

Federal Court



Cour fédérale

Date: 20251017

Docket: T-1160-25

Citation: 2025 FC 1701

Vancouver, British Columbia, October 17, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

KANIZ FATEMA

Plaintiff

and

**CHANGHAI ZHU
LAW SOCIETY OF ALBERTA**

Defendants

REASONS AND ORDER

[1] By a Statement of Claim issued on April 10, 2025, Ms. Kaniz Fatema (the “Plaintiff”) commenced an action against Mr. Changhai Zhu and the Law Society of Alberta (the “Law Society”) (collectively “the Defendants”). The Plaintiff seeks the recovery of \$100,000.00 in damages against Mr. Zhu, as well as the costs of her action.

[2] Mr. Zhu is a lawyer and a member of the Law Society of Alberta. The Law Society regulates the conduct of lawyers in the province of Alberta.

[3] In her Statement of Claim, the Plaintiff alleges that Mr. Zhu caused her harm as the result of his conduct in the representation of her landlord in a dispute arising from her residential tenancy. She alleges that she has taken action against the Law Society, as a defendant, so that the Law Society can “observe” the progress of this litigation before the Federal Court.

[4] Mr. Zhu filed a Defence to the Statement of Claim on April 29, 2025. The Law Society filed its Defence on May 7, 2025. Among other things, the Defendants each argued that this court lacks the jurisdiction to hear and decide the Plaintiff’s claim since it arises under a residential tenancy agreement, a subject area that falls exclusively within the jurisdiction of the provincial Courts.

[5] Ms. Love is a paralegal employed with Intact Insurance legal department, Counsel for the Law Society upon this motion. She attached several exhibits to her affidavit, largely consisting of pleadings filed before the Alberta Court of King’s Bench and the Court of Appeal of Alberta relating to proceedings before those Courts arising from the Plaintiff’s residential tenancy.

[6] On June 10, 2025, Counsel for Mr. Zhu filed a motion, pursuant to the *Federal Courts Rules*, SOR/98-106 (the “Rules”), seeking to strike the Plaintiff’s Statement of Claim without leave to amend, on various grounds. He argued that the Federal Court lacks jurisdiction, that the claim discloses no reasonable cause of action, and that the statement of claim is vexatious,

duplicitous and a collateral attack of a matter already decided by Alberta's Court of King's Bench. The motion was supported by the affidavit of Ms. Dulcie Love, sworn on June 23, 2025. The affidavit includes several exhibits.

[7] Mr. Zhu filed the affidavit of Ms. Aleksandra Djuric in support of his motion.

[8] Ms. Djuric is a legal assistant in the offices of Counsel for Mr. Zhu. She attached, as exhibits to her affidavits, copies of an order issued by the Residential Tenancy Dispute Resolution Services, as well as various pleadings and Orders filed in proceedings before the Alberta Court of King's Bench involving the Plaintiff and her residential tenancy. This dispute is the basis of the statement of claim which is the subject of the within motions to strike.

[9] The Plaintiff filed a response to that motion on June 12, 2025.

[10] On June 25, 2025, the Law Society filed a motion, also seeking to strike the Plaintiff's Statement of Claim, on the grounds similar to those argued by Mr. Zhu. Its motion was supported by the affidavit of Ms. Aleksandra Djuna, sworn on May 27, 2025.

[11] The Law Society of Alberta filed the affidavit of Ms. Darcie Love in support of its motion to strike the Plaintiff's statement of claim.

[12] The Plaintiff filed her responding record to the Law Society's motion on July 4, 2025, opposing the Defendant's motions.

[13] Briefly, the Plaintiff submits that this Court has jurisdiction to entertain her claim because it relates to housing which is governed by both provincial and the Federal governments. She also raised an issue about the breach of her rights pursuant to the *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c 11 (UK) (the “Charter”).

[14] Rules 221(1)(a), (c) and (f) provide as follows:

Striking Out Pleadings	Radiation d’actes de procédure
Motion to strike	Requête en radiation
221 (1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it	221 (1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d’un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas:
(a) discloses no reasonable cause of action or defence, as the case may be,	a) qu’il ne révèle aucune cause d’action ou de défense valable;
[...]	[...]
(c) is scandalous, frivolous or vexatious,	c) qu’il est scandaleux, frivole ou vexatoire;
[...]	[...]
(f) is otherwise an abuse of the process of the Court,	f) qu’il constitue autrement un abus de procédure.
and may order the action be dismissed or judgment entered accordingly.	Elle peut aussi ordonner que l’action soit rejetée ou qu’un jugement soit enregistré en conséquence.

[15] The two motions can be granted on the basis that the Court lacks jurisdiction over the Plaintiff's claim.

[16] In *ITO-Int'l Terminal Operators v. Miida Electronics*, [1986] 1 S.C.R 752, the Supreme Court of Canada identified three elements that must be met in order to find jurisdiction in the Federal Court over a claim.

[17] First, there must be a statutory grant of jurisdiction. Second, there must be an existing body of federal law essential to the disposition of the case which nourishes the statutory grant of jurisdiction. Third, there must be law underlying the case falling within the scope of the term "a law of Canada" used in section 101 of the *Constitution Act*, 1867.

[18] The Plaintiff's claim against Mr. Zhu arises in the context of a landlord-tenant dispute. Her claim against the Law Society of Alberta is based on that body's regulation of Mr. Zhu, as a member of the Law Society of Alberta.

[19] Residential tenancies in Alberta are governed by the *Residential Tenancies Act*, S.A 2004, c R-17.1. The Law Society of Alberta is governed by the *Legal Profession Act*, R.S.A 2000, c L-8.

[20] There is no federal statutory grant of jurisdiction involved in this matter.

[21] The Plaintiff argues that her rights under sections 7, 9 and 15 of the Charter were breached.

[22] A plea alleging a breach of the Charter does not mean that the Federal Court has jurisdiction. In any event, the factual circumstances surrounding the alleged Charter breach arise in relation to matters that are wholly subject to provincial law.

[23] The Plaintiff's allegations against the Law Society relate to that body's regulatory power over the conduct of Mr. Zhu, as a practicing lawyer in British Columbia.

[24] The Plaintiff complains about Mr. Zhu's conduct in acting on behalf of his client, the Plaintiff's landlord.

[25] This subject matter does not fall within the jurisdiction of the Federal Court.

[26] I agree with these submissions, but it is unnecessary to say more, in detail.

[27] The lack of jurisdiction in this Court is determinative. The statement of claim will be struck, without leave to amend.

[28] If successful, the Defendants seek their costs.

[29] Pursuant to Rule 400 of the Rules, the Court enjoys full discretion in the award of costs.

[30] In the exercise of that discretion, I award costs in the amount of \$750.00, inclusive of HST and disbursements to each Defendant, Mr. Zhu and the Law Society of Alberta, for total costs in the amount of \$1500.00.

ORDER IN T-1160-25

THIS COURT’S ORDER is that:

1. The motions are granted, and the statement of claim is struck without leave to amend.
2. Costs in the amount of \$750.00 inclusive of HST and disbursements are awarded to
Mr. Zhou
3. Costs in the amount of \$750.00 inclusive of HST and disbursements are awarded to the
Law Society of Alberta.

“E. Heneghan”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1160-25

STYLE OF CAUSE: KANIZ FATEMA v. CHANGHAI ZHU
LAW SOCIETY OF ALBERTA

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 10, 2025

REASONS AND ORDER: HENEGHAN J.

DATED: OCTOBER 17, 2025

APPEARANCES:

Fred Fenwick, K.C.

FOR THE DEFENDANT
CHANGHAI ZHU

Maryke McGinn

FOR THE DEFENDANT
LAW SOCIETY OF ALBERTA

SOLICITORS OF RECORD:

McLennan Ross LLP
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FOR THE DEFENDANT
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