*, 2008 BCSC 1656, the Court held:
- [51] In determining whether proceedings constitute an abuse of process, the court may consider whether there have been multiple or successive related proceedings that are likely to cause vexation or oppression. In particular, it is an abuse of court process to use a civil action to collaterally challenge decisions of an administrative tribunal that are otherwise subject to a statutory right of appeal or review: *Borzoni* at paras. 65-66; *Gemex Developments Corp. v. Coquitlam (City)*, 2002 BCSC 412; *Varzeliotis (c.o.b.) v. British Columbia*, 2007 BCSC 620.
- [52] In *Berscheid v. Ensign*, [1999] B.C.J. No. 1172 (S.C.) at para. 51, the collateral principle was described in the following terms:

As a result of this distinction between judicial review and civil litigation, a party cannot seek a remedy statutorily provided for by judicial review through civil proceedings. Such an evasion of the judicial review process is known as a collateral attack and is prohibited.

- [53] In *Varzeliotis (c.o.b.) v. British Columbia*, Mr. Justice Macaulay struck an action against the Province and Privacy Commissioner in which the plaintiff alleged he was denied various personal rights under FOIPPA. In dismissing the action under Rule 19(24), Mr. Justice Macaulay stated at paras. 42-43:

- [42] Instead of invoking the judicial review procedure available to him, the plaintiff has chosen to commence an action against the commissioner in this court to achieve his result. Every substantive issue raised in the pleadings could have been addressed under the JRPA including any allegation that the commissioner lacked impartiality in performing his statutory duties. As well, it is open to a court on judicial review to order the commissioner to carry out his duty if he failed to do so.
- [43] This alone is sufficient, in my view, to strike the statement of claim as an abuse of process.
- [72] I agree with counsel for the Tribunal Defendants that the claims against them are an abuse of process in that the plaintiff is attempting to collaterally attack the Tribunal's decisions. The essence of the plaintiff's claims against the Tribunal Defendants is that due to some bias favouring the respondents, unfairness or breaches of natural justice in the handling of the plaintiff's human rights complaints, or errors in decision-making, or both, the Tribunal's decisions and the exercise of statutory powers and duties by the individual Tribunal members produced outcomes that were wrong. Substantively, the plaintiff's issues with the actions of the Tribunal Defendants rest on alleged errors that are, or were, judicially reviewable under the JRPA.
- [40] Similarly, in *Borzoni*, the Court of Appeal held that in circumstances where the plaintiff commenced multiple and successive proceedings arising out of the same facts, it was appropriate to find an abuse of process.
- [41] I have no difficulty finding that the plaintiff herein has engaged in vexatious litigation in her ongoing attempts to re-litigate the matters she brought before the BCHRT which resulted in the 2016 BCHRT decisions, and all the subsequent applications for reconsideration, judicial reviews, and appeals. The plaintiff has been declared a vexatious litigant by this court, and has been barred from bringing any further actions and the BCHRT.
- [42] The issues which concern the plaintiff have been finally determined and it is both vexatious and an abuse of process for the plaintiff to bring any further claims arising out of the original complaints or the subsequent decisions.

Claims against Attorney General

- [43] The notice of civil claim pleads no facts which engage the Attorney General, asserts no legal claims advanced against the Attorney General, and does not appear to seek any relief against the Attorney General.
- [44] There is no basis to maintain a claim against the Attorney General, and all claims against the Attorney General are struck.

Costs

- [45] This notice of application was heard in two parts. On December 5, 2019 the application was brought on for hearing before Mr. Justice Groves. On that date, Groves, J. adjourned the full hearing, and made an order staying the within proceedings and barring the plaintiff from commencing any further litigation against the BCHRT without leave of the court.
- [46] The BCHRT seeks costs of the hearing before me, and the hearing before Groves, J. on December 5, 2019. The Attorney General does not seek costs of this application.
- [47] The plaintiff argues that no costs should be ordered of the December 5, 2019 hearing. She says she was unwell and forced to attend, and that the BCHRT knew this and unilaterally set the matter down. She says she gave the BCHRT a doctor's note supporting her claim that she was unwell, but the BCHRT refused to adjourn the hearing. The note referred to by the plaintiff refers to the doctor's assessment of real objective symptoms of suicidal ideation which have resulted from decisions being published on the internet, and supports her request for anonymity. It does not state that she is unable to appear in court on December 5, 2019.
- [48] The BCHRT argues that it acted reasonably in setting down the application for hearing in December. The claim was filed on October 10, 2019, and generally an application to strike will be set down within three weeks of the filing of the claim. In this case, the plaintiff advised that she would not accept any communication, and would consider any communication to be a form of harassment. In the circumstances, because it was unable to communicate with the plaintiff regarding dates for hearing, the BCHRT set the application down on five weeks notice. The BCHRT required a stay of proceedings in the action and sought such a stay as a condition of any adjournment application. The plaintiff did not file an application to adjourn, but did argue for an adjournment on the day of hearing. The Court granted the adjournment on the terms sought by the BCHRT.
- [49] In the circumstances, I find that the BCHRT acted reasonably in setting down this application on December 5, 2019, and was successful in obtaining two of the orders sought in the application on that date. The BCHRT is entitled to its costs of the whole of this application, both on the application on December 5, 2019 and before me on July 27, 2019.

Conclusion

- [50] The notice of civil claim filed on October 10, 2019 is dismissed against both defendants.
- [51] The requirement for the plaintiff's signature on the final order is dispensed with.
- [52] The BCHRT is entitled to its costs of this application, heard on December 5, 2019 and July 27, 2020.

"Baker J."

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