

PUBLIC HEALTH APPEAL BOARD

**IN THE MATTER OF THE *PUBLIC HEALTH ACT*
R.S.A. 2000 c. P-37 AND THE REGULATIONS**

**AND IN THE MATTER OF THE APPEAL OF THE ORDER OF
AN EXECUTIVE OFFICER ISSUED BY ALBERTA HEALTH
SERVICES, ZONE 3, DATED JUNE 7, 2023**

**AND IN THE MATTER OF AN APPLICATION TO NARROW
ISSUES OF APPEAL DATED JULY 17, 2023**

PANEL: Kevin Kelly, Chair
Vicki Wearmouth, Member
David Rolfe, Member

BETWEEN:)
)
)
SUSAN ELIZABETH MASSINCAUD) Self-Represented
)
(Appellant))
)
- and -) John Siddons,
) Alberta Health Services,
ALBERTA HEALTH SERVICES) for the Respondent
)
(Respondent))
)
) Heard: July 28, 2023
)

**DECISION AND REASONS FOR DECISION ON A PRELIMINARY
APPLICATION TO NARROW THE ISSUES OF APPEAL**

The Application

[1] On July 6, 2023, the Public Health Appeal Board (“Board”) received a notice of appeal (the “Appeal”) to reverse an order of an Executive Officer (“EO”) dated June 7, 2023 (the “Order”),

which required the housing premises located at unit E12, 5500 Womacks Road, (formerly Gregg Street), Blackfalds, Alberta (the “Premises”) to be vacated due to the Premises being unfit for human habitation.

[2] Prior to the scheduled hearing date, the Respondent Alberta Health Services (“AHS”) brought a preliminary application to narrow the issues on appeal. A hearing of the application was held before a panel of the Board (the “Panel”) on July 28, 2023 via videoconference.

Board Decision

[3] The Panel rendered its decision to allow the application on July 28, 2023 following the Panel’s review of written submissions of AHS dated July 17, 2023 and the written submissions of the Appellant dated July 21, 2023.

Submissions of AHS

[4] AHS’ submissions are summarised as follows:

- a) AHS sought a direction from the Panel to narrow the issues of appeal to only include issues relating to AHS’ inspection of the Premises on June 1, 2023 and the Executive Officer Order dated June 7, 2023.
- b) The Appellant’s Notice of Appeal raised several allegations regarding her previous involvement with AHS, in particular pertaining to:
 - i) prior interactions she had with previous AHS Executive Officers, reaching as far back as 2017; and,
 - ii) a court order that AHS obtained in April 2023 from a Justice of the Court of King’s Bench to access the Premises to conduct an inspection of the Premises pursuant to section 59 of the *Public Health Act* (“Act”) (collectively, the “Historical Allegations”).
- c) AHS did not issue an order in any of the Appellant’s previous interactions with AHS.
- d) The Historical Allegations have no bearing on, and are irrelevant to, whether the Board should confirm, reverse, or vary the Order pursuant to section 5(11) of the Act. Accordingly, a hearing of the Historical Allegations is not required in order for the Board to decide whether to confirm, reverse, or vary the Order.

Submissions of the Appellant

[5] The Appellant’s submissions are summarised as follows:

- a) AHS was aware of the long-standing problem that the Appellant had been without running water at the Premises, and therefore the Appellant believes it is essential to investigate all historical data which led to the June 1, 2023 inspection and the Order.

- b) The Appellant believes it is important to understand why it took five years and five months to issue the Order. AHS inspector Bob Moore came to the Premises by the Appellant's invitation. He stated his reasons why he felt he could not issue an order and told the Appellant he would contact colleagues in Edmonton to research any other solutions to the problem, but he never contacted the Appellant again.
- c) The Appellant believes inspector Moore's rationale was wrong because he was looking at the situation from the perspective of a Landlord/Tenant dispute, which the Appellant said did not apply in this situation. The Appellant called inspector Moore because she thought he could issue an order based on the Act. Now five years and six months later an order has been issued under the Act.
- d) The Appellant believes it is essential to know why it took five years and six months to finally get an order, and she should not be evicted from a residence that is structurally sound.
- e) If either of the inspectors Moore or Quentin Schatz had issued an order pursuant to the initial report then an inspection would not have been required in 2023. In spite of the clearly demonstrated indications that there was no running water in January 2018, inspectors Moore and Schatz both declined to act to have running water restored. "If either of these inspectors had done their job with integrity, the situation that exists now would not apply."
- f) It was her understanding that if she wanted to have running potable water restored, she would require a second inspection. Manny Ahmad and James Zhang exceeded the requirements of the court Order. Mr. Ahmad did not try to arrange an equitable time and bullied the Appellant into the June 1, 2023 inspection. Mr. Ahmad also asked the person responsible for the lack of running water to give his team access to the residence. Danniella Brookes does not have a key to the inner door of the residence, so it was breached in some other manner, which resulted in a door that no longer closes properly and has broken moulding.

Analysis and Reasons

[6] Pursuant to section 5(11) of the Act, the Board may confirm, reverse, or vary the decision of the regional health authority. A decision as defined in the Act includes an order of an Executive Officer. The Order was issued on June 7, 2023, as a result of the June 1, 2023 inspection.

Findings and Conclusion

[7] After reviewing the evidence and submissions made by the Parties, the Panel makes the following findings:

- a) The Order only applies to the Executive Officer's observations made during the June 1, 2023 inspection. Accordingly, the Panel finds that the Historical Allegations are not relevant to whether the Board should confirm, reverse, or vary the Order.

- b) The issues of appeal shall only include issues relating to AHS' inspection of the Premises on June 1, 2023 and the Order of an Executive Officer dated June 7, 2023.

[8] The application is allowed.

--Original Signed--
Kevin Kelly, Chair
On behalf of the Hearing Panel of the
Public Health Appeal Board

Date: December 29, 2023