

# SUPREME COURT OF SOUTH AUSTRALIA

(Court of Appeal: Civil)

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## SUSAN ROSE PADLEY v SOUTH AUSTRALIAN HOUSING TRUST

[2026] SASCA 100

Judgment of the Honourable Justice Stanley

20 August 2026

### SOCIAL WELFARE - HOUSING SCHEMES - PUBLIC HOUSING

This is an urgent application to stay execution of an order made on 25 June 2026 by the President of the South Australian Civil and Administrative Tribunal (SACAT). That order affirmed an earlier decision terminating Susan Rose Padley's tenancy with the South Australian Housing Trust (SAHT) and requiring her to vacate the property.

Ms Padley, who was self-represented, brought this application out of time. She submitted that the Tribunal's decision should be stayed pending an appeal, including on the basis of apprehended bias, and that eviction would likely leave her homeless. The Court considered the history of the tenancy, the condition of the property, the opportunities and supports provided to Ms Padley to remedy the condition, and her failure to demonstrate any relevant error in the Tribunal's decision.

Held, per Stanley JA:

1. Ms Padley failed to demonstrate any relevant error on the part of the President in making the orders of 25 June 2026.
2. As no basis was demonstrated to warrant the Court's intervention there is no basis to stay the order obtained by SAHT, such that the application for a stay is dismissed.
3. Accordingly, it was unnecessary to decide whether to grant an extension of time within which to bring the application.
4. The Tribunal's orders of 25 June 2026 were affirmed, subject to varying the termination date from midday on 20 August 2026 to midday on 1 September 2026 to allow Ms Padley further time to remove her possessions and obtain alternative accommodation.

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On Appeal from SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (PRESIDENT J HUGHES) 2026/SIR000050

Appellant: SUSAN ROSE PADLEY In Person

Respondent: SOUTH AUSTRALIAN HOUSING TRUST Counsel: MR C PAGER WITH MS L KRIEG - Solicitor: CROWN SOLICITOR (SA)

Hearing Date/s: 20/08/2026

File No/s: CIV-26-010555

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*Residential Tenancies Act 1995* (SA) ss 87(1), 87(2), 90(1)(c); *South Australian Civil and Administrative Tribunal Act 2013* (SA) ss 71, 73(2); *Uniform Civil Rules 2020* (SA) r 212.5(1), referred to.

*Chen v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2022) 288 FCR 218; *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337; *Minister for Immigration and Multicultural Affairs; Ex parte Epeabaka* (2001) 206 CLR 128; *R v Commonwealth Conciliation and Arbitration Commission; Ex parte Angliss Group* (1969) 122 CLR 546, considered.

**SUSAN ROSE PADLEY v SOUTH AUSTRALIAN HOUSING TRUST**  
**[2026] SASCA 100**

**Court of Appeal – Civil – Application**

**STANLEY JA:**

**Introduction**

1           This is an urgent application to stay execution of an order made on 25 June 2026 by the President of the South Australian Civil and Administrative Appeal Tribunal (the Tribunal) for the eviction of the applicant, Susan Rose Padley, from a Trust property (the property). That property is leased to her by the respondent, the South Australian Housing Trust (SAHT). The application has been brought out of time. An extension of time is required.

2           The applicant is self-represented. It is not apparent she has had the benefit of legal advice. I make due allowance for the difficulty confronting her in bringing this application. Over the objection of counsel for the SAHT I allowed a friend of the applicant to put submissions on her behalf. I did so on the basis that I had the impression she would not be able to do her application justice without having someone who could speak on her behalf.

3           At the commencement of this hearing the applicant’s friend, Ms Ormsby, applied for an adjournment of the hearing beyond midday today (20 August 2026), when the order made by the President would become operative, permitting the SAHT to evict her from the property. The basis of the application was to make a new application that the decision of the Tribunal was tainted by apprehended bias on the basis that a representative of the SAHT, Ms Hon, who was present at the hearing before the Tribunal on 25 June 2026 was alleged to have been in a room separate from the applicant with the President for a period of about 30 minutes before the commencement of the hearing. This allegation had not been raised previously. Counsel for the SAHT opposed the application.

4           The test for apprehended bias is whether a fair-minded lay observer might reasonably apprehend that the decision maker might not bring or may not have brought an impartial mind to the resolution of the issues to be decided.<sup>1</sup> The hypothetical fair minded observer assessing possible bias is to be taken to be aware of the nature of the decision and the context in which it was made, as well as to have knowledge of the circumstances leading up to the decision. The observer is necessarily reasonable and neither complacent or unduly sensitive or suspicious.

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<sup>1</sup> *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at [6]-[7].

A finding of apprehended bias is not to be reached lightly. It must be firmly established.<sup>2</sup> A vague sense of unease or disquiet is insufficient.<sup>3</sup>

5 The submission was put on behalf of Ms Padley that all that she was required to prove was that a fair minded lay observer may have been concerned that the President and the SAHT officer discussed the application before the President in the absence of Ms Padley. It was not necessary that Ms Padley prove that she had done so.

6 I do not accept that submission. As the authorities cited demonstrate, more is required than the mere possibility that such a discussion might have occurred. The application for an adjournment is brought at the very last moment. Ms Padley has had since 25 June 2026 to raise this matter, but has failed to do so earlier. At its highest all that can be said is that a fair minded lay observer may have had a vague sense of disquiet or unease. Of course, that assumes that the factual basis for the application has been established by evidence. That has not occurred, no doubt partly as a result of the lateness of the application and the necessity to provide some factual foundation for this application. Nevertheless even if evidence was placed before the Court sufficient to establish that the President and Ms Hon were in a room before the hearing in the absence of Ms Padley, that would not be sufficient to establish an arguable case of apprehended bias. In these circumstances I would not grant the adjournment sought to bring an application to stay proceedings on the basis of apprehended bias.

7 It was put on behalf of Ms Padley that she wished to withdraw the application for a stay on the other grounds she relied on. However those grounds were then argued. Accordingly, I do not treat the application on those other grounds as having been withdrawn.

8 By s 71(1) of the *South Australian Civil and Administrative Tribunal Act* 2013 (SA) (SACAT Act) an appeal lies in the case of a decision of a presidential member of the Tribunal to the Court of Appeal. By s 71(2) of that Act the appeal is only by leave. By s 71(5) the Supreme Court may, on appeal, make any interim, ancillary or consequential order that the Court considers appropriate. Pursuant to s 73(2) the Court may make an order staying the operation of the decision until the proceedings are finally decided on such conditions as may be specified.

9 Pursuant to rule 212.5(1) of the *Uniform Civil Rules*, where the jurisdiction to hear an appeal is vested in the Court of Appeal, a single judge may make interlocutory and ancillary orders.

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<sup>2</sup> *Minister for Immigration and Multicultural Affairs; Ex parte Epeabaka* (2001) 206 CLR 128 at [20], quoting *R v Commonwealth Conciliation and Arbitration Commission; Ex parte Angliss Group* (1969) 122 CLR 546 at 553-554.

<sup>3</sup> *Chen v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2022) 288 FCR 218 at [40], quoting *Minister for Immigration and Multicultural Affairs; Ex parte Epeabaka* (2001) 206 CLR 128 at [90].

10       The applicant must demonstrate proper reason for the favourable exercise of the discretion to grant a stay pending an application for leave to appeal. An applicant should address whether there is a *bona fide* appeal with at least some prospect of success and whether the balance of convenience favours the grant of a stay including whether, and to what extent, the grant or refusal to grant a stay will cause prejudice. She has not done so other than to submit that she will be left homeless if the stay is not granted.

11       The application to terminate the tenancy was made by the SAHT pursuant to ss 87(1), (2) or s 90(1)(c) of the *Residential Tenancies Act 1995* (SA) (RTA). These sections provide that the Tribunal can terminate a tenancy on application by a landlord, and make an order for vacant possession in certain circumstances. Those circumstances include where the tenant has committed a breach of their tenancy agreement which is sufficiently serious to justify the termination of the tenancy.

### **Background of the matter**

12       A short history of the matter is that on 9 February 2026 a Tribunal member ordered that the tenancy be terminated and vacant possession given by 4 May 2026.

13       On 23 February 2026 the applicant lodged an application for internal review of the order made on 9 February 2026. The first hearing of that review occurred on 21 April 2026. It was adjourned to allow the applicant the opportunity to put forward further evidence and to allow the SAHT access to inspect the property on two further occasions. The applicant was required to provide the SAHT and the Tribunal a detailed cleanup plan by 1 May 2026. Further, ancillary steps were required to be undertaken in May and June. The SAHT applied to the Tribunal that the matter be brought on earlier on the basis that after the second inspection it was evident that although some improvements had occurred, not all the required actions had been taken, and there had been some deterioration of the situation to offset the improvements.

14       The hearing resumed on 25 June 2026. The SAHT informed the Tribunal that since 21 April 2026 two inspections had been conducted at the property on 14 May and 10 June 2026. The SAHT submitted that in the four weeks between inspections there was a fluctuation in the condition of the property with only limited improvements evident. The SAHT submitted that the applicant had numerous opportunities to improve the condition of the property and the SAHT had no confidence that she would be able to rectify the entirety of the property in a reasonable period of time. It was submitted that the decision made on 9 February 2026 to terminate the tenancy and order vacant possession was the correct and preferable decision and should be affirmed.

**This application**

15 In support of this application the applicant filed handwritten appeal grounds. Unfortunately, they are difficult to decipher in their entirety but I have been able to ascertain the general basis of the appeal. The appeal is brought from an order made by the President of the Tribunal that if the applicant did not vacate the premises by midday on 20 August 2026, the tenancy would be terminated and the order would be enforced by the Tribunal bailiff.

16 The basis upon which the SAHT seeks to terminate the tenancy is the applicant's repeated failure to satisfactorily maintain the premises in a fit and habitable condition.

17 The SAHT has provided the applicant with numerous opportunities to restore the property to a satisfactory condition without any real success. As a consequence the Tribunal eventually was driven to make the order for vacation of the premises. It is evident that the applicant's inability or unwillingness to comply with the opportunities that have been extended to her to clean up the property have not succeeded.

18 The condition of the property is extremely poor and has been for a long time. This poor condition in part has been due to inaccessible bedrooms, obstacles in the hallways, accumulated debris, foul odours and vermin infestation resulting in serious domestic squalor.

19 The applicant considers that it is likely she will be rendered homeless if evicted from the property. She submits that the hardship of homelessness is compounded by the SAHT taking the money for rent which she had been saving for storage. The SAHT submits that despite significant and repeated support, sustainable improvement in the condition of the property has not been achieved. It submits that whenever some effort has been made by the applicant to improve the conditions of the property it soon reverts to its previous unsatisfactory condition.

20 Before the Tribunal, the applicant denied having dogs or vermin inside the property, although at one stage she did have eight kittens. She also denied used needles are strewn around the property. She said they are placed in disposable containers.

21 The SAHT said that notwithstanding substantial and ongoing supports that have been offered to the applicant she has either not engaged with them, or if she has done so, those steps have failed to remedy the breaches of the habitation conditions required to be met by SAHT tenants.

22 Ms Padley submits that any supports were organised by herself rather than the SAHT. I am not in a position to decide that conflict but in any event I consider it does not matter who was responsible for organising supports. What is relevant is whether Ms Padley has been able to bring the property to a habitable standard

and maintain that standard with that support. By admissions made on her behalf it is indisputable that Ms Padley has not been able to do so.

23       The evidence before the Tribunal established that the applicant is addicted to methamphetamine and that requires intensive treatments. She is on a waiting list. The applicant supplied a certificate indicating enrolment in a drug rehabilitation program but no medical report regarding her medical conditions and how they contributed to her ability to comply with the order.

24       The evidence further established that the changes that have taken place at the premises represent a small step in the right direction, but were far from what was required.

25       The Tribunal considered that the order made on 9 February 2026 was the correct and preferable decision, such that it should be affirmed. It is clear that the applicant is unable to undertake the work in the house required to render it habitable.

26       On 25 June 2026 the SAHT indicated that they would not oppose granting the applicant a further four weeks in the property in order to permit her to find somewhere to live. The Tribunal granted her a period of eight weeks. That period has now expired and the evidence is that the premises remain in an unsatisfactory condition and the applicant has been unable or unwilling to find alternative accommodation.

27       Ms Padley has been unable to demonstrate any relevant error on the part of the President in making the orders of 25 June 2026. The President considered the material before her and found that the correct and preferable decision having regard to all the facts before her was to terminate the tenancy as at midday on 20 August 2026. No basis has been demonstrated to warrant the Court's intervention.

### **Disposition**

28       In all the circumstances, I am satisfied that there is no basis to stay the order obtained by SAHT. The application for a stay should be dismissed. I would refuse leave to appeal. Accordingly it is unnecessary to decide whether to grant an extension of time within which to bring this application for a stay.

29       The Court affirms the Orders of the Tribunal made on 25 June 2026.

30       I also heard the parties as to whether any further extension of time should be granted to permit Ms Padley to remove her possessions and try and obtain alternative housing.

31       The date of midday on Thursday 20 August 2026 contained in those orders is varied to allow the tenant to remain in the property until midday on Tuesday 1 September 2026.

- 32 Ms Padley must move out of the premises by midday on Tuesday 1 September 2026 when the tenancy is terminated by effect of this order. If the tenant does not move out on or before that date, this order may be enforced by the Tribunal bailiff.