

# SUPREME COURT OF YUKON

Citation: *Boles v Yukon Residential Tenancies Office*,  
2023 YKSC 64

Date: 20231115  
S.C. No. 23-AP009  
Registry: Whitehorse

BETWEEN:

CARRIE BOLES

PETITIONER

AND

YUKON RESIDENTIAL TENANCIES OFFICE AND GERRY KUHN

RESPONDENTS

Before Justice K. Wenckebach

Appearing on her own behalf

Carrie Boles

Counsel for the Respondent Gerry Kuhn

Gary W. Whittle

Counsel for the Respondent Yukon  
Residential Tenancies Office

Lenore Morris

## REASONS FOR DECISION

### INTRODUCTION

[1] The petitioner, Carrie Boles, has brought an application for judicial review of the Residential Tenancies Office's decision to uphold the 15-day eviction notice her landlord, Mr. Kuhn (who is a Respondent here), issued to her. Ms. Boles also brought an application for an interim injunction seeking that Mr. Kuhn be required to allow her to move back into the cabin she rented from him.

[2] I heard and dismissed Ms. Boles' interim injunction application. Mr. Kuhn now seeks \$1,500 in costs for the application. A costs award helps a party recoup some of the money they spent on the proceedings.

### **ISSUES**

[3] There are two issues:

(A) Should costs be awarded against Ms. Boles?

(B) If so, how much should the costs award be?

### **ANALYSIS**

(A) Should costs be awarded against Ms. Boles?

[4] Generally, the successful party in an application is entitled to a costs award (Rule 60(12) of the *Rules of Court* of the Supreme Court of Yukon (the "*Rules of Court*"). In this case, Mr. Kuhn's counsel seeks a costs award, and that he be paid immediately, not simply because he was successful, but as a rebuke to Ms. Boles' behaviour. He submits that Ms. Boles did not comply with the *Rules of Court* in filing materials, that her application was brought on short notice, that she accused Mr. Kuhn, without basis, of lying, and that she was uncivil. He also notes that because Ms. Boles provided her materials to him with little notice, Mr. Kuhn had very little time to reply.

[5] Ms. Boles, on the other hand, submits that she should not have to pay costs because she cannot afford them.

[6] In reviewing Ms. Boles' actions and behaviour, I have considered that she is self-represented. This accounts, in part, for her failure to follow the *Rules of Court* completely and for filing materials on short notice. In addition, given Ms. Boles'

presentation in court, it seems likely that Ms. Boles will have difficulty complying with some of the expectations of a court setting.

[7] However, being self-represented does not excuse a party from being responsible for the conduct of their matter. The court must ensure that all parties are treated fairly. While process and procedures can be flexible for both represented and unrepresented parties, flexibility for one party cannot come at the expense of fairness to the other.

[8] Self-represented litigants are also expected to inform themselves, as best they can, of court procedures, such as timelines for filing materials.

[9] As well, parties should not make allegations of fraud or dishonesty without a proper foundation (*Hamilton v Open Window Bakery Ltd, 2004 SCC 9* at para. 26). In short, they need to be able to show the court why they are making those claims: a statement that the other party lied is not enough.

[10] In this case, Mr. Kuhn was successful in his application. Ms. Boles states that she does not have the money to pay. However, the court should not refuse to grant costs only because the litigant cannot pay them (*Jones v Duval, 2020 YKSC 10* at para. 46). I will therefore order that costs be paid.

(B) How much should the costs award be?

[11] In determining the amount of costs to be awarded, I have considered the difficulty of the matter and the amount of notice Ms. Boles provided to Mr. Kuhn. I note that, although the application was set down for thirty minutes, an hour would have been more appropriate. The application was of average difficulty, however, because Mr. Kuhn was not given sufficient notice to respond, Mr. Kuhn's task was made that much harder. At the same time, as I noted above, I attribute Ms. Boles' failure to comply completely with

the *Rules of Court* to her lack of familiarity with them. I therefore assess costs at \$700 payable forthwith.

**CONCLUSION**

[12] Ms. Boles is ordered to pay Mr. Kuhn, \$700 forthwith.

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WENCKEBACH J.