IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Granfar v Starr Insurance,* 2026 BCSC 1923

Date: 20261006
Docket: S252669
Registry: Vancouver

Between:

Noushin Granfar

Petitioner

And

Starr Insurance, Allianz Canada, RSA Insurance, AIG Insurance, Lockton Companies, Westport Insurance

Respondents

Before: The Honourable Justice J. Walker

Reasons for Judgment

The Petitioner, appearing in person:	Noushin Granfar
Counsel for the Respondents:	B. Cheng V. Nguyen, Articled Student
Place and Date of Hearing:	Vancouver, B.C. August 12-14, 2026
Place and Date of Judgment:	Vancouver, B.C. October 6, 2026

2026 BCSC 1923 (CanLII)

Table of Contents

INTRODUCTION **3**
BACKGROUND FACTS **3**
THE DISPUTE RESOLUTION PROCESS **9**
The Statutory Provisions 9
Procedural History 10
The Appraisal Award 14
THE STANDARD OF REVIEW **15**
WAS THE PETITIONER DENIED PROCEDURAL FAIRNESS **18**
The Scope of the DRP 19
The ALE Claim 21
Inclusion of the Demolition and Emergency Repairs 23
Should the DRP Have Taken Place 23
Importance of Decision 24
Legitimate Expectations 25
Meaningful Opportunity to Present Evidence 25
Lack of Reasons 27
Impartiality and Reasonable Apprehension of Bias 29
Conclusion 30
IS THE AWARD PATENTLY UNREASONABLE **30**
CONCLUSION **31**

2026 BCSC 1923 (CanLII)

2026 BCSC 1923 (CanLII)

Introduction

[1] The petitioner, Ms. Noushin Granfar applies for judicial review of an appraisal award made on March 4, 2025 under s 12 of the *Insurance Act*, RSBC 2012, c 1 [*Insurance Act*]. The award determined valuation issues in dispute between the parties arising from loss sustained by Ms. Granfar from two water occurrences, one on May 27, 2019, and the second on June 11, 2019.

[2] The respondents are the insurers of the strata corporation for the residential property located at 1485 Duchess Avenue in West Vancouver (the “Insurers”). Ms. Granfar is the registered owner of unit 1002 within the strata.

[3] Ms. Granfar alleges that the appraisal award is patently unreasonable and that she was denied procedural fairness. She seeks to have the appraisal award set aside.

Background Facts

[4] On May 27, 2019, Ms. Granfar’s washing machine overflowed causing flooding and water damage to her unit and to the building’s common property. The Insurers contend that the cause of the flooding was a malfunction of Ms. Granfar’s washing machine, but Ms. Granfar maintains that the flooding was caused by a back up in the drainage system in the building. Regardless of the cause, the strata insurance policy provided coverage for the damage caused by this incident.

[5] The strata corporation’s insurance policy provides for comprehensive insurance coverage relating to the building’s common property including the building itself. The insurance policy also provides coverage for Ms. Granfar’s personal property and coverage for additional living expenses.

[6] On June 11, 2019, a second water incident occurred when a contractor was working at the building causing more water to enter Ms. Granfar’s unit. Ms. Granfar alleges that this occurrence caused significantly more damage to her unit than the May 27 incident. Ms. Granfar made a second insurance claim for this second occurrence.

[7] The Insurers opened separate claims for both occurrences and appointed Crawford & Company (“Crawford”) to be their independent insurance adjuster to adjust the claims.

[8] On August 1, 2019, Phoenix Restorations (“Phoenix”) provided a “scope of work” for final repairs to Ms. Granfar’s unit and an estimate of $20,503.35 to complete the repairs.

[9] On September 9, 2019, FirstOnSite Restoration (“FirstOnSite”) provided an estimate of $33,420.63 to complete the repairs.

[10] On October 2, 2019, Crawford advised the strata that the damages claimed for the second water occurrence on June 11, 2019 were minimal in comparison to the original damages sustained in the first incident. If there were any secondary damages, it would fall below the strata’s $10,000 water damage deductible. Crawford advised that they were closing this claim. Ms. Granfar included this letter in her materials filed in support of this application.

[11] On November 29, 2019, Belfor Property Restoration (“Belfor”) provided an estimate of $40,349.52 to complete the repairs based on FirstOnSite’s scope of repair dated September 9, 2019.

[12] On December 20, 2019, Mr. Anderson, a claims adjuster at Crawford, emailed Ms. Granfar and responded to her assertion that a hazmat clean up of her unit was required. He indicated that none of the three contractors who had been into her unit had mentioned that this was needed. He suggested that if she felt that it was necessary, that she retain a company to conduct the needed testing to determine whether hazmat work was needed. If confirmed that it was necessary, he would recommend that the testing and required work be paid for by the Insurers.

[13] On April 29, 2020, Coast BC Hazmat prepared a report at Ms. Granfar’s request (the “Coast Report”). The report indicated that if any of the lead-containing paint on the interior of the unit was required to be disturbed, then any lead removal must be performed in accordance with WorkSafeBC Occupational Health and Safety

2026 BCSC 1923 (CanLII)

Regulations. However, samples showed that the lead content of the paint was below the allowable amount per Health Canada. Coast BC Hazmat also found asbestos in a kitchen sink mastic that had been removed and placed in the bedroom. The assessed risk was moderate and special handling to remove it was recommended.

[14] On May 25, 2020, Ms. Granfar provided her proof of loss. She claimed losses amounting to $184,149.35. Her proof of loss claim did not include a claim for additional living expenses (“ALE”).

[15] On May 29, 2020, Mr. Anderson, advised Ms. Granfar that her claim was not acceptable because it appeared to include claims for more than one occurrence and the quantum of loss as claimed was not fully supported.

[16] On November 27, 2020, MBC Group (“MBC”) provided an estimate of $48,906.99 to complete the repairs. The estimate was based on a site visit conducted on November 27, 2020. In his report, the appraiser noted that Ms. Granfar would not permit him to take photographs, which limited his ability to complete a required scope of work. Ms. Granfar forwarded her own photographs to the appraiser.

[17] The MBC estimate also noted that Ms. Granfar indicated that the lock sets to the second bedroom and entry door were not functioning properly. However, the appraiser viewed this malfunction as unrelated to the water damage.

[18] During the appraiser’s site visit on November 27, 2020, Ms. Granfar advised the appraiser about the second water occurrence. In the MBC estimate, the appraiser noted that Phoenix confirmed that the entire unit was affected by the initial washing machine overflow incident and it would be impossible to separate the resulting water damage between the two occurrences.

[19] The MBC estimate also reviewed and commented on the Coast Report obtained by Ms. Granfar and provide the following comments:

2026 BCSC 1923 (CanLII)

a) The Coast Report indicated that the kitchen back splash tiles contained lead. However, the MBC appraiser noted that the tiles were undisturbed and were not required to be removed as part of the water damage restoration process.

b) The Coast Report stated that the lead paint on the drywall was under the allowable amount as per Health Canada but also noted that the lead paint must be cleaned up in accordance with WorkSafeBC guidelines. The MBC appraiser concluded that there was no purpose to cleaning up the lead paint since the amount of lead was under the allowable amount.

c) The Coast Report indicated the kitchen sink mastic, which had been removed and placed on the floor of a bedroom, contained asbestos. However, the Coast Report did not provide the actual percentage of asbestos content, which is a standard practice for asbestos testing.

d) Ms. Granfar provided a hazardous material abatement quote from a contractor, JD Demo, which was based on the Coast Report. The MBC appraiser discussed the quote with JD Demo and according to JD Demo, the sink mastic had not been disturbed in any way. As a result, accepted industry practice would be to leave the hazmat containing materials in place unless they had to be disturbed or removed as part of the restoration process. In this case, MBC concluded that there would be no need to disturb or remove the asbestos-containing mastic.

e) The abatement quote from JD Demo included removal of backsplash tile in the kitchen. According to the MBC appraiser, this was not necessary.

[20] The MBC estimate also provided a hazardous contamination assessment report and an estimate of costs for hazardous cleaning and disinfection. The estimate included HEPA vacuuming of all horizontal surfaces and the disposal of the kitchen sink containing asbestos mastic.

2026 BCSC 1923 (CanLII)

[21] On December 23, 2020, Crawford provided Ms. Granfar a letter. The letter advised that a preferred vendor would not be assigned to complete the repairs to the unit. On March 18, 2020, Ms. Granfar had been offered the opportunity to proceed with Belfor to repair the unit. However, she had refused to proceed and did not authorize the repairs. As a result, the letter advised that the Insurers were prepared to provide payment to Ms. Granfar in accordance with the MBC estimate.

[22] The letter also informed Ms. Granfar that, based on the MBC estimate, the Insurers had agreed to assign an occupational hygienist to be involved and provide a professional opinion on the hazmat aspects of her claim.

[23] With respect to ALE, the letter confirmed that as the Insurers had already provided Ms. Granfar with a one-time payment of $7,500, no further payments would be made as per the policy. The payment made in conjunction with payments made by Ms. Granfar's personal insurer had provided her a reasonable time period to repair her unit.

[24] The December 23, 2020 letter further advised that if Ms. Granfar disagreed with the settlement, she would have until January 22, 2021 to commence the dispute resolution process. Otherwise, the Insurers would issue the final settlement payment, and the claim would be closed.

[25] On January 4, 2021, Ms. Granfar provided a written response to the letter from Crawford. She reiterated that the second water occurrence caused additional damage to her unit. She provided a response to the MBC estimate and asked for the January 22, 2021 deadline to be extended. She claimed that the restoration workers had caused damage to her suite and that it was the Insurers' obligation to repair it.

[26] On February 16, 2021, Crawford responded and reiterated that they would not be assigning a preferred vendor to complete the repairs but instead would be providing payment. Along with the letter, Crawford also sent a report prepared by MBC relating to testing that had been conducted in Ms. Granfar's unit. The tests confirmed that there was no asbestos contamination present. Even though the

2026 BCSC 1923 (CanLII)

detached sink was in good condition and did not pose a health and safety hazard, the Insurers had decided to remove it and dispose of it appropriately. As a result, the settlement amount was increased to compensate for the costs of removing the sink and for hazardous cleaning and disinfection.

[27] In this letter, Crawford again advised that no further payments would be made for ALE. The letter reiterated that if Ms. Granfar disagreed with the settlement amount, she could commence the dispute resolution process.

[28] On February 19, 2021, Ms. Granfar sent a lengthy email to Crawford stating that she did not agree with the proposal.

[29] On March 12, 2021, Crawford confirmed that they would be proceeding in accordance with their letter of February 16, 2021.

[30] On May 14, 2021, Ms. Granfar again wrote to Crawford and expressed her disagreement with the settlement amount. She enclosed a proof of loss for the first occurrence and a proof of loss for the second occurrence. The proofs of loss were dated May 13, 2021. The first proof of loss claimed $83,382.66 and the second claimed $80,766.10.

[31] On June 4, 2021, Crawford advised Ms. Granfar that her proofs of loss were not acceptable as they related to two separate occurrences and because the quantum of loss claimed was not fully supported. Crawford further advised Ms. Granfar that the Insurers had elected to proceed with dispute resolution as per the *Insurance Act* and advised that John Valeriote of Crawford would be their representative.

[32] Since February 19, 2021, the Insurers have paid approximately $209,152.69 in indemnity funds to and on behalf of the strata. This includes payments for work related to Ms. Granfar’s unit. Of those indemnity funds, the Insurers made an advance payment of $26,524.03, to the strata towards the expected cost of the restoration of Ms. Granfar’s unit.

2026 BCSC 1923 (CanLII)

The Dispute Resolution Process

The Statutory Provisions

[33] Section 29 of the *Insurance Act* prescribes a set of “Statutory Conditions” that must be included in every property insurance contract or policy in British Columbia unless an exemption is granted under the *Insurance Act* or by regulation. The policy in issue in this case contained the mandatory Statutory Conditions.

[34] Section 12 of the *Insurance Act* creates a mandatory dispute resolution process (“DRP”) for resolving disputes between an insurer and an insured in respect of matters specified under s 12(2). This includes matters under Statutory Condition 11 set out in s 29, which provides:

> (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.

[35] Under section 12(3), either party may demand in writing the other's participation in a DRP after proof of loss has been delivered to the insurer. Following which, section 12(4) requires that, within 7 days after a demand under subsection (3), the insured and insurer must each appoint a representative. Within 15 days after their appointment, the two representatives must appoint an umpire.

[36] Under section 12(5), the insured, the insurer, an employee of the insured, and an employee of the insurer cannot be named as a representative.

[37] If a party fails to appoint a representative, an application by the insured or insurer may be made, on 2 days notice, to the Supreme Court to appoint a representative: s 12(8).

[38] Under s 12(10), if the representatives fail to appoint an umpire, either representative may apply to the superintendent of the BC Financial Services Authority (the “Superintendent”) for the appointment of an umpire, by providing the

2026 BCSC 1923 (CanLII)

names and credentials of three persons the applicant believes can serve as an umpire.

[39] Sections 12(11) to 12(13) sets out the process and timelines for the appointment of an umpire by the Superintendent and s 12(14) requires that the Superintendent appoint an umpire from the names provided.

[40] Under s 12(6), the representatives must

> (a) determine the matters in dispute by agreement, and
>
> (b) if they fail to agree, submit their differences to the umpire, and the written determination of any two of them determines the matters.

[41] Section 12(7) provides that each party must pay the representative whom the party appointed, and each party must equally bear the expense of the Umpire.

Procedural History

[42] As indicated, on June 4, 2021, the Insurers advised Ms. Granfar that they had elected to proceed with the DRP under the *Insurance Act*.

[43] Ms. Granfar did not accept that her dispute should be resolved in accordance with the DRP and applied to the Civil Resolution Tribunal (“CRT”) for relief. Ms. Granfar made one claim but sought five resolutions requiring:

a) the Insurers to restore her strata lot, pay $161,549.53 for cleanup, testing and restoration, plus $57,709.18 for additional living expenses.

b) the strata to pay $5,918.70 for strata fee reimbursement, lien fees, plumber fees and “double payment”.

c) the Insurers to pay her storage fees of $621.60 per month until resolution of her claims.

d) the strata to give her access to documents and to stop lying, acting in bad faith, discriminating, using insulting language and prejudicing her.

2026 BCSC 1923 (CanLII)

e) to “reserve [her] right” to claim a per diem, a refund for the 2019 deductible she paid, and indemnity for physical injury and damages to her health, inconvenience, “family ordeal” and “loss of content and activities”.

[44] In a decision dated September 22, 2021, the CRT found that it did not have jurisdiction to determine claims made by Ms. Granfar against the Insurers, due to provisions in the *Insurance Act*. The claims against the strata were allowed to continue.

[45] Ms. Granfar did not appoint a representative as required. The Insurers filed a petition on March 25, 2022 asking the Court to appoint a representative under s 12(8) of the *Insurance Act*. Ms. Granfar responded by filing her own notice of application setting out her complaints about how the Insurers had dealt with her. The Court dismissed her application on July 26, 2023.

[46] On July 28, 2023, Ms. Granfar filed her response to the Insurers’ petition and on August 31, 2023, she filed a second response to the petition. The petition was heard on May 8, 2024.

[47] In reasons for judgment released on June 18, 2024, indexed at 2024 BCSC 1051, Justice Iyer granted the Insurers’ application, ordered that the DRP proceed, and required Ms. Granfar to provide contact information for her proposed representative.

[48] Ms. Granfar appointed Ebrahim Forouzan as her representative. On July 26, 2024, Mr. Forouzan provided Mr. Valeriote with two proposed candidates to act as umpire. On August 13, 2024, Mr. Forouzan provided an additional candidate to act as umpire.

[49] On August 17, 2024, Mr. Valeriote advised Mr. Forouzan that his proposed candidates were not acceptable because they lacked dispute resolution experience, one had a conflict of interest, and the third only had a background in family law. Mr. Valeriote proposed an alternative candidate and requested a response.

2026 BCSC 1923 (CanLII)

[50] On August 31, 2024 Mr. Valeriote followed up with Mr. Forouzan regarding the selection of an umpire.

[51] Not having received a response, on September 3, 2024, Mr. Valeriote issued a written notice to Mr. Forouzan of his intention to apply to the Superintendent for the appointment of an umpire. Mr. Valeriote did so, and on September 27, 2024, the Superintendent appointed James Minns as the umpire (the "Umpire").

[52] On September 29, 2024, Mr. Valeriote sent an email to Mr. Forouzan and the Umpire attaching Ms. Granfar's proof of loss for the May 27, 2019 occurrence, to initiate the DRP. Mr. Valeriote asked the Umpire to confirm his appointment and to arrange a conference call with all parties to discuss how to proceed.

[53] On November 22, 2024, Ms. Granfar wrote to Crawford and reiterated her request that the Insurers reconstruct her unit.

[54] On December 3, 2024, Mr. Forouzan wrote to the Umpire inquiring whether the Umpire had a conflict of interest with the Insurers. Mr. Forouzan also raised concerns about the costs of the DRP and proposed proceeding with the DRP through email.

[55] On January 13, 2025, the Umpire advised the parties that he did not have a conflict of interest. The Umpire provided his fee schedule, deposit requirements, and an appraisal agreement for signatures. He proposed dates for a case conference call to discuss what documents should be exchanged for the hearing. The proposed dates for the case conference were January 20, 22, 23 and 24 at 1:00 PM Eastern time.

[56] On January 18, 2025, Mr. Forouzan sent an email to Mr. Valeriote and the Umpire advising that the terms of the appraisal agreement and fee schedule were not acceptable to Ms. Granfar.

[57] On January 22, 2025, Mr. Forouzan sent an email to the Umpire and Mr. Valeriote indicating that the fee schedule was not affordable and the proposed

2026 BCSC 1923 (CanLII)

terms of the appraisal agreement were not acceptable. Mr. Forouzan indicated that he was not available for the conference call scheduled for the next day and requested that it be postponed until the issues relating to fees and terms of the agreement were resolved.

[58] On January 24, 2025, the Umpire wrote to Mr. Valeriote and Mr. Forouzan to confirm what had been discussed during the case conference call that had taken place on January 23, 2025. The Umpire noted that Mr. Forouzan failed to attend or participate even though Mr. Forouzan had previously confirmed that he was aware of the date and time of the scheduled conference call.

[59] In this correspondence, the Umpire set out the background to the loss and explained that the DRP would assess the property loss, including the principal residence contents claim, and the determination of Ms. Granfar's ALE claim. The Umpire ordered the parties to provide and exchange their respective DRP appraisal submissions, document briefs, and witness lists by February 18, 2025. He confirmed that the DRP hearing would be conducted on February 25, 2025.

[60] On February 18, 2025, Mr. Forouzan submitted his materials for the appraisal hearing. In his email, Mr. Forouzan indicated that it was difficult to proceed with the DRP when the fees were not affordable and the conditions in the appraisal agreement were not agreeable. Mr. Forouzan advised that Ms. Granfar had filed an application to court and that a hearing was scheduled for March 25, 2025. In her court application, Ms. Granfar sought a number of orders relating to the DRP including an order allowing her to not engage in the DRP.

[61] Mr. Forouzan submitted an estimate to repair Ms. Granfar's unit for the first water occurrence. The estimate was provided by Banff Contracting and was for $84,210. Along with this estimate, Mr. Forouzan provided a copy of the Coast Report. Mr. Forouzan's brief explained Ms. Granfar's position about the hazardous materials in the unit and provided an estimate for proper removal of the hazardous materials. This was submitted along with a Lead Contamination and Asbestos Remediation Assessment, which was prepared by MBC and dated February 8,

2026 BCSC 1923 (CanLII)

2021. Mr. Forouzan also made submissions about the shortcomings of the various estimates provided by the Insurers.

[62] With respect to Ms. Granfar's ALE claim, Mr. Forouzan submitted that it was not the role of the Umpire to determine an ALE claim; however, he submitted that that $35,649.65 was appropriate, although this was not a complete amount of the expenses incurred by Ms. Granfar.

[63] On February 25, 2025, the Insurers submitted their appraisal brief and supporting materials to the Umpire. The Insurers' appraisal memorandum referred to and attached the proofs of loss that Ms. Granfar had provided, totalling $164,149.35. The Insurers also provided the four estimates that had been obtained to restore Ms. Granfar's unit. The Insurers submitted that the replacement cost value for the property damage was $16,980.

[64] With respect to ALE, it was the Insurers' position that Ms. Granfar had frustrated the repair process and that no additional ALE was warranted.

[65] The appraisal hearing did not take place on February 25, 2025, as originally scheduled. On February 25, 2025, the Umpire confirmed that the hearing would now take place on March 4, 2025. The Umpire also confirmed that Mr. Forouzan would be filing the appraisal documentation to be relied upon by Ms. Granfar at the hearing.

[66] On February 27, 2025, the Umpire emailed Mr. Forouzan and Mr. Valeriote attaching Ms. Granfar's documents for the appraisal hearing along with the appraisal brief provided by the Insurers.

[67] The appraisal hearing took place on March 4, 2025 by Zoom. Mr. Valeriote made oral submissions as did Mr. Forouzan.

The Appraisal Award

[68] On March 4, 2025, the Umpire delivered his dispute resolution award by email (the "Award"). The Award stated:

2026 BCSC 1923 (CanLII)

> WHEREAS upon concluding a dispute resolution proceeding concerning the insurance claims arising out of the above-captioned matter, after careful consideration of the documentation, information and submissions presented, we, the dispute resolution representatives and umpire, on behalf of the insured and the insurers, conclude that regarding the property damage claim, the emergency repairs and demolition claim, the contents claim, and the additional living expenses claim, insured losses amount to:

Type of claim	**Actual cash value**	**Replacement cost value**
Property damages	$9,781.40	$48,906.99
Demolition and emergency repairs	$74,500.64	$74,500.64
HEPA abatement cleaning	$2,032.67	$2,032.67
Contents claim	Not appraised	Not appraised
Additional living expenses claim (3 months at $1,750 per month)	$5,250	$5,250

[69] The Umpire and Mr. Valeriote signed the Award.

[70] On April 4, 2025, Ms. Granfar filed this petition challenging the Award.

The Standard of Review

[71] The combined effect of s 12 of the *Insurance Act* and s 11 of the Act's statutory conditions is that issues having to do with valuation must be determined by an umpire and in accordance with the process set out in the *Insurance Act*. This is a privative clause because it gives exclusive jurisdiction over a particular issue to a particular administrative tribunal: *Vandale v Wawanesa Mutual Insurance Co.*, 2015 BCSC 766 at para 18.

2026 BCSC 1923 (CanLII)

[72] Section 58 of the *Administrative Tribunals Act*, SBC 2004, c 45 [*ATA*] addresses the standard of review for a tribunal operating under a privative clause:

> **Standard of review with privative clause**
>
> **58** (1) If the Act under which the application arises contains or incorporates a privative clause, relative to the courts the tribunal must be considered to be an expert tribunal in relation to all matters over which it has exclusive jurisdiction.
>
> (2) In a judicial review proceeding relating to expert tribunals under subsection (1)
>
> (a) a finding of fact or law or an exercise of discretion by the tribunal in respect of a matter over which it has exclusive jurisdiction under a privative clause must not be interfered with unless it is patently unreasonable,
>
> (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, and
>
> (c) for all matters other than those identified in paragraphs (a) and (b), the standard of review to be applied to the tribunal's decision is correctness.
>
> (3) For the purposes of subsection (2) (a), a discretionary decision is patently unreasonable if the discretion
>
> (a) is exercised arbitrarily or in bad faith,
>
> (b) is exercised for an improper purpose,
>
> (c) is based entirely or predominantly on irrelevant factors, or
>
> (d) fails to take statutory requirements into account.

[73] Where procedural fairness is invoked, s 58(2)(b) of the *ATA* provides that all questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all the circumstances, the tribunal acted fairly: *Li v British Columbia (Residential Tenancy Director)*, 2024 BCCA 202 at para 33 [*Li*]. Questions of procedural fairness will be reviewed on the basis of "correctness" which is sometimes termed "fairness": *Athwal v Johnson*, 2023 BCCA 460 at para 22.

[74] An administrative decision resulting from an unfair process cannot stand. Determining what constitutes "an unfair process" requires a contextual approach that looks to the decision being made and its statutory, institutional, and social context:

2026 BCSC 1923 (CanLII)

Baker v Canada (Minister of Citizenship and Immigration), 1999 CanLII 699 at para 22, [1999] 2 SCR 817 [*Baker*]; *Li* at para 34.

[75] The contextual approach required in determining whether the administrative decision resulted from an unfair process is guided by the following factors:

a) The nature of the decision being made and the process followed in making the decision. The more an administrative process resembles a court proceeding in its function, nature, and determinations that must be made to reach a decision, the more likely it is that procedural protections closer to the trial model will be required by the duty of fairness.

b) The nature of the statutory scheme and the terms of the statute pursuant to which the body operates. The level of procedural fairness required depends on the statutory context, with greater procedural protections required when the statute provides no internal appeal procedure and the decision is final and determinative.

c) The importance of the decision to the individuals affected. The more important the decision is to the lives of the individuals affected and the greater its impact on those individuals, the more stringent the procedural fairness protections will be mandated.

d) The legitimate expectations of the persons affected by the decision. It is generally unfair for administrative decision-makers to act in contravention of representations as to procedure or to backtrack on substantial promises without recording significant procedural rights.

e) The administrator's choice of procedure. Important weight must be given to the choice of procedures made by the agency itself and its institutional constraints.

Baker at paras 23-27.

2026 BCSC 1923 (CanLII)

[76] The patently unreasonable standard applies to the Umpire's decision because the Umpire's decision was confined to the valuation of Ms. Granfar's loss, which were findings of fact.

[77] The patently unreasonable standard is the most deferential standard of review. A decision is patently unreasonable if there is no evidence to support the findings, or the reasoning in the decision is clearly irrational or so flawed that no amount of curial deference can justify letting it stand: *Liu v Wuzheng*, 2026 BCSC 658 at para 10 [*Liu*]; *Yee v Montie*, 2016 BCCA 256 at paras 21-22; *Li* at para 32.

[78] In determining whether a decision is patently unreasonable, this Court cannot second guess the tribunal or substitute different findings of fact or inferences to be drawn from the facts: *Liu* at para 11; *Speckling v British Columbia (Workers' Compensation Board)*, 2005 BCCA 80 at para 33.

Was the Petitioner Denied Procedural Fairness

[79] While Ms. Granfar advances arguments in relation to each of the "*Baker* factors," she focusses her submissions on three issues: 1) the DRP should not have considered her loss from the second occurrence because the DRP was confined to the first water occurrence; 2) the DRP should not have considered her ALE claim; and 3) the Umpire should not have included the $74,500.64 for the initial emergency work in the Award. Ms. Granfar's view and submission about these three issues are featured throughout her procedural fairness submissions.

[80] Ms. Granfar also argues that the Umpire was biased, that the Umpire did not have her complete position, that she did not have a meaningful opportunity to present evidence, that she was not aware of the scope of the hearing, and that the Umpire exceeded his statutory jurisdiction. Further, she argues that the Umpire had a duty to provide reasons. In the alternative, if the duty did not exist, Ms. Granfar argues that the record does not support the appraisal award.

2026 BCSC 1923 (CanLII)

The Scope of the DRP

[81] Ms. Granfar contends that the DRP was convened to address damages to her unit caused by the first occurrence and not the second occurrence which she maintains caused separate and divisible damage. In support of her position she relies on the following:

a) An email dated September 18, 2019, from a Crawford representative indicating that a separate claim was opened in relation to the June 11, 2019 occurrence.

b) Other correspondence and forms indicating that the May 27, 2019 and the June 11, 2019 occurrences were separate claims.

c) A letter dated June 22, 2020 from a Crawford adjuster advising that Ms. Granfar's proof of loss was rejected because it included claims for damages related to more than one incident and because the quantum of loss claimed was not fully supported.

d) A letter from the Superintendent dated September 27, 2024 advising that Mr. Minns had been appointed as umpire with respect to the May 27, 2019 loss.

e) An email from John Valeriote dated September 29, 2024 to the Umpire and Mr. Forouzan attaching Ms. Granfar's proof of loss for May 27, 2019.

f) A letter from the Superintendent dated October 3, 2024 to Mr. Forouzan advising that based on Mr. Forouzan's email dated September 30, 2024, that Ms. Granfar has two claims and that the Umpire appointment was related to the first occurrence. The Superintendent further explained that it was up to the parties to agree to use the Umpire for both cases or to seek the Umpire's appointment in accordance with s 12 of the *Insurance Act*.

2026 BCSC 1923 (CanLII)

g) A letter from the Superintendent dated October 4, 2024 to Mr. Forouzan advising that Mr. Minns had been appointed as umpire with respect to the May 27, 2019 loss.

h) An email from the Umpire dated January 20, 2025, advising that the date of loss is May 27, 2019, and attaching Ms. Granfar's proof of loss claimed in the amount of $83,362.66.

i) The Insurers' brief referencing the date of loss as May 27, 2019.

[82] Ms. Granfar argues that the DRP was only convened to address the damage caused by the first occurrence. She says the second occurrence caused separate and divisible damage and as a result, Ms. Granfar maintains that the Umpire should not have addressed the damage relating to the second occurrence.

[83] I accept that the DRP was convened for the purpose of addressing the dispute between Ms. Granfar and the Insurers relating to the damage caused by the first occurrence. However, Ms. Granfar's contention that there was separate damage caused to her unit by the second occurrence is not supported by the evidence. Furthermore, there is no suggestion that the Insurers were not prepared to fully restore her unit based on the claim submitted for the first occurrence.

[84] I also accept that some confusion arose because the record does not indicate that the Insurers clearly advised Ms. Granfar that her unit would be fully restored based on her claim from the first occurrence. However, the November 27, 2020 MBC estimate clearly indicated that Ms. Granfar's entire unit was affected by the initial washing machine incident and that it was impossible to separate out the resulting damage between the two estimates.

[85] Furthermore, Ms. Granfar received the letter from Crawford to the strata dated October 2, 2019, which indicated that the damages sustained from the June 11, 2019 occurrence were secondary to the original damages. The letter also indicated that if there were any secondary damages, these damages would fall

2026 BCSC 1923 (CanLII)

below the strata's $10,000 deductible. As a result, the letter explained that Ms. Granfar's claim was being closed.

[86] Ms. Granfar's written submissions for the DRP confirmed that she knew that the Insurers' position was that the first occurrence caused the damage to her entire unit. Ms. Granfar submitted that, if that was the case, the Insurers should cover the costs of replacing her unit's baseboard heaters and appliances.

[87] Significantly, all information related to the loss from both occurrences was before the Umpire including both proof of loss forms competed by Ms. Granfar. My comparison of the submitted estimates shows that the MBC estimate, chosen by the Umpire, was comprehensive. Based on the evidence before the Umpire, it would have resulted in a full restoration of Ms. Granfar's unit.

[88] Insofar as Ms. Granfar's procedural fairness arguments depend on a conclusion that the second occurrence created separate and distinct damage, I am unable to agree with her contention. The core of Ms. Granfar's objections stems from a disagreement with the decision and not the process. Ms. Granfar expected the remediation to encompass much more than was necessary or was payable under the insurance policy.

The ALE Claim

[89] With respect to her ALE claim, Ms. Granfar argues that under the *Insurance Act*, the Umpire did not have the jurisdiction to determine ALE. She further argues that it was unfair for the Umpire to determine ALE because she was entitled to ongoing ALE since her unit was still uninhabitable. Although her representative made submissions relating to ALE, she argues that those submissions were only made under protest.

[90] Ms. Granfar argues that the Umpire exceeded his jurisdiction by addressing her ALE claim, because determining ALE was contrary to the provisions of the *Insurance Act*. She submits that Statutory Condition 11. (1) confined the Umpire's jurisdiction to disagreements about value of property:

2026 BCSC 1923 (CanLII)

> **In case of disagreement**
>
> 11. (1) in the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
>
> (2) There is no right to a dispute resolution process under this condition until
>
> (a) a specific demand is made for it in writing, and
>
> (b) the proof of loss has been delivered to the insurer.

2026 BCSC 1923 (CanLII)

[91] In my view, disputes with respect to ALE are captured by Statutory Condition 11. (1). ALE is a component of an insured's loss. Excluding ALE from the DRP would defeat the purpose of the DRP which includes avoiding or reducing the delay and expense associated with litigation, enhancing insured persons access to justice by removing barriers associated with a court-based processes, and avoiding the unnecessary use of judicial resources: *Westland Insurance Company Limited v Pounden*, 2021 BCCA 156 at para 74 [*Westland*]. It would be an absurd result if disputes about ALE would be separated from other aspects of the same claim and dealt with in formal judicial proceedings.

[92] The Umpire's mandate included determining the dispute relating to Ms. Granfar's ALE claim. It was not unfair for the Umpire to determine it despite Ms. Granfar's position that she was entitled to ongoing ALE. Ms. Granfar's view that the Umpire should not have addressed ALE because, in her case, ALE should continue indefinitely, pending resolution in her favour on the quantum of her claim is not sustainable.

[93] The DRP hearing was convened more than five years after the date of the loss and was initiated by the Insurers after Ms. Granfar chose not to avail herself of the DRP. Delays ensued because Ms. Granfar did not cooperate with the process and actively took steps to prevent it from occurring.

[94] I also do not accept Ms. Granfar's position that it was unfair for the Umpire to consider her ALE claim because she refused to provide her proof of loss with

respect to it. She knew that the Umpire was going to address ALE and her brief included submissions with respect to it.

[95] Furthermore, a failure to deliver a proof of loss does not always bar a party from invoking the DRP, particularly when an insured fails to cooperate with the process. An insured has a duty to cooperate with an insurer: *Westland* at para 107.

Inclusion of the Demolition and Emergency Repairs

[96] I accept that it is not exactly clear why the Umpire included the $74,500.64 cost of the demolition and emergency repairs made by Phoenix as part of the Award. However, the invoice for this work was included as part of the materials Ms. Granfar submitted for the DRP.

[97] While the costs of demolition and emergency repairs was not a matter in dispute between the parties, the Umpire likely included it in the award because Ms. Granfar had included the Phoenix invoice in her submitted materials.

[98] It is difficult to see how including it in the award was procedurally unfair. Ms. Granfar's submission that this had nothing to do with her, is not relevant to whether the DRP was procedurally unfair. Nothing turns on the Umpire's decision to address the demolition and emergency repairs.

Should the DRP Have Taken Place

[99] Ms. Granfar argues that the DRP should not have taken place because she had a pending application in the BC Supreme Court. As I understand it, while Ms. Granfar was seeking various forms of relief, she was essentially trying to prevent the DRP from proceeding. She argues that the DRP process should have been paused until her application was heard.

[100] Ms. Granfar relies on the decision in *Allstate Insurance Company of Canada v Stephen Robb*, 2023 NBKB 212 [*Allstate*], to support her position. In *Allstate*, the parties could not agree on the appointment of the umpire and Allstate, in accordance

2026 BCSC 1923 (CanLII)

with New Brunswick's *Insurance Act*, RSNB 1973, c 1-12, applied to the Court seeking the appointment of an umpire.

[101] The *Allstate* decision does not support Ms. Granfar's position that the DRP should have been paused pending her application to the Court. The application in *Allstate* was made by the insurer to the Court because the legislation required a court application if the parties could not agree on who should be appointed to be the umpire. In BC, it was the Superintendent, in accordance with BC's *Insurance Act*, who determined who the umpire would be rather than the court.

[102] I do not accept that it was procedurally unfair for the DRP process to continue even though Ms. Granfar had a pending court application. The *Insurance Act* required that resolution of the dispute proceed through the DRP. Continually trying to avoid a resolution defeats the purpose of the DRP, which is to facilitate the settlement of material issues without resort to the court in an expeditious and cost-effective manner: *Westland* at paras 74 and 75.

Importance of Decision

[103] Ms. Granfar relies on *Baker* at para 25 to assert that a high level of procedural fairness was required because the Umpire's decision had major practical consequences. Under this head, Ms. Granfar again advances her argument that the Umpire's decision was supposed to be confined to the first occurrence and that the Umpire should not have decided matters pertaining to the second occurrence.

[104] As I have already indicated it is impossible to determine whether any additional damage may have been caused by the second occurrence. If any damage was caused by the second occurrence, it was minimal. The Insurers acknowledged that Ms. Granfar's entire unit was damaged by the first occurrence. The DRP was convened to address the restoration of her entire unit. There is no evidence to support Ms. Granfar's artificial distinction between the two occurrences.

[105] Ms. Granfar's contention that extensive hazardous material clean up of her suite was required is clearly important to her; however, her opinion of the scope of

2026 BCSC 1923 (CanLII)

the remedial work required was not entirely accepted by the Umpire. In my view, there was an evidentiary basis for the Umpire's decision to accept the MBC estimate which addressed the Coast Report relied on by Ms. Granfar. For example, Ms. Granfar's submission that there "was lead all over the suite" is not supported.

[106] Again, Ms. Granfar's submission that a high degree of fairness was required because of the importance of the decision to her is dependent on her unsupported contention that the second occurrence caused separate and distinct damage.

Legitimate Expectations

[107] Relying on paragraph 26 of *Baker*, Ms. Granfar argues that her legitimate expectation was that the DRP was only going to address the damage caused by the first occurrence. As I have already explained, there is no basis for Ms. Granfar's purported expectation. It had been clear since 2020 that any additional damage caused by the second occurrence was indistinguishable from the damage caused by the first occurrence.

[108] Ms. Granfar's position that she did not consent to an "expansion of the mandate" of the Umpire is without merit. First, the Umpire's mandate was not expanded, rather the Umpire was addressing all of the damage caused to Ms. Granfar's unit. Second, the Umpire's mandate was conferred by the *Insurance Act* and the Umpire confined his role to that statutorily mandated role. Ms. Granfar did not have the ability to limit the Umpire's mandate.

Meaningful Opportunity to Present Evidence

[109] Relying on paragraphs 32 to 34 of *Baker*, Ms. Granfar argues that her participation in the DRP was technically allowed but it was not practically meaningful. She argues that it was unfair for the Umpire to proceed with a conference call the day after she had served her court application and in the absence of her representative. The difficulty with Ms. Granfar's argument is that her representative indicated that he was not available and provided no alternative dates

2026 BCSC 1923 (CanLII)

or times. Ms. Granfar's BC Supreme Court application and her representative's unavailability was part of a pattern of delaying and avoiding resolution of the dispute.

[110] In any event, the Umpire provided a comprehensive email following the conference call which summarized what had occurred and how the hearing would take place. The Umpire indicated that the parties could request a further case conference if necessary. There is no suggestion that Ms. Granfar's representative requested another case conference.

[111] It was not procedurally unfair, for the Umpire to decide that an oral hearing would be required, rather than proceed by way of written materials alone. Indeed, I consider that affording Mr. Forouzan the ability to make oral submissions was fairer than proceeding on the basis of written materials only.

[112] I accept that there was some confusion on part of the Umpire and the Insurers' representative about whether Ms. Granfar's materials had been submitted. I accept that this would have been distressing for Ms. Granfar since the Umpire indicated that the hearing would proceed regardless of whether Ms. Granfar's representative participated or not. I also accept that Ms. Granfar is legitimately confused by the fact that, in an email dated February 24, 2025, Mr. Valeriote indicated that he had not received any materials from Ms. Granfar's representative, but in his May 21, 2026, affidavit he indicated that he received Ms. Granfar's brief on February 18, 2025.

[113] I infer that the initially scheduled hearing date of February 25, 2025 was adjourned because the Insurers failed to submit their brief on February 18, 2025, as required. In the end, nothing turns on the confusion about when the Umpire had both briefs or whether Mr. Valeriote had Ms. Granfar's brief on February 18, 2025 or after. This confusion was entirely resolved by the adjournment of the hearing. As indicated in the Umpire's email of February 27, 2025, he was in possession of the briefs prepared by both parties and circulated them to ensure that both representatives had the briefs.

2026 BCSC 1923 (CanLII)

[114] I do not accept Ms. Granfar's assertion that there was insufficient time to prepare for the March 4, 2025 hearing and that she was prejudiced by not having received the Insurers materials until some time after February 25, 2025. If Ms. Granfar had concerns about proceeding on March 4, 2025, it was incumbent on her representative to raise those concerns with the Umpire.

Lack of Reasons

[115] Relying on paragraphs 43 to 44 of *Baker*, Ms. Granfar submits that the Umpire was required to provide reasons to explain his critical choices. She argues that there was no logical explanation for determining that $5,250 of ALE was appropriate nor was their any logical explanation for his inclusion of part of the items related to the second occurrence.

[116] Ms. Granfar submits that the absence of reasons requires that the Umpire's decision to be set aside. However, she acknowledges that where procedural fairness mandates that reasons be provided and none have been given, the Court must look to the record as a whole to understand the decision and determine whether the decision is reasonable: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 77, 136-138. She argues that the record does not demonstrate that the decision was reasonable.

[117] Whether the failure to provide reasons is a denial of procedural fairness is determined by the context of the decision, with reference to the factors set out in *Baker*.

[118] There do not appear to be any cases in British Columbia that have considered this specific issue; however, I find the decision in *Madhani v Wawanesa Mutual Insurance Company*, 2018 ONSC 4282 [*Madhani*] to be instructive on this point. The DRP in Ontario is very similar to the DRP in British Columbia.

[119] In *Madhani*, the umpire determined that the depreciation applied to the replacement cost value of a building in issue was 20%. The insured had argued that depreciation of 6 to 10% should be applied. The umpire provided no reasons for

2026 BCSC 1923 (CanLII)

their conclusion and the insured argued that procedural fairness required reasons for the percentage depreciation figure chosen.

[120] After considering the "*Baker* factors" the Court held that the absence of reasons did not result in a denial of procedural fairness for the following reasons:

a) The statutory scheme is a property valuation process; it is not an arbitration. The DRP is designed to provide the parties with a valuation of loss, and not the determination of legal rights. The DRP is meant to encourage settlement of the insured's loss and to facilitate the use of the expertise of an umpire: *Madhani* at para 40;

b) The *Insurance Act*, RSO 1990, c I.8 does not require that reasons be given: *Madhani* at para 41; and

c) The DRP is not adjudicative in nature: *Madhani* at para 42.

[121] The Court recognized that the decision was important to the insured and that the decision was binding; however, the Court held that the DRP does not result in a determination of the insured's rights under the policy: *Madhani* at para 43.

[122] I agree with the reasoning in *Madhani* and find that in the present case, procedural fairness did not require that the Umpire provide reasons for his determination. The DRP is not an arbitration, and the Umpire does not have binding authority to determine the outcome of the dispute. The amount of an award is determined by way of a written determination by two of the proxies, which can be either of one or both of the representatives or the umpire: *Westland* at para 13.

[123] This case is illustrative of the difficulty that requiring reasons would create. The Umpire's written determination was not the same as what the Insurers had submitted. Nevertheless, considering the informal nature of the DRP and respecting the Umpire's professional expertise, the Insurers agreed to the Umpire's determination.

2026 BCSC 1923 (CanLII)

[124] A review of the record that was before the Umpire reveals the rationale for the appraisal award. The Umpire accepted the highest estimate provided by the Insurers. As a result, the Umpire rejected the lower amounts which the Insurers had submitted were appropriate. At the same time, the MBC estimate, accepted by the Umpire, provided a response to the much higher estimate provided by Ms. Granfar. It explained why her estimate should not be accepted. Thus, the rationale for the Umpire's decision is apparent, based on a review of the record.

[125] The Umpire also awarded some ALE despite the Insurers' position that none should be awarded. Considering all the circumstances set out in the materials submitted to the Umpire, the basis for his decision is discernible. Procedural fairness did not require that the Umpire provide reasons for his valuation decision.

Impartiality and Reasonable Apprehension of Bias

[126] Relying on paragraphs 45 to 48 of *Baker*, Ms. Granfar submits that there was an appearance of partiality on the part of the Umpire. On this point, she re-advances her arguments relating to the conference call taking place in the absence of her representative and the confusion regarding the submission of her materials.

[127] Ms. Granfar also argues that there was a reasonable apprehension of bias because of "prior repeat professional business". Mr. Valeriote and the Umpire have participated together in other dispute resolution processes. Ms. Granfar notes that in the *Allstate* decision, Mr. Valeriote was an insured's representative and Mr. Minns was one of the three candidates he proposed as umpire.

[128] She further submits that the Umpire's rejection of the scope of work provided by Canstar, a preferred vendor, demonstrates that the Umpire was "searching to validate" what Mr. Valeriote wrote in his brief.

[129] The test for a reasonable apprehension of bias is "what would an informed person, viewing the matter realistically and practically - and having thought the matter through - conclude": *Committee for Justice and Liberty v Canada (National Energy Board)*, 976 CanLII 2 (SCC), [1978] 1 SCR 369 at p. 394.

2026 BCSC 1923 (CanLII)

[130] There is no merit to Ms. Granfar's assertions. Any repeat professional association does not meet the reasonable apprehension of bias test. It is not surprising that Mr. Minns and Mr. Valeriote may have been involved in prior dispute resolution proceedings given their specialized expertise.

[131] Any suggestion that the Umpire was searching for reasons to agree with Insurers' position is pure speculation. Just because the Umpire did not agree with Ms. Granfar's position does not mean that the Umpire was partial to the Insurers' position.

Conclusion

[132] Ms. Granfar's allegations relating to procedural fairness amount to a disagreement with the Umpire's weighing of the evidence, assessment of competing expert reports, and valuation conclusions. A disagreement with the Umpire's weighing of the evidence or with the Umpire's preference over one expert report or appraisal estimate over another does not amount to procedural unfairness.

Is the Award Patently Unreasonable

[133] In arguing that the Umpire's decision was patently unreasonable, Ms. Granfar essentially advances the same arguments she has made in support of her contention that she was denied procedural fairness.

[134] Specifically, Ms. Granfar argues that the Umpire's inclusion of the $74,500.64 for demolition and emergency repairs made by Phoenix was patently unreasonable because this was not a matter in dispute between herself and the Insurers.

[135] I do not accept that including the cost of the demolition and emergency repairs made by Phoenix renders the decision patently unreasonable. Ms. Granfar's real dispute is the amount of the award for her loss. There is no connection between the inclusion of the cost for the demolition and the emergency repairs to the amount determined to be the value of her loss.

2026 BCSC 1923 (CanLII)

[136] Ms. Granfar also argues that the Umpire's determination of the amount of her claim was patently unreasonable because the Umpire did not choose the estimate she had provided. As one example, she points to the fact that her estimate included a new toilet while the Insurers' estimates included only reinstalling the existing toilet. However, Ms. Granfar's disagreement with the result does not make the decision patently unreasonable. There was a basis in the evidence for the Umpire's decision.

[137] The foundation for the Umpire's decision is apparent based on the materials submitted in the DRP. It is noteworthy that the Umpire favoured the highest estimate provided by the Insurer and awarded ALE when the Insurers' position was that none should be awarded.

[138] The decision must also be considered in the context of the Umpire's role, which under s 12(6) of the *Insurance Act* was to effectively choose from the quantum presented by each representative. The final outcome was determined by a two-thirds majority.

[139] The Umpire adhered to the statutory framework and exercised the limited discretion conferred on him by the legislature. The fact that the Umpire did not select Ms. Granfar's quantum does not render the award patently unreasonable.

[140] Ms. Granfar has failed to establish that the Umpire's award was patently unreasonable. The Umpire's decision was based on the evidence, was available to him, and was not evidently unreasonable.

Conclusion

[141] The petition is dismissed. Ms. Granfar has not established that she was denied procedural fairness, nor has she established that the Umpire's award was patently unreasonable.

[142] As the successful party, the Insurers are entitled to their costs at scale B.

"J. Walker, J."

2026 BCSC 1923 (CanLII)