



Keeping Tabs

Monthly News from The Young Advocates' Standing Committee

Residential Tenancies Act | Fireside Chat | YASC Events | Interview
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CHAIR CHAT



BY: DANIEL NAYMARK,
NAYMARK LAW

The Dutch live by a principle called “gezelligheid”. It has no English analog, but basically means cozy, welcoming, warm, intimate and pleasant, rolled into a single vibe. It’s a useful concept this time of year, with balmy summer nights and crisp fall evenings behind us. Now that it’s freezing out, YASC is moving on to its *gezellig* programming.

In recent weeks, we hosted very *gezellig* Fireside Chats in Toronto and Ottawa (the first in that City, reported on in this issue by Matthew Sherman),

mildly *gezellig* pub nights in Thunder Bay, Kingston and Toronto, and a Santa Claus Parade family event with crafts and games at Campbell House, right on the parade route, which was as *gezellig* as anything involving small children and glue can possibly be. We did have YASCers there dressed in Santa and elf costumes, immortalized in the picture on page 4.

The TAS Festive Receptions are up next, with the first one in Halifax on November 29. President Berg will then be making the rounds for Festive Receptions in Toronto, December 8, and Ottawa, February 2. They will be *gezellig* like you won’t believe.

Daniel

The Young Advocates’ Standing Committee (“YASC”) is a standing committee of The Advocates’ Society with a mandate to be a voice for young advocates (advocates who are ten years of call or fewer) within the Society and within the profession. We do this through networking/mentoring events, by publishing articles by and for young advocates, and by raising issues of concern to young advocates as we work with the Society’s Board of Directors.



No More Double Rent for Victims; Peril for Small Landlords



BY: SARAH HAHN,
HGR GRAHAM PARTNERS LLP

Ontario has made it easier for victims of domestic violence to move out quickly if they believe they are at risk of harm if they stay in their rental unit. Through changes made to the *Residential Tenancies Act, 2006*,¹ (the "Act") on September 8, 2016, victims of domestic or sexual abuse can end their tenancy with 28 days' notice.

This is a great step forward for victims of abuse; however, it has the possibility of bankrupting small landlords who are now liable for hefty fines, are at risk of lengthy eviction proceedings against remaining tenants, and are prohibited from showing the rental unit until it is vacant which is certain to result in lost revenue.

28-Day Notice Period

Before the amendment, a tenant would be liable for rent for the remainder of their lease term, or be required to give *at least* 60 days' notice in a monthly tenancy. In instances of domestic violence, these previous notice provisions limited the financial ability of victims to swiftly vacate unsafe conditions.

Ontario's rigid notice policy requires that a tenancy must end on the last day of the month unless otherwise agreed. If a tenant gives notice on March 3rd, the effective lease termination date would be May 31st (or, 89 days later) in order to meet the minimum 60 days' notice while falling on the last day of a month.

The new additions to s. 47 of the *Act* provide that notice can be given at any time during the tenancy, regardless of which day of the month the 28th day falls.

Who is eligible for the reduced notice period?

A tenant must meet the following criteria to be eligible:

1. The tenancy falls under the *Act*;
2. The tenant or a child residing with the tenant has experienced violence or another form of abuse as set out in the *Act*;
3. The tenant swears that he or she believes that there is risk of harm or injury if he or she continues to live in the rental unit; or has a restraining order or peace bond issued in the previous 90 days; and
4. The tenant has provided the landlord with: a completed N15 Notice form and a completed '*Tenant's Statement About Sexual or Domestic Violence and Abuse*' or a copy of a peace bond or restraining order.

The '*Tenant's Statement About Sexual or Domestic Violence and Abuse*' form is easy to fill out. The tenant does not have to describe the circumstances of the abuse, identify the abuser, or specify who the abuse was against. It is also important to note that the tenant does not need to be living with their abuser to be eligible for the reduced notice period.

Implications for co-tenants

If the departing tenant lives with others, an N15 Notice will only terminate his or her interest in the tenancy unless the co-tenant(s) sign the Notice, in which case they can benefit from the reduced notice period as well. If a co-tenant does not sign the Notice, their tenancy continues.

An individual may not be notified that their co-tenant is moving out until it has already happened and they find

themselves suddenly responsible for the entirety of the rent. This situation is bound to cause some troubles in the future, for both co-tenants as well as landlords.

Privacy and confidentiality

In order to protect tenant victims' privacy, a landlord is prohibited from advertising the rental unit if it is identifiable and cannot reveal any of the information contained in a Notice or tell others about the existence of the Notice. Accordingly, landlords will need to ensure that all staff is aware of the new rules. If a tenant's confidentiality is breached, a landlord can be fined up to \$25,000 for an individual or \$100,000 for a corporation.

A Tenant can be fined for lying

In order to limit abuse of the new provisions, landlords may file a complaint with the Ministry of Housing's Investigation and Enforcement Unit if they suspect that a tenant has lied in their Notice. The former tenant could face a fine of up to \$25,000 if convicted.

Moving forward

It will be interesting to see what legal issues arise out of the new amendments, particularly when the Investigation and Enforcement Unit is involved. There is potential that the notes from the investigation could be used in civil, family or criminal actions if they were subject to an order for disclosure or obtained if the tenant is tried in the Ontario Court of Justice.

This amendment has serious implications for landlords, especially those with smaller rental properties. In these situations, lawyers should advise their landlord clients to be mindful of the duty to keep a tenant's information confidential and to train staff in appropriate measures to avoid large fines and the possibility of putting the tenant in a dangerous situation. ■

1. *Residential Tenancies Act, 2006*, S.O. 2006, c. 17.

Warming Up Our Advocacy Skills: The First Ottawa Installment of the Fireside Chat on Advocacy Series

BY: MATTHEW SHERMAN, BORDEN LADNER GERVAIS LLP



Offering a break from the cold, Ottawa's first-ever Fireside Chat provided an opportunity to warm up our advocacy skills on November 3rd at the RCAF Officers' Mess. The event featured David W. Scott O.C., Q.C., ASM and Bryan A. Carroll. Together, they have nearly a century of experience at the bar, and more awards and recognitions than can be listed here. Mr. Scott is Co-Chair of BLG and counsel in BLG's Ottawa office, while Mr. Carroll recently retired from BLG's Ottawa office to become a full-time mediator. Both have wide-ranging litigation experience. Erin Durant and Max Binnie were the interviewers.

As a recent law school graduate, it was

a privilege to listen to and learn from their tips and anecdotes.

First, David Scott offered invaluable advice on becoming a successful advocate. Mr. Scott was followed by an interview between Max Binnie and Bryan Carroll. Mr. Carroll provided personal and professional reflections on his life and career.

Both Mr. Scott and Mr. Carroll provided tips that were not overtly emphasized in law school, including:

- "Your word is your bond. If you say that a glass of water will be on someone's desk, make sure that it is there."—Bryan A. Carroll;
- Do not take on work if you know that you cannot complete it;
- Do not argue, interrupt or be overly combative with opposing counsel in court;
- Prepare, prepare, prepare and research thoroughly, and if you are going to rely on a case, know every detail of it;
- You are not hired to tell your clients what they want to hear, but instead, what they need to hear;

- The little courtesies matter—do not remove your robes until the judge exits the courtroom, and be well-dressed;
- The rise of technology has made it easier to take time off because you can keep abreast of any important updates or issues with your client(s) and firm; and as such, take time off to restore your relationships; and
- Once an email is sent, it is likely irretrievable (think about what you are saying and how you are saying it).

Thanks to Mr. Scott and Mr. Carroll, the first Ottawa installment of the Fireside Chat on Advocacy Series created an appetite and a spark for future Advocates' Society events in Ottawa. Until the next event, stay warm! ❄️



Max Binnie and Brian A. Carroll



David W. Scott O.C., Q.C., ASM

YASC EVENTS



YASC Pub Night @ Pravda Vodka Bar in Toronto on November 16, 2016



YASC Pub Night in Thunder Bay on November 2, 2016



Jeff Moorley, Thunder Bay YASC rep



Santa Claus (Chris Horkins) and helpers (Larissa Moscu & Emily Fan) at the Santa Claus parade party on Nov 20, 2016

Interview with Nasha Nijhawan, Nijhawan McMillan Barristers

BY: SHANNON BEDDOE,
MARTHA MCCARTHY & COMPANY LLP



1

Q: Why did you become a litigator or advocate?

A: Almost by accident. I went to law school after a science undergrad without really intending to become a lawyer. I really didn't think it was the right thing for me—and I was actually considering dropping out—until I stumbled into a summer job at Paliare Roland where I met a group of lawyers whose passion for advocacy (and the tradition of teaching advocacy) was contagious. After one summer with them, I was hooked.

3

Q: Which word do you prefer: litigator or advocate?

A: Alligator.

4

Q: If you weren't a lawyer, what would you be?

A: Selling burritos to surfers from a truck in Hawaii.

5

Q: What is the latest non-legal book you've read?

A: A kid's book (to my kid).

6

Q: How would your colleagues describe you?

A: That's not a question I can answer (and may not want to know the answer to!).

7

Q: Which talent would you most like to have?

A: I would love to be musical ... but I'm not.

8

Q: Who or what is the greatest love of your life?

A: My daughter (and her dad).

9

Q: What is your favourite drink?

A: Scotch.

2

Q: What do you like most about the practice of law?

A: I love the challenge of figuring out the human side of a conflict and understanding how to leverage what people really want to move it forward. I'm a facts person—it's always about the narrative for me.

10

Q: What would you consider your greatest achievement?

A: Surgical abortion has not been available on Prince Edward Island since 1982. This year my partner Kelly McMillan and I represented an activist group called Abortion Access Now PEI in Charter litigation against the PEI government over their policy to prevent abortions from being provided on the Island. The threat of our case forced the Premier to announce that PEI would open a hospital-based abortion clinic in Summerside by 2017, and to acknowledge that the policy (in place since 1988) offended the s. 15 and s. 7 rights of PEI women. It was a huge privilege to be involved in a struggle that involved so many bright and fierce advocates over many decades, and we are still pinching ourselves over the result. Nothing else I've ever done in my professional life compares to that.

11

Q: What is your most distinctive characteristic?

A: I speak my mind ... even when I probably shouldn't.

12

Q: From whom have you learned the most about the practice of law?

A: I think I have learned something from every lawyer I've ever worked with or against—but the lawyers who influenced me most are the ones who trained me at Paliare Roland.

13

Q: What unique knowledge have you gleaned in your practice that you can share with other young advocates?

A: (1) She who works hardest usually wins, except (2) sometimes there's nothing you can do about the facts. ▀

GETTING INVOLVED

Participating with The Advocates' Society—9 Key Lessons From a Year of Attendance

BY: DENISA MERTIRI,
THORNTON GROUT
FINNIGAN LLP



I discovered a few things after receiving a Participation Award from the Young Advocates' Standing Committee for the most events attended in one year. First of all, I had no idea you could get an award (thank you, Advocates' Society!) and certainly I was not looking to break a record or to be told by the Honourable Thomas Cromwell himself to start spending a bit more time at the office the day after he gave everyone else at Fall Forum the exact opposite advice in his keynote address.

Secondly, though I was at first hesitant when YASC proposed writing an article on my experiences at their events, in reflecting on my experiences I realized that they were more valuable than I had expected. Of course, my network expanded and I built a profile within this community. However, it was important to me to feel part of a community of outstanding individuals and to feel inspired to rise to their level no matter how challenging my day.

As a result, I wanted to share the following nine lessons that I have learned from a year of participating in TAS events in the hope that it will encourage you to view networking as less daunting and much more valuable than you may already think it is.

1. *Networking can be fun.* Though intimidating at first, after attending enough events, the faces of smart and ambitious people at Pub Nights have become those of friends with whom I now look forward to catching up. And although you may think that you will be rehashing office talk at these events, rest assured that the hours carefully dedicated to Netflix, podcasts or Twitter each week will go a long way in your

conversations here.

2. *Ain't nobody got time for that.* It really helps that in one single event I can catch up with a handful of people that it could take months to schedule a coffee with. All lawyers are busy, including the ones in need of mentoring, jobs or new files. I have also found that coffees are easier to schedule once I have had a conversation with someone at an event.

3. *Are your mentors as cool as mine?* It is not often that I have the privilege of senior lawyers taking time out of their day to give me career advice. But at mentoring dinners, I have had, for example, the pleasure of discussing career tips, *Making a Murderer* and the Ghomeshi trial with some big criminal defence names. These experiences have helped me realize that these intimidating figures are in fact really passionate about helping new lawyers.

4. *Stay current, anticipate the future.* New lawyers know that the profession is changing. However, we have our hands full simply figuring out the current lay of

Festive Receptions

Halifax

Tuesday, November 29, 2016
5:30 p.m. - 7:30 p.m.
The Art Gallery of Nova Scotia
1723 Hollis St., Halifax, Nova Scotia
[Click here to RSVP](#)

Toronto

TAS Member-Only Event
Thursday, December 8, 2016
5:30 p.m. - 7:30 p.m.
Campbell House
160 Queen Street West, Toronto
[Click here to RSVP](#)

Ottawa

New Date!
Thursday, February 2, 2017
5:30 p.m. - 7:30 p.m.
Rideau Club
99 Bank St., Ottawa, ON.
[Click here to RSVP](#)

GETTING INVOLVED cont...

the land to be able to grasp and respond to anticipated changes. In a given year, there are a number of TAS events that outline and debate the benefits and challenges of alternative or contingency fee arrangements, new legal software, new law firm structures and client expectations. Sitting in a room during such discussions was for me a passive way to start doing this essential due diligence on my career.

5. *Have you put this workday in the context of your entire career?* One of the most valuable aspects of attending TAS events has been the perspective that a mentoring discussion brings to a bad day at the office. There is nothing like hearing the big names of our day, including former Supreme Court judges, say that they doubted themselves in the early years of their careers to make you feel better about yours.
6. *This counts as experience too.* Junior litigation counsel have a harder time getting opportunities to do trials, mediations, discovery

examinations and even motions these days. Though we may love drafting, many of us crave the growth that comes from having to exercise other essential advocacy skills on the spot, whether it is to be able to impress the court and one's client or to achieve partnership at one's firm. If you don't have the prep time or financial resources to participate in full-day weekend CPD, you will find as I did that volunteering as a witness or a registrar in a CPD program is also a great way to benefit from these courses.

7. *Let them suffer for your lessons first.* One of the benefits of attending CPD seminars, from my experience so far, is learning from the mistakes of counsel who present at the seminars without bearing the burden of those mistakes myself. Because, let's face it, these are not lessons that you will get from law school or essential advocacy textbooks.
8. *Stepping stone to lifelong learning and teaching.* A big part of profile building for lawyers with a few years of experience under their belts is the ability to attend as well as deliver skill-building seminars

in an organization like TAS. There is no better way to warm up to the idea of one day sitting on the lecturing side of the room than by attending the events and becoming familiar with their structure and the usual faces at them.

9. *Office bonus points.* If there are partners in your group that are involved with The Advocates' Society, it is a great way to stand out and develop strong relationships with them.

In conclusion, while I am thankful to The Advocates' Society for its award, I am more thankful for the opportunities it presents to young advocates like myself to grow and to feel part of a community of outstanding individuals. It is for all the above reasons, and some others I have kept to myself, that I will continue to attend and take careful notes at TAS events. ▀



Upcoming Events



Festive Reception
(Halifax)

Nov 29, 2016



President's Festive
Reception (Toronto)

Dec 8, 2016



YASC Pub Night
(Toronto)

Jan 11, 2017



YASC Pub Night
(Barrie)

Jan 18, 2017



New Date!

President's Festive
Reception (Ottawa)

Feb 2, 2017