

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Han v. Ma*,  
2024 BCSC 281

Date: 20240220  
Docket: S236586  
Registry: Vancouver

Between:

**Hui Han**

Petitioner

And:

**Ying Ma**

Respondent

Before: The Honourable Justice K. Loo

On judicial review from: An order of the Residential Tenancy Branch, dated May 24,  
2023 (Ying Ma v. Hui Han, file no. 910107803)

## Reasons for Judgment

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Place and Dates of Hearing:

Vancouver, B.C.  
January 11-12, 2024

Place and Date of Judgment:

Vancouver, B.C.  
February 20, 2024

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**Introduction**

[1] This is a petition for judicial review in which the petitioner, Hui Han, seeks to set aside the May 24, 2023 decision (the “RTB Decision”) made by Arbitrator Smith (the “Adjudicator”) of the Residential Tenancy Branch (“RTB”).

[2] The facts of this case are unusual because Ms. Han, against whom the order of possession was made, is the registered owner of the subject property.

[3] Ms. Han alleges that (1) she was not properly served with the Notice of Dispute Resolution (the “Dispute Notice”) giving rise to the order of possession; that (2) the RTB did not have jurisdiction to decide this matter; and that (3) the proceeding is part of a series of proceedings, all engineered by William Ma, who is the brother of the respondent, Ying Ma.

**Factual Background**

[4] Ms. Han is the registered owner of a property located at 4053 West 38<sup>th</sup> Avenue in Vancouver, British Columbia (the “Property”).

[5] The respondent, Ms. Ma, is the sister of Ms. Han’s ex-husband, Mr. Ma. Ms. Han deposes that she and Mr. Ma were divorced in 2003, but Mr. Ma deposes that they were never divorced.

[6] Ping Mou is the mother of Ms. Ma and Mr. Ma.

[7] Between 2017 and 2020, Mr. Ma held a power of attorney (“POA”) over Ms. Han’s affairs.

[8] The tenancy agreement that forms the basis of the RTB Decision was signed on August 26, 2017 by Mr. Ma as Ms. Han’s attorney (the “Tenancy Agreement”).

[9] The Tenancy Agreement provided for Ms. Ma’s exclusive occupation for a term of 18 years (216 months) at \$1 per month.

[10] Mr. Ma deposes that Ms. Han was served with the Dispute Notice giving rise to the RTB Decision on April 20, 2023.

[11] On May 24, 2023, a hearing took place before the Adjudicator. Mr. Ma appeared on behalf of Ms. Ma and Ms. Han did not attend. The Adjudicator subsequently issued the RTB Decision.

[12] On July 28, 2023, bailiffs sought to execute upon the order of possession arising from the RTB's order. Since then, Ms. Han has sought, and has been granted, a succession of stay orders pending this judicial review.

**Other Proceedings**

[13] The facts in this proceeding cannot fairly be summarized without reference to the remarkable web of proceedings before the RTB and this Court regarding the Property, which have been brought mostly by Mr. Ma against Ms. Han or persons associated with her.

[14] On December 15, 2020, Mr. Ma commenced action no. VLC S2013324 in this Court against Qiang Guo Dai (Ms. Han's common-law partner) and Ying Chang Xo, Mr. Dai's ex-wife. In this action, Mr. Ma claimed that:

Defendants illegal occupy my house, and force plaintiff to leave own home  
4053 w38th ave Vancouver bc, plaintiff lose hugh [sic] money...

[15] On July 23, 2021, Ms. Ma's mother, Ms. Mou, commenced action no. VLC S216814, alleging, among other things, that Ms. Han had agreed to be registered on title to the Property as trustee for Ms. Mou.

[16] On July 26, 2021, Mr. Ma amended the notice of civil claim in action no. S2013324 to plead:

[18] Since about 2013, Ma, Han and the Children have with Mou's consent, lived in or occupied the house at West 38<sup>th</sup>.

[17] On March 22, 2022, Mr. Ma appeared at an RTB hearing on behalf of Ms. Mou. He took the position that Ms. Mou was entitled to reside at the Property as

a tenant pursuant to a tenancy agreement with Ms. Han and sought an order of possession on Ms. Mou's behalf. However, this application was dismissed on the basis that Mr. Ma's testimony was contradicted by his own documentation.

[18] On April 13, 2022, less than a month after appearing at the March 22, 2022 RTB hearing on behalf of his mother Ms. Mou and arguing that Ms. Mou was entitled to reside at the Property pursuant to a tenancy agreement with Ms. Han, Mr. Ma made an application to the RTB claiming that *he* was the tenant of the Property and that Ms. Han was the landlord.

[19] Ms. Han did not attend the hearing in April 2022. The tenancy agreement that Mr. Ma sought to rely on was alleged to have commenced on November 15, 2016, for a fixed term of 600 months at \$1 per month. However, the RTB dismissed this application on the basis that the dispute did not fall under the jurisdiction of the *Residential Tenancy Act*, S.B.C. 2002, c. 78 [RTA], as it was for a tenancy agreement for a term longer than 20 years: s. 4(i).

[20] On February 8, 2023, Ms. Ma commenced action no. VLC S230954, alleging that on or about August 1, 2019, on Ms. Mou's direction, Mr. Ma, used a power of attorney and entered into a contract of purchase and sale, on behalf of Ms. Han, for the Property and sold it to Ms. Ma for \$1.

[21] On March 8, 2023, a month before the RTB proceedings in this matter were commenced, Mr. Ma filed an application (VLC S221893) for an order for exclusive occupation "of the former family residence at 4053 West 38<sup>th</sup>". In support of this application, Mr. Ma swore an affidavit on March 3, 2023, deposing that:

[24] In or about late 2016 Hui and the children moved into West 38<sup>th</sup> with Ping. Ping, Hui, my son and I all lived at West 38<sup>th</sup> together....

[25] Hui and I also entered into a long term lease agreement for West 38<sup>th</sup> at \$1 per month commencing November 15, 2016, and ending November 15, 2066.

[22] On April 11, 2023, Associate Judge Muir dismissed the application on the basis that she was unable to conclude that the Property was ever the ordinary residence of both spouses.

[23] It is evident from this brief summary of the proceedings that they are rife with inconsistencies. In these proceedings, there are differing accounts of who was entitled to live in the Property, who in fact lived in the Property and who beneficially owns the Property. At various times in these other proceedings, Mr. Ma has alleged that he was a tenant of the Property and that Ms. Mou was a tenant of the Property. Nowhere in any of these other proceedings has it been asserted that Ms. Ma was renting or residing at the Property.

[24] In these circumstances, it is not at all difficult to conclude that this proceeding is only one piece in a much larger dispute between Mr. Ma on one hand, and Ms. Han on the other. It seems clear that the broad issue regarding who purchased the Property and is entitled to beneficial ownership of it ought to be the subject of a trial. It cannot be determined on the record in this proceeding.

[25] I also have little difficulty in concluding that I should have serious doubts about Mr. Ma's credibility and will treat his evidence with caution, given his conduct in the other proceedings and the inconsistencies among them.

[26] However, those conclusions do not necessarily provide the answer to the dispute in this case. Indeed, counsel for the respondent is quick to point out that she acts for Ms. Ma, and not Mr. Ma.

[27] Ms. Ma has given evidence that the Property was purchased and maintained using funds supplied by Ms. Hou (her and Mr. Ma's mother) and that Ms. Han has contributed nothing to the Property. She further deposes that the Tenancy Agreement is genuine and was entered into for legitimate reasons.

### **Standard of Review**

[28] Pursuant to s. 58(2)(a) of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 [ATA], the standard of review applicable to RTB decisions under the *RTA* is patent unreasonableness.

[29] The parties are also entitled to raise issues of procedural fairness pursuant to s. 58(2)(b) of the *ATA*, which provides:

58 ...

(2) In a judicial review proceeding relating to expert tribunals under subsection (1)

...

(b) questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly, ...

### **Issues**

[30] The issues on this judicial review are:

- a) Should the RTB Decision be set aside because it was patently unreasonable?
- b) Should the RTB Decision be set aside on the ground that it was an abuse of process?
- c) Was the procedure that led to the RTB Decision procedurally unfair because Ms. Han was not properly served?
- d) If the RTB Decision would otherwise be set aside for one of the reasons above, is Ms. Han otherwise barred from seeking relief because she failed to advance a review application or apply for judicial review within 60 days of the RTB Decision being communicated to her?

### **Analysis**

[31] I will address each of the issues set out above.

### Patent Unreasonableness

[32] In *Ahmad v. Merriman*, 2019 BCCA 82, leave to appeal to SCC ref'd, 38655 (26 September 2019), the Court of Appeal held:

[37] Section 58(2)(a) of the ATA requires that a decision of an expert tribunal, such as the RTB, may not be interfered with unless it is patently unreasonable. The standard of patent unreasonableness requires the decision under review be accorded “curial deference, absent a finding of fact or law that is patently unreasonable”: *British Columbia (Workers’ Compensation Appeal Tribunal) v. Fraser Health Authority*, 2016 SCC 25 at para. 29. Stated otherwise, it must be “clearly irrational” or “evidently not in accordance with reason”: *Canada (Attorney General) v. Public Service Alliance of Canada*, 1993 CanLII 125 (SCC), [1993] 1 S.C.R. 941 at 963–64. A patently unreasonable decision is one that is “so flawed that no amount of curial defence can justify letting it stand”: *Ryan v. Law Society (New Brunswick)*, 2003 SCC 20 at paras. 52–53.

[33] In this case, Ms. Han argues that the RTB Decision was patently unreasonable due to the insufficiency of reasons, because the Adjudicator referred to evidence that “[a]round the end of March 2023, the Tenant [Ms. Ma] had paid all of the outstanding mortgage payments and property taxes for the residential property”. Ms. Han argues:

... the Decision of the Arbitrator is completely devoid of any reasoning or analysis associated with the fact that “the Tenant had paid all the outstanding mortgage payments”. There is no explanation as to how this evidence was relied upon by the Arbitrator in deciding that the Tenant was entitled to an order of possession.”

[34] In my view, this argument is not persuasive. It may be that the reference to the mortgage payments in the RTB Decision was not necessary, but it seems fairly evident why it was made: to assist in explaining what appears on its face to be a nonsensical Tenancy Agreement whose rent was set at \$1 per month for 18 years.

[35] In my view, with or without the reference to the mortgage payments, the Adjudicator’s was reasonable based on the materials before her. The Adjudicator had evidence that Ms. Han was properly served, she was shown a copy of the Tenancy Agreement, and she was told that the Landlord [Ms. Han] had changed the locks on the rental unit, and that the Tenant [Ms. Ma] had been locked out of the Property. Those elements, on their face, were sufficient to warrant an order for



possession. As stated, Mr. Ma appeared for Ying Ma at the hearing. No one appeared for Ms. Han and so no one was there to explain her position.

[36] On this judicial review, Ms. Han has also cited statements made by Mr. Ma to the Adjudicator and the Adjudicator's responses in support of her argument that the RTB Decision was patently unreasonable, but I have not been provided with any authority for the proposition that patent unreasonableness may be found in the exchanges between an adjudicator and litigants or counsel.

### **Abuse of Process and Fraud**

[37] As indicated above, the multiplicity of proceedings that has been advanced, mostly by Mr. Ma, is troubling, and causes this Court to be deeply suspicious of Mr. Ma's motives and his evidence.

[38] I note that Mr. Ma was the one who entered into the Tenancy Agreement on Ms. Han's behalf and allegedly rented the Property to Ms. Ma for \$1 per month for 216 months by purportedly using a POA granted to him by Ms. Han. He was also the one who appeared before the RTB to argue that the Tenancy Agreement ought to be enforced and Ms. Han evicted from the Property. And he was the one who purported to cause Ms. Han to be served, both with the originating documents in the RTB proceeding and with the RTB Decision.

[39] That said, as discussed above, Ms. Ma deposes in her affidavit that she is acting independently from her brother, Mr. Ma. She offered an explanation regarding the terms of the Tenancy Agreement: that Ms. Hou had paid for the Property and that Ms. Han was the registered owner but not the beneficial owner of the Property. Her evidence provides some basis for believing that Ms. Han may have leased the Property to Ms. Ma for a nominal rent. She deposes that the Tenancy Agreement is genuine.

[40] Although Mr. Ma (and perhaps others) may well have engaged in conduct that constituted an abuse of process, it is not at all clear that the RTB Decision may be set aside on that basis. I have not been provided with any authority for the

proposition that an abuse of the court's process generally by an agent of a party is a reason to set aside a decision on judicial review.

[41] Particularly in light of the evidence from Ms. Ma, I am not able to conclude that the RTB Decision was induced by fraud, as to do so would require this Court to determine whether Ms. Han is the legitimate beneficial owner of the house, something that cannot be done on this application. As indicated above, there are broad issues regarding the ownership of the Property which simply cannot be decided on the record before this Court.

### **Procedural Fairness**

[42] Procedural fairness is comprised of two rights: the right to be heard and the right to an impartial hearing: *Crest Group Holdings Ltd. v. British Columbia (Attorney General)*, 2014 BCSC 1651 at para. 36.

[43] In *Hollyburn Properties Limited v. Staehli*, 2022 BCSC 28 the Court held:

[27] With respect to procedural fairness, the *ATA* provides at s. 58(2)(b) that the standard of review is whether, in all of the circumstances, the tribunal acted fairly. The factors that inform the content of a tribunal's duty to provide procedural fairness are contextual and include: (1) the nature of the decision being made and the process followed in making it; (2) the nature of the statutory scheme; (3) the importance of the decision to the affected individuals; (4) the legitimate expectations of the person challenging the decision; and (5) the choice of procedure made by the administrative decision-maker: *Vavilov* at para. 77.

### ***Service of the Dispute Notice Resolution Package***

[44] Section 89(1) of the *RTA* provides:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

(a) by leaving a copy with the person;

(b) if the person is a landlord, by leaving a copy with an agent of the landlord;

- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (f) by any other means of service provided for in the regulations.

[45] Section 88(g) of the *RTA* also provides that service may be carried out by “attaching a copy [of the document] to a door or other conspicuous place at the address at which the person resides”.

[46] At the RTB hearing, Mr. Ma submitted that Ms. Han was served with the dispute notice resolution package in two ways. The same submissions regarding service were advanced in the hearing before this Court.

[47] First, Mr. Ma deposes that he, accompanied by his friend, Tong Chow, left the notice of dispute resolution proceeding package and related documents on the doorstep of the Property on April 20, 2023.

[48] In response to this evidence, Ms. Han denies receiving the notice and related RTB documents. She deposes that a package was left on her doorstep on April 20, 2023 but that it contained documents relating to another lawsuit advanced by Mr. Ma against her, and not the originating documents with respect to this proceeding. In her affidavit, she specifies exactly what was in the package.

[49] In resolving this conflict in the evidence, I note that evidence of service of the dispute resolution proceeding package was given only by Mr. Ma. There is no evidence from Ms. Chow. Further, there is no evidence that Ms. Chow examined the contents of the package left for Ms. Han at the Property. Therefore, there is no evidence aside from that of Mr. Ma to contradict Ms. Han’s evidence that the contents of the package left for her on April 20, 2023 related to other proceedings.

[50] As discussed above, I have concluded that there is good reason to doubt any evidence given by Mr. Ma and I will not rely upon it without corroboration. Given my doubts about Mr. Ma's credibility, this conflict on the evidence is resolved in favour of Ms. Han and I have accepted her evidence. I therefore find that the RTB documents were not in the package left for Ms. Han.

[51] Second, Ms. Ma asserts that the Dispute Notice was sent by registered mail to an address on Cornwall, which is said to be Ms. Han's address according to the Land Title Office, found when performing a land title search on the Property.

[52] However, this means of purported service did not comply with s. 89 of the RTA. Although Ms. Ma argues that this service was valid under s. 89(1)(c), there is no evidence that this is an address at which Ms. Han resides or "carries on business as a landlord". Ms. Han denies that it is either.

[53] There is a dispute on the evidence as to whether Ms. Han had access to the mailbox for this Cornwall property, which appears to be rented out to others, but given my conclusion that this service method is inappropriate under s. 89(1), that factual dispute does not have to be resolved on this application.

[54] To summarize, I find that Ms. Han was not validly served with the dispute resolution proceeding package which was the originating process in this proceeding. As a result, her right to be heard was violated.

***Service of the RTB Decision***

[55] Mr. Ma alleges that Ms. Han was served with the RTB Decision and related documents in May 2023. Two of Mr. Ma's friends have sworn affidavits stating that they left a package containing these materials at the Property. There is also evidence that the RTB Decision was sent by registered mail to the Cornwall address.

[56] In response, Ms. Han deposes that she received a package on the date in question but again it did not contain the RTB Decision as alleged by Mr. Ma. As she did with respect to the purported service in April 20, 2023, she specifies what

documents were in the package. However, it is more difficult to reject the evidence regarding service in this instance, since that evidence was advanced by two persons other than Mr. Ma.

[57] Service of the RTB Decision is only relevant because it starts the time running for the 60-day time limit to bring a judicial review: *ATA*, s. 57(1). Given the difficulty in resolving this evidentiary conflict, I will turn to the test for extending the time limit.

#### **Time Limit for the Commencement of Judicial Review**

[58] Pursuant to s. 57(1) of the *ATA*, an application for judicial review must be commenced within 60 days of the date of the decision. This Court may extend the time if there are serious grounds for relief, there is a reasonable explanation for the delay and no substantial prejudice or hardship will result to the person affected by the delay: *ATA*, s. 57(2).

[59] Ms. Han's evidence is that she did not know about the RTB decision until the bailiffs attended at her residence on July 28, 2023. If her evidence in this regard is accepted, she commenced the judicial review within the 60-day time limit - on September 26, 2023.

[60] If Ms. Ma's evidence on this issue is accepted, however, Ms. Han received the RTB Decision on May 24, 2023 but did not commence this judicial review until September 2023. In these circumstances, her claim would be dismissed unless the test for extension under s. 57(2) is met.

[61] I have concluded that this test is met, and therefore that it is not necessary to determine whether Ms. Han first learned about the RTB Decision on May 24 or July 28, 2023.

[62] In reaching this conclusion, I have considered that there are serious grounds for relief. The legitimacy of the Tenancy Agreement is in question, and Ms. Han was not properly served with the originating process leading to the RTB Decision.

[63] Further, Ms. Han's explanation for the delay in commencing the judicial review is that she did not receive the RTB Decision, which I am unable to reject on the evidence before the Court.

[64] Finally, I do not find Ms. Ma to be unduly prejudiced by the delay of approximately two months. As stated, this dispute is but one piece of a much larger dispute that has now been ongoing for several years.

[65] Based on the foregoing, without making a finding on whether she was properly served with the RTB Decision in May 2023, I find that the 60-day time limit to bring a judicial review does not preclude Ms. Han from advancing this petition.

### **The Review Provisions of the RTA**

[66] The only remaining barrier to Ms. Han's claim for judicial review is Ms. Ma's argument that Ms. Han was required to exhaust all internal appeal procedures before commencing this judicial review.

[67] In *Yellow Cab Company Ltd. v. Passenger Transportation Board*, 2014 BCCA 329, the Court of Appeal held:

[39] There is a general principle that a party must exhaust statutory administrative review procedures before bringing a judicial review application: *Canadian Pacific Ltd. v. Matsqui Indian Band*, 1995 CanLII 145 (SCC), [1995] 1 S.C.R. 3; *Harelkin v. University of Regina*, 1979 CanLII 18 (SCC), [1979] 2 S.C.R. 561. For that reason, where an alleged error comes within a tribunal's statutory power of reconsideration, a court may refuse to entertain judicial review if the party has not made an attempt to take advantage of the reconsideration provision. Of course, where the power of reconsideration is not wide enough to encompass the alleged error, reconsideration cannot be considered an adequate alternative remedy to judicial review, and the existence of the limited power of reconsideration will not be an impediment to judicial review.

[68] The relevant review provisions are set out in s. 79 of the RTA:

79 (1) A party to a dispute resolution proceeding may apply to the director for a review of the director's decision or order.

(1.1) The director may, on the director's own initiative, review the director's decisions or orders.

(2) A decision or an order of the director may be reviewed only on one or more of the following grounds:

- (a) a party was unable to attend the original hearing or part of the original hearing because of circumstances that could not be anticipated and were beyond the party's control;
- (b) a party has new and relevant evidence that was not available at the time of the original hearing and that materially affects the decision;
  - (b.1) a party, because of circumstances that could not be anticipated and were beyond the party's control, submitted material evidence after the applicable time period expired but before the original hearing, and that evidence was not before the director at the original hearing;
  - (b.2) a person who performed administrative tasks for the director made a procedural error that materially affected the result of the original hearing;
  - (b.3) a technical irregularity or error occurred that materially affected the result of the original hearing;
- (c) a party has evidence that the director's decision or order was obtained by fraud;
- (d) in the original hearing, the director did not determine an issue that the director was required to determine;
- (e) in the original hearing, the director determined an issue that the director did not have jurisdiction to determine.

[69] Ms. Han's argues that she was not served with the originating process giving rise to the first RTB hearing, and therefore s. 79(2)(a) is applicable. Her arguments might also be characterized as allegations of fraud under s. 79(2)(c).

[70] This Court has held that absent "exceptional circumstances", courts should not grant judicial review unless the person has exhausted the remedies available to them within the administrative process: *C.B. Powell Limited v. Canada (Border Services Agency)*, 2010 FCA 61 at para. 31, cited with approval in *Kim v. McMaster*, 2023 BCSC 1225 at para. 50.

[71] On the other hand, in *Colwill v. Workers' Compensation Board*, 2019 BCCA 453, the Court of Appeal held:

[39] It is also important to recognize that the bar to bringing judicial review proceedings until internal remedies have been exhausted is not an absolute bar, but a discretionary one. ...

[72] Further, in *Strickland v. Canada (Attorney General)*, 2015 SCC 37, the Supreme Court of Canada held:

[42] The cases identify a number of considerations relevant to deciding whether an alternative remedy or forum is adequate so as to justify a discretionary refusal to hear a judicial review application. These considerations include the convenience of the alternative remedy; the nature of the error alleged; the nature of the other forum which could deal with the issue, including its remedial capacity; the existence of adequate and effective recourse in the forum in which litigation is already taking place; expeditiousness; the relative expertise of the alternative decision-maker; economical use of judicial resources; and cost ...

[43] The categories of relevant factors are not closed, as it is for courts to identify and balance the relevant factors in the context of a particular case: *Matsqui*, at paras. 36-37, citing *Canada (Auditor General)*, at p. 96. Assessing whether there is an adequate alternative remedy, therefore, is not a matter of following a checklist focused on the similarities and differences between the potentially available remedies. The inquiry is broader than that. The court should consider not only the available alternative, but also the suitability and appropriateness of judicial review in the circumstances. In short, the question is not simply whether some other remedy is adequate, but also whether judicial review is appropriate. Ultimately, this calls for a type of balance of convenience analysis ...

[73] It is my view that this Court should exercise its discretion to allow this judicial review despite Ms. Han's failure to first seek a review under s. 79.

[74] The seriousness of the consequences of the order of possession in this case – which would require Ms. Han to be evicted from a house of which she is the registered owner – together with the concerns expressed above regarding Mr. Ma's credibility and the lack of service of the originating process upon Ms. Han all weigh heavily in the balance of convenience analysis described in *Strickland* in favour of permitting this judicial review to proceed. In my view, judicial review of the RTB Decision is appropriate in all of the circumstances.

### **Jurisdiction**

[75] Ms. Han raises an issue regarding the RTB's jurisdiction based on s. 4 of the *RTA* which states:

4 This Act does not apply to ...

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation ...



[76] In support of this argument, Ms. Han refers to evidence that Mr. Ma and Ms. Ma were also residing at the Property, resulting in a “shared living accommodation” that would not be subject to the *RTA*.

[77] However, the argument concerning Mr. Ma is difficult to understand. Even if it were proven that Mr. Ma resided at the Property, he is alleged to be neither the owner nor the tenant in this proceeding.

[78] The argument regarding Ms. Ma would require me to make a finding on contested evidence that Ms. Ma resided at the Property at the time the RTB proceedings were commenced, but there is no clear evidence in this regard.

[79] For these reasons, I do not accept Ms. Han’s argument that the RTB did not have jurisdiction to make the RTB Decision.

**Conclusion and Costs**

[80] In summary, I have concluded that Ms. Han did not receive a fair hearing as a result of not having been served with the originating process - the dispute resolution proceeding package - that led to the RTB Decision.

[81] The application for judicial review is allowed, the RTB Decision is set aside, and the matter is remitted to the RTB for a new hearing.

[82] Costs of this petition shall be payable by Ms. Ma to Ms. Han at Scale B.

“The Honourable Justice Loo”