



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION**

Citation: *Care Givers Inc. v. Dr. William Taylor Investments Inc.*, 2026 NLSC 96

Date: August 18, 2026

Docket: 202501G3437

BETWEEN:

CARE GIVERS INC.

APPELLANT

AND:

**DR. WILLIAM TAYLOR
INVESTMENTS INC.**

FIRST RESPONDENT

AND:

**RESIDENTIAL TENANCIES
TRIBUNAL**

SECOND RESPONDENT

Before: Justice Stacy Ryan

On Appeal From: A Decision of the Residential Tenancies Tribunal, Application #2024-0137-NL dated the 16th day of May, 2025.

Place of Hearing:

St. John's, Newfoundland and Labrador

Date of Hearing:

February 13, 2026

Appearances:

Megan S. Reynolds	Appearing on behalf of the Appellant
F. Stephen Fitzgerald, K.C.	Appearing on behalf of the First Respondent
Ian Hennessey	Appearing on behalf of the Second Respondent

Authorities Cited:

CASES CONSIDERED: *McKenzie v. Newfoundland and Labrador Housing Corp.*, 2025 NLSC 146; *Baker v. Canada (Minister of Citizenship & Immigration)*, 1999 SCC 699

STATUTES CONSIDERED: *Residential Tenancies Act, 2018*, S.N.L. 2018, c. R-14.2; *Contributory Negligence Act*, R.S.N.L. 1990, c. C-33

RULES CONSIDERED: *Rules of the Supreme Court, 1986*, S.N.L. 1986, c. 42, Sch. D

REASONS FOR JUDGMENT

RYAN, J.:

INTRODUCTION

[1] This is an appeal from a decision of the Newfoundland and Labrador Residential Tenancies Tribunal pursuant to Rules 54.02 and 54.06 of the *Rules of the Supreme Court, 1986*, S.N.L. 1986, c. 42, Sch. D.

[2] The Application is brought pursuant to s. 50(1) of the *Residential Tenancies Act, 2018*, S.N.L. 2018, c. R-14.2 (the “Act”).

[3] The Residential Tenancies Adjudicator has ordered damages in the amount of \$107,481.25 to Dr. William Taylor Investments Inc. (the “Landlord”).

PROCEDURAL HISTORY

[4] On February 1, 2024, the Appellant filed an application for dispute resolution pursuant to the *Act*.

[5] The Appellant was seeking compensation for damages accrued to the property in the amount of \$107,481.25.

[6] The hearing was scheduled for April 16, 2024, and continued on December 6, 2024.

[7] The Adjudicator allowed the Landlord’s claim for damages in the amount of \$107,481.25. The decision was rendered on May 16, 2025.

[8] It is that decision which is now subject to appeal.

[9] The Appellant also filed an application for judicial review on June 12, 2025. I will address this matter in a separate decision.

BACKGROUND

[10] Care Givers Inc. (the “Appellant”) rented a property from the First Respondent, Dr. William Taylor Investments Inc. The rental agreement was entered into on July 5, 2018. The terms of the tenancy were intended for one year, from July 1, 2018, to July 1, 2019. The rent for the premises was set at \$1,950.00 per month.

[11] The tenant issued a notice of termination with an effective date of January 31, 2023; however, the parties continued their rental agreement on a month-to-month basis under the same terms as those in the rental agreement.

[12] The rental agreement allowed the Appellant to modify the property as the intention was to house individuals who required specialized programming to address complex social, emotional, behavioral, and developmental needs.

[13] The First Respondent permitted the Appellant to perform modifications to the property as there was an agreement that, upon vacating the premises, the Appellant was to restore the property to its original condition.

[14] The Appellant was no longer housing individuals at the premises as of November 2022. A written notice was provided to the First Respondent on January 31, 2023, indicating that they were terminating the tenancy.

[15] The Appellant continued to pay monthly rent while they sought appropriate contractors to restore the premises to its original state. During this time, there were no individuals occupying the premises.

[16] The Appellant issued an RFP (request for proposals) to undertake the restoration work. This RFP was issued in April 2023 and extended to June 29, 2023.

[17] Subsequently, a sewer backup on the premises occurred sometime between June 28, 2023 and July 27, 2023, significant damages were sustained to the property.

[18] A hearing was held, and the Adjudicator ruled in favour of the First Respondent.

ISSUES

[19] The issues before me are:

1. Is the decision subject to review?
2. Did the Tribunal err in holding that the *Act* applied to the rental agreement?
3. Did the Tribunal err in permitting the First Respondent to split its case?
4. Did the Tribunal err in permitting and relying on hearsay evidence?
5. Did the Tribunal err in failing to apply the *Contributory Negligence Act*, R.S.N.L. 1990, c. C-33 concluding that the Landlord did not cause delay and should not be responsible for any related damages?

Is the decision subject to review?

[20] The parties agreed that issues 1, 2 and 3 ought to be dealt with by way of appeal and issue 4 by way of judicial review. The matter proceeded on this basis.

Did the Tribunal err in holding that the *Act* applied to the rental agreement?

[21] The standard of review on this issue is that of correctness. (*McKenzie v. Newfoundland and Labrador Housing Corp.*, 2025 NLSC 146, at para. 10).

Position of the Appellant

[22] The Appellant raised the issue of jurisdiction. They argued that the rental agreement made between the parties was exempted from the application of the *Act* by s. 3(4)(c) which states that the *Act* does not apply to living accommodation used or occupied by a person for penal, correctional, rehabilitative, or therapeutic purposes or for the purpose of receiving care.

Position of the First Respondent

[23] The First Respondent argues that even if the original use of the premises falls under s. 3(4)(c) of the *Act*, this rental agreement was terminated by the tenant via the termination notice on January 31, 2023. They say that at no point after this date were the premises used for therapeutic or rehabilitative services, nor for receiving care.

The Adjudicator's decision

[24] The Adjudicator interpreted the *Act* as being applicable to the relationship of the parties, i.e., that of landlord and tenant. The Adjudicator found, after considering the terms in the full context of the *Act*, that the tenant's usage does not fall within the meaning of s. 3(4)(c) of the *Act*. In other words, the Adjudicator found there was a landlord/tenant relationship that was not exempted under the *Act*.

[25] The Adjudicator reviewed s. 3 of the *Act*, specifically s. 3(1) and s. 3(3)(a).

[26] The Adjudicator described the premises that were the subject of the lease agreement as a "granny suite" or "basement apartment" in a two-floor stand-alone home. The Adjudicator found the property would be considered residential premises under s. 3 of the *Act*. The Adjudicator then found a landlord tenant relationship existing between the parties.

[27] The Adjudicator then considered whether the subject matter of the dispute concerned living accommodation used or occupied by a person for penal, correctional, rehabilitative, or therapeutic purposes or for the purpose of receiving care.

[28] The Adjudicator then considered the law, in particular, that of statutory interpretation.

[29] The Adjudicator found the lease agreement made no mention of the purpose of the rental or the nature of the use the tenant intended. Further findings were made that nothing included in the lease would inherently give the impression that it related to a usage intended as rehabilitative, therapeutic, or for the purpose of receiving care.

[30] After these findings, the Adjudicator noted that the landlord understood the intention of Caregivers was to use the premises to house one or more clients who were, in their words, availing of rehabilitative and therapeutic care. The Adjudicator further noted that the clients required care on a 24-hour basis. These clients had special needs with regard to their living accommodation. The Adjudicator found it was with this understanding that the lease agreement was drafted to include Part 11, which allows for the conditions under which the tenant may make modifications to the premises.

[31] The Adjudicator then examined s. 3(4) of the *Act* and found the matter was within the jurisdiction of the Tribunal.

[32] The matter turns on the meaning of s. 3(4).

[33] Section 3(1) of the *Act* states

Notwithstanding another Act or agreement, declaration, waiver or statement to the contrary, this Act applies where the relationship of landlord and tenant exists in respect of residential premises.

[34] Section 3(4) states:

(4) This Act does not apply to

...

(c) living accommodation used or occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;

...

[35] Applying the standard of correctness, I find no error on the part of the Adjudicator in relation to the finding that the matter is within the jurisdiction of the Tribunal.

[36] There was no evidence that the accommodation was used or occupied for that purpose. The only evidence in this regard was the landlord's testimony regarding what he thought the rental property was being used for which was, in essence, assisted living.

[37] Furthermore, given the expiration of the lease, and the property being vacant since November 2022, it cannot be said that the property was being used for those purposes.

[38] I would dismiss this ground of appeal.

Did the Tribunal err in permitting the First Respondent to split its case?

[39] At the initial hearing, the First Respondent called two witnesses. The Appellant called one witness. Subsequent to this, the First Respondent advised the Adjudicator that before proceeding further, the First Respondent wanted further time to consider whether it would call a further witness.

[40] The Adjudicator requested written submissions on this issue.

[41] The Adjudicator considered the submissions and rendered their interim decision on November 5, 2024.

[42] The Adjudicator permitted one out of four requested witnesses to proceed.

Position of the Appellant

[43] The Appellant suggests it is contrary to the legal principle that matters that are properly to be considered to form part of the plaintiff's case in chief are to be excluded from reply evidence.

[44] The Appellant further suggests the Adjudicator's decision is inconsistent with their ruling that evidence of the gap in time between when the backup occurred and when it was discovered ought to have been included in the Landlord's case in chief.

[45] The Appellant suggests the issue was the subject of substantial exchanges between the parties prior to the hearing and there was nothing in the tenant's reply/defence at the hearing that was not, or could not have been, anticipated by the Landlord evidence.

[46] Lastly, the Appellant suggests there is no provision contained in s. 46(2) of the *Act* which provides the Adjudicator with such broad discretion. She further suggests decisions of a Residential Tenancies director should follow the rules of natural justice and procedure.

Position of the First Respondent

[47] The First Respondent submits the rules of procedure found within the *Act*, particularly s. 46(2) permits the director wide discretion to prescribe rules of

procedure and evidence for a hearing; to order the type and nature of information to be provided by a person to the director before or during a hearing; receive or accept evidence and information on oath, affirmation, affidavit, or otherwise, whether or not that evidence or information is admissible as evidence in the Court; and act as an investigative body and bring forward evidence in response and reply.

[48] The First Respondent submits the Adjudicator correctly exercised their discretion to allow the First Respondent to call a further witness in the circumstances where the Adjudicator was concerned, she would receive a “skewed version of events” had they not admitted the evidence of Hedley Elms. This was permitted as set out in s. 46 of the *Act*.

[49] The standard of review on this issue is correctness.

[50] The Adjudicator summarized the position of both parties. They then considered s. 46(2) of the *Act*, which provides discretion to allow further evidence in the form of testimony or documents that a party may produce. This section states:

The director may

- (a) prescribe rules of procedure and evidence for a hearing;
- (b) order the type and nature of information to be provided by a person to the director before or during a hearing; and
- (c) receive or accept evidence and information on oath, affirmation, affidavit or otherwise, whether or not that evidence or information is admissible as evidence in a court.

[51] Further, section 46(4) states:

- (4) For the purpose of a hearing,

(a) the director and a person authorized by the director have the powers, privileges and immunities that are or may be conferred on a commission under the *Public Inquiries Act, 2006*;

(b) the director and a person authorized by the director are considered to be an investigating body for the purpose of the *Public Investigations Evidence Act*;

(c) the director and a person authorized by the director shall have full right to examine and cross-examine a witness and to bring forward evidence in response and reply; and

...

[52] The Adjudicator identified that the primary principle they must adhere to is procedural fairness.

[53] The Adjudicator considered the principles in *Baker v. Canada (Minister of Citizenship & Immigration)*, 1999 SCC 699, at paras. 23-28 and applied them to the case before them.

[54] After applying the principles in *Baker*, the Adjudicator found procedural fairness required permission to call a further witness. She was concerned that the version of events she would hear may be skewed if this were not permitted.

[55] They permitted one out of four witnesses to be called.

[56] Applying the standard of correctness, I find no error on the part of the Adjudicator in relation to the finding that the Appellant in the matter could call further evidence after it closed its case.

[57] I would dismiss this ground of appeal.

Did the Tribunal err in permitting and relying on hearsay evidence?*Position of the Appellant*

[58] The Appellant submits that the Adjudicator relied on hearsay evidence to establish the damages caused by the sewer backup.

[59] The witness was Mr. Noel. He estimated the amount for damages as being \$104,000 plus HST.

[60] When asked how he arrived at this figure, Mr. Noel stated it was a ballpark figure. He testified that he spoke to their abatement contractor and asked him what level of demolition is usually required in a sewer backup situation. Mr. Noel testified that he based his scope on the abatement contractor's experience with previous situations that would have been similar to what was requested of him.

Position of the First Respondent

[61] The First Respondent submits this evidence was not hearsay as the abatement contractor, Mr. Hedley Elms, was called as a witness. Mr. Noel's quote was informed by the abatement contractor.

The Adjudicator's decision

[62] The Adjudicator stated in their decision that:

47 Mr. Noel candidly explained his process for calculating the estimate of what the cost would have been had the mold been caught earlier. He says he spoke to the abatement subcontractor and asked what level of work would have to be done in a sewer backup situation which is caught "right away". This person told Mr. Noel that the floor would need to be removed, as would the drywall up to a height of about two feet. Mr. Noel testified that since the kitchen was close to the washroom,

he assumed that the lower kitchen cabinets would have been irreparably damaged even if the backup had been caught immediately. He admitted he did not know how significant the backup had been. Therefore, Mr. Noel calculated the ~42,500 figure by adding the cost of the floors, the lower cabinets, the drywall remediation up to two feet around the entire premises and repainting all those areas. He was open about the fact that the estimate was ultimately a ballpark figure. He believed it would not be “significantly off” in either direction, however.

48 I accept that Mr. Noel had the knowledge and skills to estimate the cost of these items and he in fact did so correctly.

[63] The Appellant suggests that this evidence ought to have been excluded as unsubstantiated hearsay.

[64] I disagree. The Adjudicator found that Mr. Noel had the knowledge and skills to estimate the cost of replacing the damaged area. Mr. Noel arrived at this estimate by relying on the abatement contractor who advised what work needed to be completed. The abatement contractor then testified.

[65] This is not hearsay and was properly admitted and relied upon.

[66] I would dismiss this ground of appeal.

[67] Given my findings, I find there are no errors of law with respect to the Adjudicator’s decision, and the appeal is dismissed.

[68] The First Respondent shall have its costs in accordance with Column 3 of the Scale of Costs in the Appendix of Rule 55 of the *Rules of the Supreme Court, 1986*.

STACY RYAN
Justice