Community Care and Assisted Living Appeal Board

Citation:	*Kerry Williams (Keystone Recovery Society) v Sue Bedford, Assisted Living Registrar (Delegate)*, 2025 BCCCALAB 2
Decision No.:	CCALB-CCA-25-A001(a)
Decision Date:	2025-10-24
Method of Hearing:	Conducted by way of written submissions concluding on October 7, 2025
Decision Type:	Application for Summary Dismissal
Panel:	Steve Perks, Panel Chair
Appealed Under:	Section 29 of the *Community Care and Assisted Living Act*, SBC 2002, c 75

Between:

Kerry Williams (Keystone Recovery Society)

Appellant

And:

Sue Bedford, Assisted Living Registrar (Delegate)

Respondent

Appearing on Behalf of the Parties:

For the Appellant:	Kerry Williams
For the Respondent:	June Ling, Maureen Abraham

APPLICATION FOR SUMMARY DISMISSAL

INTRODUCTION

[1] The Assisted Living Registrar, (the "Respondent"), applies for dismissal of this appeal, brought by Kerry Williams, a registrant and operator of Keystone Recovery Society, (the "Appellant"). This application is brought pursuant to sections 18 and 31(1)(e) of the *Administrative Tribunals Act*, SBC 2004, c 45 (the "*ATA*") and Rule 15(1)(e) of the Community Care and Assisted Living Appeal Board's *Rules for Appeals* (the "Board Rules"). These sections provide authority to dismiss an appeal on grounds that an appellant has failed to diligently pursue the appeal or has failed to comply with orders of the Community Care and Assisted Living Appeal Board (the "Board").

[2] For the reasons that follow I have decided to allow the Respondent's application and dismiss the Appellant's appeal.

BACKGROUND

[3] The *Community Care and Assisted Living Act*, SBC 2002, c 75 (the "*Act*"), regulates community care facilities and assisted living residences in the Province of British Columbia, among other matters. Those facilities provide care and services, including in some cases housing, to vulnerable children, youth, adults, and seniors. The *Act* and associated regulations require the operators of such facilities to meet standards and licencing requirements to protect the health and safety of those receiving care and/or services. The Respondent is a statutory decision-maker under the *Act* with responsibility to administer the provisions related to assisted living residences.

[4] Kerry Williams has operated Keystone Recovery Society, an assisted living residence, since it was first registered on November 5, 2014. It provides housing, hospitality services, and assisted living services to men recovering from substance use.

[5] In a decision issued May 14, 2025, (the "Reconsideration Decision"), the Respondent cancelled Keystone Recovery Society's registration as an assisted living residence. This decision became effective July 14, 2025.

[6] Registration decisions by the Assisted Living Registrar may be appealed to the Board. Appeals to the Board are governed by provisions of the *Act* and the *ATA*, including section 29(2) of the *Act* which provides a right of appeal.

[7] On June 13, 2025, the Appellant filed an appeal of the Reconsideration Decision to the Board. Following a pre-hearing conference attended by the parties, five days were scheduled for hearing the appeal commencing October 20, 2025.

[8] On September 29, 2025, the Respondent wrote to the Board referring to the history of the appeal, orders made, and that required steps in the process were now overdue on

the part of the Appellant. The Respondent applied to the Board for: a suspension of all upcoming filing deadlines, an adjournment of the hearing, and for an order summarily dismissing the Appellant's appeal.

[9] The Board wrote to the parties the same day advising of the Respondent's several applications, suspending the pre-hearing filing deadlines, and inviting written submissions on the Respondent's applications. A schedule for submissions on the applications was set of October 6, 2025 for the Appellant's response and October 8, 2025 for the Respondent's reply. The Board's letter invited the parties to apply to the Board if an extension of these deadlines was needed. No response was received from the Appellant, and neither was any application for an extension of time.

[10] On October 7, 2025, after no response had been received from the Appellant, the Board wrote to the parties to suspend the remainder of the submission schedule on the applications and to adjourn the October 20 – 24, 2025 hearing. The appeal remains outstanding, subject to the outcome of the remaining application for summary dismissal pursuant to section 31(1)(e) of the *ATA*.

ISSUE

[11] The issue before me is whether the requirements of section 31(1)(e) are satisfied such that the appeal should be summarily dismissed.

[12] I note the Respondent has also referred to section 18 of the *ATA*, and Rule 15(1)(e) of the Board Rules. Section 18 provides authority to dismiss an appeal where a party has failed to comply with tribunal orders or rules. Rule 15(1)(e) reiterates the authority given to the Board in Section 31(1)(e) of the *ATA*. I do not find it necessary to refer further to section 18 or Rule 15 in my decision as section 31(1)(e) provides sufficient authority for the application.

FACTUAL BASIS

[13] Registration of the Appellant's assisted living residence was cancelled effective July 14, 2025, pursuant to the Respondent's Reconsideration Decision issued May 14, 2025.

[14] On June 13, 2025, the Appellant applied to the Board for an appeal of the Reconsideration Decision. The Board requested further information with regards to the grounds for appeal, and a revised Notice of Appeal was received on June 27, 2025.

[15] On July 3, 2025, the Board wrote to the parties to canvass availabilities for a one-hour appeal management conference ("AMC"), and requested a response by July 10, 2025. The Appellant failed to provide a response by July 10, 2025, prompting the Board to contact the Appellant by phone on or about July 11, 2025. In consultation with the parties the AMC was set for July 30, 2025.

[16] During the AMC held on July 30, 2025, the Appellant expressed an interest in applying for a stay of the Reconsideration Decision pending the outcome of the appeal. Accordingly, on August 1, 2025 the Board set a schedule for written submissions on the stay application, which required the Appellant to provide their stay application and submissions by August 8, 2025.

[17] The Appellant did not deliver their stay application at all and did not ask for an extension. The Board left two voice messages for the Appellant on August 13 and 14, 2025, and neither of those phone calls were returned. The Board then suspended the submission schedule for the stay application.

[18] On August 22, 2025, in accordance with a schedule set by the Board for pre-hearing steps, the Respondent delivered their appeal record to the Appellant and the Board.

[19] In a letter dated August 25, 2025, the Board requested confirmation from the Appellant that it had received the electronic and physical appeal records. No response was received.

[20] On August 29, 2025, in accordance with a schedule set by the Board for the creation of a joint book of documents, the Appellant was to provide the Respondent with an electronic copy of all documents they intended to rely on in the oral hearing on the merits of the appeal.

[21] The Respondent did not receive any documents from the Appellant by the due date of August 29, 2025. On September 2, 2025, the Board requested a confirmation from the Appellant whether they intended to provide the Respondent with any documents at all. The next day the Appellant responded, indicating that no documents would be forthcoming but none-the-less they did still plan to attend the oral hearing in October, with legal counsel representing them. Having not received any relevant documents from the Appellant, on September 5, 2025, the Respondent delivered a joint book of documents to the Board containing only the Respondent's documents.

[22] The schedules and deadlines noted above were first put to the parties in a letter dated August 7, 2025. The parties were reminded of the schedule in letters dated August 15, 2025 and August 25, 2025. At the conclusion of the August 25, 2025 letter, the Board noted that pursuant to section 31(1)(e) of the *ATA*, the Board may summarily dismiss the appeal entirely if any party fails to diligently pursue their appeal.

[23] In a further letter dated September 4, 2025, the above noted schedule was formalized into orders of the Board. At the conclusion of the letter it was noted that pursuant to section 18(b) and (c) of the *ATA*, if any party fails to comply with an order, the Board may continue with the appeal and make a decision based on the information before it, with or without providing an opportunity for submissions, or dismiss the appeal entirely without a hearing.

[24] On September 12, 2025, in accordance with the schedule ordered by the Board, the Appellant was to file their list of witnesses and witness will-say statements. The Appellant did not submit its witness list or witness will-say statements at all. On September 15, 2025,

the Board contacted the Appellant by telephone. At that time, the Appellant provided their witness list verbally. The Appellant was asked to provide their witness will-say statement as well. The Appellant has not delivered any will-say statement.

[25] On September 26, 2025, in accordance with the schedule ordered by the Board, the Appellant was to file their statement of points. The Appellant did not do so.

RESPONDENT'S SUBMISSION

[26] The Respondent submits that the Board should summarily dismiss the appeal because the Appellant has failed to diligently pursue the appeal and has not complied with the Board's orders. The Respondent refers to the Board's authority in section 31(1)(e) of the *ATA*, in Rule 15 of the *Board Rules*, and section 18 of the *ATA*.

[27] The Respondent submits that the governing legislation shows a legislative intent that orders of the Board be complied with and that appeals be dealt with expediently. Despite that framework, in the Respondent's submission, the Appellant has demonstrated a pattern of unresponsiveness, has not diligently pursued its appeal, and has not complied with the Board's ordered deadlines for pre-hearing submissions.

[28] The Respondent submits that the Appellant's non-compliance with the Board's orders has not allowed the Respondent to know the case it has to meet and prepare accordingly. Without the Appellant's statement of points, it is unclear to the Respondent what arguments on appeal they will be required to respond to.

[29] The Respondent submits that there is a sufficient basis for summary dismissal, referring to the instances set out above of non-compliance with orders made by the Board. The Respondent submits that the Appellant has received sufficient notice that dismissal could be the result of its non-compliance and failure to diligently pursue the appeal. Noting one of the Board's previous decisions on summary dismissal, *ZH-H v. Dr. Robert Parker*, 2016 BCCCALAB 2, the Respondent submits there is a clear and compelling case for dismissal established in the factual basis set out above.

APPELLANT'S SUBMISSION

[30] The Appellant did not provide a response submission to the application.

ANALYSIS

Section 31(1)(e) of the *ATA*

[31] Section 31(1)(e) of the *ATA* provides as follows:

> (1) At any time after an application is filed, the tribunal may dismiss all or part of it if the tribunal determines that any of the following apply:
>
> ...
>
> (e) the applicant failed to diligently pursue the application or failed to comply with an order of the tribunal;
>
> ...
>
> (2) Before dismissing all or part of an application under subsection (1), the tribunal must give the applicant an opportunity to make written submissions or otherwise be heard.
>
> (3) If the tribunal dismisses all or part of an application under subsection (1), the tribunal must inform the parties and any interveners of its decision in writing and give reasons for that decision.

[32] I observe that this section involves the exercise of discretion and involves an assessment of the facts on which the application is based. The assessment of facts is whether the applicant has failed to diligently pursue the application or failed to comply with an order of the tribunal that would warrant summary dismissal. A summary dismissal means that the appeal will not proceed to a decision on the merits. The context of the present application is an appeal before an administrative tribunal that intends an accessible and fair process for the parties. I agree with the Respondent's submission that the Board also intends the process to be reasonably expeditious, having regard to the circumstances of each case. A significant contextual factor here is that the appellant is unrepresented. In this, I take guidance from *Centrone v. Jones*, 2024 BCCA 177 at paragraph 15: "When self-represented litigants are involved, the court should not be overly strict about form or procedure."

[33] The BC Workers Compensation Appeal Tribunal ("WCAT") discussed the purposes of section 31 of the *ATA* in *Redae v. Workers' Compensation Appeal Tribunal*, ("WCAT"), 2008 BCSC 956 at paragraph 44, upheld on appeal, 2008 BCCA 383:

> Mr. Martinuk submits that under s. 31(1) of the *ATA*, and particularly under s. 31(1)(f) the power to summarily dismiss an appeal serves two purposes. First, it enables the WCAT to limit the amount of time and resources expended hearing appeals that do not require, or are not entitled to, or should not be entitled to a full hearing on the merits. ... Second, it enables the Workers' Compensation system to bring an increased sense of finality to the decisions made under it and discourage

> parties from bringing appeals where the WCAT has no jurisdiction to hear them (s. 31(1)(a)) or where there is no reasonable prospect of success (s. 31(1)(f)).

[34] The BC WCAT is a higher volume tribunal and it has had more occasions to consider the specific requirements of subsection 31(1)(e). Their decision, *A2301553 (Re)*, 2025 CanLII 54135 (BC WCAT), is an example where, following a loss of contact with the worker, and following correspondence from the agency warning that if no response was received dismissal could result, the Tribunal found those facts to warrant summary dismissal for failure to diligently pursue the appeal.

[35] The Board previously considered the application of section 31(1)(e) in *NV v. Dr. John Blatherwick*, 2005 BCCCALAB 3. In that case, the appellant failed to respond meaningfully to Board communications concerning the processing of the appeal, including Board requests for confirmation of the appellant's intention to proceed with the appeal. The panel found those facts to amount to a failure to diligently pursue the appeal and therefore dismissed the appeal under section 31(1)(e) of the *ATA*.

[36] In *ZH-H v. Dr. Robert Parker*, 2016 BCCCALAB 1, and 2016 BCCCALAB 2, the Board initially declined to summarily dismiss the appeal. The Board was not satisfied that "directions" not complied with were sufficient given section 31(1)(e)'s reference to "orders." And, the Board was not satisfied sufficient notice had been given to the appellant that dismissal could be the result. In a subsequent decision the Board was satisfied that summary dismissal was warranted following the making of orders in the same terms as the previous directions, and following notice of possible dismissal being given.

[37] In *ZH-H v. Dr. Robert Parker*, 2016 BCCCALAB 1 at paragraph 84, the panel noted considerations that bear on the summary application decision, and stated a standard of clear and compelling circumstances.

> An application to summarily dismiss an appeal before a hearing seeks a draconian result. It should only be granted in clear and compelling circumstances. The Board is a quasi-judicial forum that is made available outside the court system to allow for fair and expeditious hearings that are expected to be less costly and more accessible to the public than the court system. Often, the persons that come before the Board are unrepresented and lack legal training.

[38] I conclude that the discretion to summarily dismiss an appeal to the Board in section 31(1)(e) of the *ATA* should be exercised with restraint, particularly where an unrepresented party is involved. The right of appeal to the Board provides an important safeguard to ensure licencing, certification, and registration decisions under the Act are sound, accord with the law, and are fair. Summary dismissal denies a decision on the merits of the appeal. Therefore, technical slips or omissions, even those involving non-compliance with an order or reflect a lack of diligence, that are not prejudicial to the

process or the other parties, or that can be remedied to achieve a fair process, ought not to prevent an appeal from going forward.

[39] At the same time, the rules of procedure, and orders made in the process, have purposes of promoting a just and fair appeal on the merits, and promoting the efficient and effective disposition of appeals. Non-compliance with orders made in the process, or failure to diligently pursue the appeal, can impede achieving a just and fair appeal on the merits, can cause other parties to unreasonably incur costs and spend time where resources are limited, and can be an indication that an appeal is effectively abandoned. In such cases a clear and compelling case can be made out for summary dismissal and is a necessary remedy available to the Board to control its process for the purposes discussed above.

[40] Where the Board intends to rely on section 31(1) to dismiss an appeal, pursuant to section 31(2) it must provide an opportunity to the applicant to be heard. And, pursuant to section 31(3), it must inform the parties of its decision in writing.

Application of Section 31(1)(e) to the Facts of this Case

[41] The Appellant was present at an Appeal Management Conference at which dates for hearing were set in his appeal. Pre-hearing steps were discussed along with deadlines that would allow for preparation for the appeal to proceed on the dates set. The steps required and deadlines set were reinforced several times in correspondence from the Board, as well as incorporated in orders of the Board. The Appellant was notified that non-compliance with the Board's orders or failure to diligently pursue the appeal could result in summary dismissal of the appeal. Multiple deadlines leading up to the appeal were missed, putting the Respondent in a position where they were unable to prepare for the oral hearing. No communication was received from the Appellant that pre-hearing steps would not occur as scheduled, and no explanation was provided by the Appellant.

[42] The Board has discretion to provide extensions of time or to adjourn. However, no application for extension of time or adjournment was made by the Appellant.

[43] The Board, as required by section 31(2), provided an opportunity for the Appellant to respond in writing to the Respondent's application for summary dismissal. The Appellant has not responded.

[44] These circumstances amount to a clear and compelling case that summary dismissal under section 31(1)(e) is warranted. The Board's orders have not been complied with and the Appellant has failed to diligently pursue the appeal to an extent that the purposes for which the section is enacted are engaged: a just and fair appeal on the merits is impeded. It is apparent that continuing the appeal would cause other parties to unreasonably incur costs and spend time where resources are limited. It is also reasonable to conclude that the appeal has been effectively abandoned.

CONCLUSION

[45] The requirements of sections 31(2), and 31(3) of the *ATA* being met, and finding on the facts that summary dismissal is warranted, I hereby order this appeal is dismissed pursuant to section 31(1)(e) of the *ATA*.

"Steve Perks"

Steve Perks, Panel Chair
Community Care and Assisted Living Appeal Board