

Appeal No.: 10-2021

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 APPLICATION TO DISMISS APPEAL NO. 10-2021**

PANEL: Kevin Kelly, Chair
Paul M. Bourassa, Member
Vicki Wearmouth, Member

BETWEEN:)	
)	
)	
ALBERTA HEALTH SERVICES)	Kyle Fowler,
)	Alberta Health Services
Applicant)	
(Respondent in Appeal No. 10-2021))	
)	
- and -)	
)	
2248870 Alberta Ltd. o/a STACEY'S)	Lani L. Rouillard,
HAPPY PLACE)	Rouillard Law Office
)	
Respondent)	
(Appellant in Appeal No. 10-2021))	
)	
)	
)	Stuart Chambers,
)	McLennan Ross LLP,
)	Independent Counsel for the Board
)	
)	
)	Heard via Video: September 2, 2021
)	

DECISION

Introduction

1. On August 20, 2021, Alberta Health Services (“AHS”) filed an application to dismiss Appeal No. 10-2021 for mootness (the “Application”).
2. On September 2, 2021, the Public Health Appeal Board (the “Board”) heard the Application of AHS.
3. On September 9, 2021, by letter to the Parties, the Board provided its decision to grant the Application of AHS, with reasons to follow.

Background

4. Stacey’s Happy Place is a corporate entity duly registered as 2248870 Alberta Ltd., carrying on business under the trade name of “Stacey’s Happy Place”, and conducting business as a bookstore and café, selling beverages and pre-packaged foods. Stacey’s Happy Place is located at 5011 50 Street, Eckville, Alberta (the “Premises”). Stacey’s Happy Place is owned and operated by Stacey and Collin Pacholek.
5. On January 8, 2021, Stacey’s Happy Place applied for a Food Handling Permit and identified “New Business” as the reason for this application. Stacey’s Happy Place was subsequently issued a food handling permit from AHS on January 28, 2021 (the “First Permit”).
6. During the period from January 2021 to April 2021, Stacey’s Happy Place was the subject of inspections and enforcement by AHS pursuant to the *Public Health Act*, R.S.A. 2000, c. P-37 (the “Act”) and *Food Regulation*, Alta Reg 31/2006 (the “Food Regulation”).
7. The inspections and enforcement were the result of, amongst other things, allegations that Stacey’s Happy Place had failed to comply with Chief Medical Officer of Health Orders (“CMOH Orders”) that were then in effect. Enforcement actions taken by AHS included the following:
 - (a) Executive Officer Order dated April 12, 2021 (the “Work Order”);
 - (b) Notice of Suspension of Food Handling Permit dated April 15, 2021 (the “Suspension Notice”); and
 - (c) Executive Officer Defined Closure Order dated April 26, 2021 (the “Defined Closure Order”).
8. On June 9, 2021, pursuant to section 12(1)(a) of the Food Regulation, AHS issued to Stacey’s Happy Place a Food Handling Permit Notice of Cancellation (the “Cancellation Notice”) for:
 - (a) continued non-compliance with the Defined Closure Order and CMOH Orders; and

- (b) operating with a suspended food handling permit.
9. On June 15, 2021, Stacey's Happy Place filed a Notice of Appeal to appeal the Cancellation Notice, which is Appeal No. 10-2021. The initial grounds of Appeal No. 10-2021 were:
 - (a) error of law;
 - (b) error of fact;
 - (c) vagueness and uncertainty; and
 - (d) breach of duty of administrative fairness.
 10. On June 25, 2021, Stacey's Happy Place applied for a new food handling permit. In its application, Stacey's Happy Place stated the reason was because the First Permit was cancelled.
 11. On July 1, 2021, AHS sent a rescind notice to Stacey's Happy Place stating that "...upon the rescission [sic] of the Chief Medical Officer of Health Orders, the Executive Officer [Work] Order issued April 12, 2021 is effectively rescinded". However, due to the Suspension Notice remaining in place, Stacey's Happy Place did not possess a valid food handling permit for the Premises and as a result the Defined Closure Order remained in effect.
 12. Stacey's Happy Place challenged the Work Order, the Suspension Notice, and the Defined Closure Order in Public Health Appeal Board Appeal No. 07-2021 ("Appeal No. 07-2021"). The Board heard Appeal No. 07-2021 and issued its decision dated July 6, 2021, wherein it confirmed the Work Order, the Suspension Notice and the Defined Closure Order and dismissed the appeal.¹
 13. Concerning Appeal No. 10-2021, on each of June 18 and 23, 2021, the Board sent to Stacey's Happy Place a request for further and better particulars as to its grounds of appeal.
 14. On July 7, 2021, in a letter to the Board, Stacey's Happy Place provided further particulars and submissions as to its grounds of appeal, which are summarized as follows:
 - (a) On June 30, 2021, the April 12, 2021 Work Order was rescinded by AHS and when an Order is rescinded, it eliminates the Order as if it never existed, restoring the parties to their original positions. Rescission is distinct from cancellation, which terminates an Order as of the date it is cancelled.
 - (b) By Rescission of the April 12, 2021 Work Order, the Suspension Notice issued April 15, 2021, is invalidated as a consequence.
 - (c) The Suspension Notice was issued due to alleged non-compliance with the April 12, 2021 Work Order that was rescinded by AHS.
 - (d) On April 26, 2021, Defined Closure Order was issued by AHS. The sole reason for issuance of the Defined Closure Order was operation without a Food Handling Permit. With the April 15, 2021 Suspension Notice invalidated by the rescission of the April

¹ Decision of the Public Health Appeal Board dated July 6, 2021, Appeal 07-2021.

12, 2021 Work Order, the April 26, 2021 Defined Closure Order is also invalidated since the April 15, 2021 Suspension Notice is the sole reason and condition for the April 26, 2021 Defined Closure Order.

- (e) With the rescission of the April 12, 2021 Work Order and the consequential invalidation of the April 15, 2021 Suspension Notice and April 26, 2021 Defined Closure Order, the June 9, 2021 Cancellation Notice is also invalidated. When an order is "rescinded", the effect is to restore the parties to their previous positions as if that order had never been issued.
- (f) This family business is being deliberately destroyed by the conduct of AHS.
- (g) It would be inappropriate to advance all evidence and argument within the scope of Stacey's Happy Place's written submissions.

15. On July 16, 2021, in response to Stacey's Happy Place's July 7, 2021 letter, AHS provided written submissions, which are summarized as follows:

- (a) Stacey's Happy Place's failure to provide particulars to support its initial grounds of appeal is prejudicial to AHS and those grounds of appeal should be struck;
- (b) Stacey's Happy Place has failed to recognize the distinction between Executive Officer Orders issued under section 62 of the Act and decisions made under sections 11 and 12 of the Food Regulation;
- (c) Contravening an order under section 62 of the Act is only one basis where a food handling permit can be suspended or cancelled;
- (d) At the time of the Cancellation Notice, Stacey's Happy Place was in contravention of the Defined Closure Order, CMOH Orders and section 3 of the Food Regulation;
- (e) Stacey's Happy Place's arguments about the legal effect of rescission have no bearing on AHS's decision to issue the Cancellation Notice, as it is separate and apart from the subsequent cancellation of previously issued Executive Officer Orders. Stacey's Happy Place's proposition that there is retroactive effect, such that previous breaches are neutralized, is untenable;
- (f) Unlike a suspension, a decision to cancel a food handling permit is final and binding, crystallizing as of a set date, and cannot be cured by the subsequent actions of a food handling operator;
- (g) Stacey's Happy Place's failure to plead particulars to support its initial grounds of appeal brings into question whether the Appeal is within the Board's jurisdiction to hear; and
- (h) The Board:
 - i. had already provided Stacey's Happy Place with ample opportunity to remediate and particularize the grounds of appeal for Appeal No. 10-2021;
 - ii. should not exercise its discretion to allow further remediation; and
 - iii. should exercise its discretion to strike Appeal No. 10-2021.

16. On July 21, 2021, independent of Appeal No 10-2021, an administrative hearing involving Stacey's Happy Place and AHS took place to review Stacey's Happy Place's application for a new food handling permit. On July 26, 2021, AHS inspected the Premises and cancelled the Defined Closure Order. Subsequently, a new food handling permit (the "Second Permit") was approved.

17. On July 21, 2021, concerning Appeal No. 10-2021, the Board again requested detailed grounds from Stacey's Happy Place. On July 27, 2021, Stacey's Happy Place responded by letter, some of which is summarized as follows:

- (a) Stacey's Happy Place's specific grounds of appeal were articulated to all parties in the Notice of Appeal dated June 21, 2021, and again in its letter of July 7, 2021.
- (b) The Act does not require Stacey's Happy Place to submit formal "grounds of appeal" as required by the Alberta Court of Appeal, and the Board has no legislative jurisdiction to impose such requirements and refuse to hear this appeal on that basis.
- (c) The Board has repeatedly requested "grounds of appeal" but has not provided clarification regarding the authority or source of these additional requirements. In an attempt to comply with the Board's request, Stacey's Happy Place submits:

Error of Law:

- i. Legal Effect of Rescission (See letter dated July 7, 2021);
- ii. Requirements to issue the Cancellation Notice pursuant to the Act were not satisfied by AHS, including the form and content of the Cancellation Notice; and
- iii. Such further and other Errors of Law as may be determined in an appeal hearing of the matter.

Error of Fact:

- i. An internal inspection has not occurred since April 26, 2021 and the facts upon which these Inspection Reports are based contain erroneous assumptions since they were external observations of the business from the AHS Inspector's vehicle;
- ii. No attempts were made by AHS to confirm the compliance of Stacey's Happy Place prior to issuing of the Cancellation Notice;
- iii. No complainants were spoken with that would prompt the inspections conducted by the Respondent;
- iv. The Inspection Reports and CSR Full Detail Report of the AHS Inspector indicate that all compliance issues were resolved; and
- v. Such further and other Errors of Fact as may be determined in an appeal hearing of the matter.

Vagueness and Uncertainty:

- i. The Cancellation Notice does not contain any "order" or "direction";
- ii. There is no indication by AHS of the steps required by Stacey's Happy Place to remedy the Cancellation Notice and the reasons provided do not provide specific guidance; and
- iii. Such further and other issues of Vagueness and Uncertainty as may be determined in an appeal hearing of the matter.

Breach of Administrative Duty of Fairness:

- i. AHS and AHS' counsel are aware of the pending and ongoing litigation of this matter and have refused to remove or replace these AHS Inspectors from this conflict of interest, including refusal to acknowledge their obligation to contact counsel rather than Stacey's Happy Place directly while litigation is ongoing;

- ii. The AHS Inspector's Inspection Reports contain inaccurate assumptions and misrepresentations based on external observations from a vehicle initiated without contact with any complainants; and
 - iii. Such further and other Breaches of the Administrative Duty of Fairness as may be determined in an appeal hearing of the matter.
- (d) There is a clear signal by the Board to AHS' counsel to file an application to dismiss Appeal No. 10-2021 for mootness and this creates a strong apprehension of bias against Stacey's Happy Place.
 - (e) The Board intends to dismiss Appeal No. 10-2021.
 - (f) Dismissal of Appeal No. 10-2021 without due process would breach the Duty of Fairness and contravene the Board's obligation to uphold and comply with the Board's Mandate and Roles Document.
 - (g) Dismissal of Appeal No. 10-2021 will remove the system of checks and balances from AHS enforcement actions and render the existence of the Board moot.

18. On July 28, 2021, AHS contacted the Board Chair stating that, as a Second Permit was issued to Stacey's Happy Place, AHS intended to bring the Application "...to dismiss the appeal in full as it is AHS' position that the dispute is moot".

Mootness Application – Submissions of the Applicant AHS

19. On August 20, 2021, by way of letter to the Board, AHS provided its formal application for dismissal of Appeal No. 10-2021 for mootness. AHS' position is briefly summarized as follows:
- (a) Issuing the Second Permit to Stacey's Happy Place has made Appeal No. 10-2021 moot and therefore it should be dismissed in its entirety.
 - (b) A case will be moot if there is no live controversy which affects or may affect the rights of the parties. If such a live controversy exists, the decision maker must decide whether it should hear the case.² It should also consider the extent that each of the following three factors is present:
 - i. the requirement of an adversarial context;
 - ii. issues of judicial economy and the need to ration scarce resources, including consideration of whether the court's decision will have some practical effect on the rights of the parties, despite the matter being moot, and whether the issue raised is not of a recurring nature, but of brief duration, that would otherwise evade review; and
 - iii. the Court should not intrude on the legislative branch. The Board's Rules of Procedure contains provisions dealing with appeals to dismiss for mootness, which are similar to the *Borowski* factors.³

² *Borowski v. Canada (Attorney General)* [1989] 1 S.C.R. 342 at paras 15-16.

³ AHS' submissions at paras 14-17.

- (c) Ordinarily, the remedies available in circumstances where an entity such as Stacey's Happy Place is appealing a cancellation notice of a food handling permit is to have it confirmed, reversed or varied pursuant to section 5(11) of the Act.
- (d) As Stacey's Happy Place currently holds a valid food handling permit, a live controversy no longer exists between it and AHS.⁴

Mootness Application – Submissions of the Respondent Stacey's Happy Place

20. On August 30, 2021, by way of letter to the Board, Stacey's Happy Place provided its reply to AHS' application for dismissal of Appeal No. 10-2021 for mootness. Stacey's Happy Place's position is briefly summarized as follows:

- (a) None of the case law provided by AHS in support of the Application is directly relevant to the administrative process of the Board.
- (b) An adversarial relationship remains between Stacey's Happy Place and AHS by virtue of the continued efforts to over-inspect and over-enforce against this business by reference to the June 9, 2021 Cancellation Order.
- (c) Stacey's Happy Place applied for the Second Permit to mitigate the damages caused by the June 9, 2021 Cancellation Order and the validity of the Cancellation Order remains in dispute for several reasons.
- (d) The recurring nature of this manner of prejudicial treatment of recurring excessive inspections and enforcement by AHS against Stacey's Happy Place has also been engaged in by the Board by it asking Stacey's Happy Place for particulars of its grounds for Appeal No. 10-2021, creating a reasonable apprehension of bias.
- (e) Upon cancellation of the CMOH Orders on July 1, 2021, AHS issued a Notice of Rescission for the Work Order. However, as the First Permit had already been cancelled, Stacey's Happy Place remained without a valid and subsisting food handling permit. Consequently, the Defined Closure Order remained in place.
- (f) On July 21, 2021, an administrative hearing was held between AHS and Stacey's Happy Place to review Stacey's Happy Place's application for a new food handling permit. Shortly thereafter, on July 26, 2021, an inspection of Stacey's Happy Place was completed, and the Second Permit, which was a new food handling permit, was approved effective as of that date.
- (g) Accordingly, as Stacey's Happy Place was operating under the Second Permit, which was a new food handling permit, the Defined Closure Order was formally cancelled on July 26, 2021.
- (h) Given the above, there are no CMOH Orders, Executive Officer Orders or decisions of AHS that currently restrict Stacey's Happy Place from providing food handling services.
- (i) Appeal No. 10-2021 is relevant to our community, province and country.
- (j) The current conduct of AHS and, most recently the Board, is contrary to policy and law and is deliberately driving small businesses into the ground on the basis of unethical behavior and practices.

⁴Ibid at paras 18-21.

- (k) The Board can direct that AHS has total and complete discretion to conduct themselves in any manner they choose, among other allegations of bias particularly concerning the Application.
- (l) For the Board to grant the Application of AHS would be a breach of the Board's Mandate and Roles Document and render this Board "Moot". This is in addition to the inappropriate conduct that supports a reasonable apprehension of bias.

- 21. On September 2, 2021, the Board heard the Application of AHS.
- 22. On September 9, 2021, by letter to the Parties, the Board provided its decision to grant the Application of AHS, with reasons to follow.

Legal Issue

- 23. Should the Board grant the Application of AHS?

Jurisdiction

- 24. There are no objections to the Board's jurisdiction to hear the Application of AHS.

Documents/Evidence

- 25. The Board reviewed the following documents and evidence in making its decision concerning the Application of AHS:
 - (a) All correspondence sent by the Parties to the Board, including the written submissions, prior to the Application of AHS;
 - (b) All of the testimony given at the time of the Application of AHS; and
 - (c) The arguments from counsel for Stacey's Happy Place and counsel for AHS given at the Application of AHS.

Analysis and Reasons

- 26. AHS appears to argue that the vagueness of the initial grounds of Appeal No. 10-2021 have the potential to remove the matter from the jurisdiction of the Board. However, AHS fails to address how the matter could potentially fall beyond the substantive jurisdiction of the Board if further particulars were given. The main thrust of AHS' argument is prejudice as a result of the vagueness of the initial grounds of appeal, a position which is supported by the authorities.
- 27. With respect to Stacey's Happy Place's arguments regarding rescission, first raised in its July 7, 2021 letter to the Board, it appears that it is attempting to apply a contractual remedy to a non-contractual setting.
- 28. The notable facts with respect to the CMOH Orders and the sanctions levied against Stacey's Happy Place are as follows:

- (a) The Food Handling Permit was cancelled because Stacey’s Happy Place was in breach of not only the Defined Closure Order, but also the CMOH Orders and Section 3 of the Food Regulation (operating while the Food Handling Permit was under suspension);
- (b) The Cancellation Notice crystallized at a time when the Defined Closure Order and CMOH Orders were in full effect; and
- (c) The subsequent rescinding of the CMOH Orders likely does not operate retroactively to cure all prior breaches, as argued by Stacey’s Happy Place.

29. To the extent that Stacey’s Happy Place alleges that AHS rescinded the CMOH Orders, it is accurate. However, whether the use of the word “rescind” in this context equates to legal rescission as contended by Stacey’s Happy Place in their July 7, 2021 letter is unlikely.

Effect of Rescission

30. Stacey’s Happy Place submits that the “legal effect of rescission” of the CMOH Orders is such that the Orders are eliminated as if they never existed, restoring the parties to their original positions. While this definition of rescission is correct, it is explicitly in reference to a contractual agreement between two parties. Black’s Law Dictionary⁵ defines “rescission” as follows:

- 1. A party’s unilateral unmaking of a contract for a legally sufficient reason, such as the other party’s material breach, or a judgment rescinding the contract; VOIDANCE. Rescission is generally available as a remedy or defense [*sic*] for a nondefaulting [*sic*] party and is accompanied by restitution of any partial performance, thus restoring the parties to their pre-contractual positions. ...⁶

31. “Rescission”, however, is distinct from “rescind”, which is defined in Black’s Law Dictionary as follows:

- 1. To abrogate or cancel (a contract) unilaterally or by agreement.
- 2. To make void; to repeal or annul <rescind the legislation>.
- 3. *Parliamentary Law*. To void, repeal, or nullify a main motion adopted earlier. – Also terms *annulment*; *repeal*.⁷

32. Finally, the *Interpretation Act*, R.S.A. 2000, c. I-8 notes as follows:

Interpretation

1(1) In this Act.

...

(d) “repeal” includes strike out, revoke, cancel or rescind.

⁵ Bryan A. Garner, *Black’s Law Dictionary*, 11th ed (St. Paul: Thomson Reuters, 2019).

⁶ *Ibid* at p 1562

⁷ *Ibid*.

Repeal

35(1) When an enactment is repealed in whole or in part, the repeal does not

- (a) revive an enactment or thing not in force or existing immediately before the time when the repeal takes effect,
- (b) affect the previous operation of the enactment so repealed or anything done or suffered under it,
- (c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed,
- (d) affect any offence committed against or a contravention of the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect of or under the enactment so repealed, or
- (e) affect any investigation, proceeding or remedy in respect of the right, privilege, obligation, liability, penalty, forfeiture or punishment.

33. While the *Interpretation Act* applies to enactments, as opposed to orders under enactments, the Act has been amended to refer to the “lapsing or rescission” of various CMOH Orders and informs the use of the word “rescind” in CMOH Order 34-2021. To interpret CMOH Order 34-2021 as if to nullify any orders, prohibitions, fines, etc. made under the previous CMOH Orders would contradict the express wording of the *Interpretation Act* and would apply a contractual remedy to a non-contractual situation.

34. Concerning the relationship between the Board and AHS, the Board is an independent quasi-judicial board established under the Act and functions independent of government departments to ensure fairness and impartiality when hearing appeals of decisions made under the Act (Part 1, sections 3 to 7).⁸

35. The Act sets out the formal requirements of an appeal and what the Board must do when it receives an appeal. In addition, the Act confers on the Board all the powers of a commissioner under the *Public Inquiries Act*, R.S.A. 2000, c. P-39. The purpose of the Rules of Procedure is to specify how the Board will exercise its powers to deal with appeals.

Findings and Conclusion

36. The Board has determined that it has jurisdiction to hear Appeal No. 10-2021, and the application to dismiss it for mootness. Section 5 of the Act is clear in providing a right of appeal when a permit is cancelled, or an order is made under section 62.

⁸ *Peter v Public Health Appeal Board of Alberta*, 2019 ABQB 989 (CanLII), paragraph 94

37. The Board's Rules of Procedure provide that "the [Board] will review all applications for dismissal on the basis of mootness on a case-by-case basis. Except in extraordinary circumstances, the [Board] will generally decline to hear moot appeals."⁹ In the circumstances with regard to the Application of AHS, they are such that the Board determined it should not hear Appeal No. 10-2021.
38. There would be no practical impact on the rights of the parties if the Board determines the appeal of the food handling permit cancellation, as the Board can only confirm, reverse or vary the decision under section 5(11) of the Act. An order reversing the Cancellation Notice will not give Stacey's Happy Place any additional rights to perform food handling services at the Premises than they currently have, due to the issuance of the Second Permit.¹⁰
39. AHS cited *Nascho Enterprises Ltd v Edmonton (City)* as an example where the Court dismissed a judicial review application for mootness. The Court stated one of the reasons for the dismissal was because to review the City of Edmonton's decision to deny a variance request would have no practical effect for the applicant, *Nascho Enterprises Ltd*.¹¹
40. In *Borowski* the Supreme Court of Canada did not exercise its discretion to hear the appeal in front of it, as the case was not "capable of repetition, yet evasive of review" and none of the factors justifying the application of judicial resources applied.¹² AHS submitted before the Board that a decision to cancel a food handling permit is not of a recurring nature capable of repetition. The Board agrees.
41. A decision to cancel a food handling permit is based on the specific facts and alleged breaches that are before the decision maker. Even if an operator faced a second decision to cancel a food handling permit, such decision would arise out of its own facts and would be dealt with on its own merits, absent consideration of the facts that led to the cancellation of any prior permit.
42. A decision to cancel a food handling permit is not of a brief duration capable of evading review. It can be appealed pursuant to section 5(1)(b) of the Act. Also, a cancelled permit cannot be reinstated, and the decision remains in place unless it is overturned on appeal. As a result, the decision is not of a brief duration nor evasive of review.
43. The Executive Officer's decision was based on Stacey's Happy Place's continued non-compliance with the Defined Closure Order and the CMOH Orders that restricted dine-in services and operating while their food handling permit was suspended. As the CMOH Orders have been cancelled, the Board accepts AHS' submission that it is "highly improbable that the escalation of enforcement witnessed in this matter would be of a recurring nature".¹³

⁹ Public Health Appeal Board Rules of Procedure at Rule 3.6.6.

¹⁰ Ibid at paras 25-28.

¹¹ *Nascho Enterprises Ltd v Edmonton (City)*, 2014 ABQB 569 at para 36.

¹² *Borowski v. Canada (Attorney General)* [1989] 1 S.C.R. 342 at para 45.

¹³ AHS' submissions at paras 29-33.

44. The issue in Appeal No. 10-2021 is not of national or societal importance and is only of importance to the private rights of Stacey's Happy Place. The dispute only challenges whether Stacey's Happy Place was operating food handling services when its first food handling permit was suspended and the Premises were subject to the CMOH Orders and the Defined Closure Order.
45. Matters of national importance should go beyond issues of private rights of importance only to the party advancing an action. "Moreover, there are no novel legal issues being advanced or to be determined. Rather, any adjudication of the present appeal would be solely on the merits of AHS' decision to cancel the First Permit in accordance with statutory scheme laid out in the Regulation."¹⁴
46. The Alberta Court of Appeal in *Wiebe v Alberta (Labour Relations Board)* reiterated that the hearing of moot appeals was the exception rather than the rule. The court also noted six dangers of hearing moot appeals, including that the respondent is forced to spend time and money to address a question in which it has no present interests at risk.¹⁵
47. Appeal No. 10-2021 challenges the Executive Officer's decision to cancel a food handling permit to which Stacey's Happy Place has no present interest at risk, and the Executive Officer's decision was based on facts that are unlikely to be replicated, therefore, there is nothing extraordinary about Appeal No. 10-2021.
48. As to Stacey's Happy Place's submission that the Board can direct that AHS has total and complete discretion to conduct themselves in any manner they choose, among other allegations of bias, there is no evidence to support this. These allegations are wholly without merit.
49. After reviewing the evidence and submissions made by the Parties, the Board grants the Application of AHS. Appeal No. 10-2021 is dismissed.

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

Date: October 31, 2022

¹⁴ Ibid at paras 34-38.

¹⁵ *Wiebe v Alberta (Labour Relations Board)*, 2001 ABCA 192 at paras 12-19.

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