

## LexisNexis® Agricultural Law *NetLetter*

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### HIGHLIGHTS

- \* A Saskatchewan Court of Queen's Bench has upheld the decision of a hearing officer appointed under the Saskatchewan Residential Tenancies Act in which the hearing officer concluded that she did not have jurisdiction to issue an order for possession because the tenant living on rented property was also engaged in farming that property. The tenant testified that he raised sheep, goats and a few cows for meat production on a property that included 40 acres of pasture land. The Court concluded that there was no grounds to interfere with the hearing officer's decision. (Liu v Betham, [CALN/2016-002](#), [\[2016\] S.J. No. 9](#), Queen's Bench for Saskatchewan)

### NEW CASE LAW

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**Liu v Betham;**

[CALN/2016-002](#),

Full text: [\[2016\] S.J. No. 9](#);

[2016 SKQB 5](#),

Queen's Bench for Saskatchewan,

**Dawson, J.,**

January 6, 2016.

*Farm Leases -- Jurisdiction of Saskatchewan Office of the Residential Tenancies.*

Gordon Baillie ("Baillie"), who owned 40 acres of pasture land near Abernathy, Saskatchewan appealed to the Saskatchewan Court of Queen's Bench from an October 30, 2015 decision of a hearing officer of the Office of the Residential Tenancies (the "Hearing Officer").

Baillie had applied to the Hearing Officer for an order for possession against his tenant, Tim Betham ("Betham") alleging that Betham was overholding after service of a notice that terminated the tenancy.

The Hearing Officer concluded that she did not have jurisdiction to hear the matter because ".this is a farming situation where the living accommodation is rented by the Tenant who is engaged in farming".

Section 5 of the Residential Tenancies Act, 2006 (Saskatchewan) states:

What this Act does not apply to

5 This Act does not apply to:

(e) living accommodation that is located on property that is being farmed if the living accommodation is being rented by the person engaged in farming that property;

Both Baillie and Betham were self-represented at the appeal to the Saskatchewan Court of Queen's Bench.

Decision: Dawson, J. dismissed the appeal [at para. 10].

Dawson, J. referred to the evidence before the Hearing Officer, including the tenant's evidence that he continued to raise sheep, goats and a few cows on the land for meat production and that the property included 40 acres of pasture land.

Dawson, J. observed that it had been established by the decision of the Saskatchewan Court of Appeal in *Reich v Lohse* (1994), 1994 CanLII 4691 (SK CA), [123 Sask R 114](#) (CA) that the Court's jurisdiction is limited to errors of law or jurisdiction in an appeal from a Hearing Officer [at para. 6].

Dawson, J. concluded [at para. 7 to 9]:

[7] Here, the hearing officer determined that pursuant to s. 5 of the Act, the Act did not apply to the tenant, Tim Betham, because Betham lived in accommodation that was located on property that was being farmed by Tim Betham. Mr. Betham was engaged in farming that property.

[8] The submissions before me confirm that the tenant, Tim Betham, is renting living accommodation from the landlord and that Tim Betham is engaged in farming on the property that is the subject of the tenancy arrangement.

[9] The appellant landlord has failed to satisfy me that the hearing officer made an error in determining that she did not have jurisdiction to hear this matter.

## **CREDITS**

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