

CITATION: *Stone v Godfrey (No 1)* [2017] QCATA 45

PARTIES: **AMELIA JADE STONE**
(Applicant/Appellant)
v
KRISTEL JACQUELINE GODFREY
(Respondent)

APPLICATION NUMBER: APL335-16

MATTER TYPE: Application and Appeals

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: **Justice Carmody**

DELIVERED ON: 12 April 2017

DELIVERED AT: Brisbane

ORDERS MADE: **THE APPEAL TRIBUNAL ORDERS THAT:**

1. Application for leave to be represented is refused.

CATCHWORDS: Application for leave to be legally represented – whether leave should be granted – issues and material are unlikely to involve complex questions of law or fact – whether legal representation is in the overall interests of justice

Queensland Civil and Administrative Tribunal Act 2009 (Qld), ss 32, 43

APPEARANCES and REPRESENTATION (if any):

This matter was heard and determined on the papers without the attendance of either party in accordance with s 32 of the *Queensland Civil and Administrative Tribunal Act 2009 (Qld)* (“QCAT Act”).

REASONS FOR DECISION

[1] The applicant applied for rent reduction and compensation for a series of alleged lessor breaches of a residential tenancy agreement.

- [2] She is seeking leave to appeal the dismissal of her claim for errors in making findings of fact and unfairness.
- [3] Both parties filed their hearing submissions by 19 December 2016.
- [4] On 15 March 2017 the respondent applied for leave to be represented because of 'incredible distress', 'extreme intimidation', the protracted proceedings, 'exorbitant material' and fear of direct contact.
- [5] Leave to be legally represented is required because the tribunal prefers parties represent themselves unless the interests of justice demand otherwise.
- [6] The applicant opposes leave on the basis that she is equally distressed, the issues and material are not complex, any sense of fear or intimidation is unreasonable and adequately addressed by leave to appear at the hearing by telephone. The applicant cannot afford a lawyer and complains that allowing one party legal representation would unfairly disadvantage her forensically and prejudice her legal rights and interests to an unacceptable level.
- [7] The considerations relevant to the leave discretion are identified in QCAT Act s 43(3). They include the likelihood that the proceeding will involve complex law or facts; all of the parties agree to the proposed representatives for the applicant.
- [8] I am not satisfied that legal representation is necessary in the overall interests of justice. Granting the application may advantage the applicant over the respondent in a standard residential tenancy claim for compensation. Complexity is not established as a material concern. Any feelings of insecurity or fear of intimidation will be reduced to acceptable levels by the control exercised over the proceedings by the tribunal and either or both of the parties appearing remotely by phone.
- [9] For these reasons the application is refused.