

COURT OF APPEAL FOR ONTARIO

CITATION: Clost v. Rennie, 2024 ONCA 514

DATE: 20240626

DOCKET: M55004 (COA-24-CV-0313 & COA-24-OM-0002)

Roberts, Miller and Coroza JJ.A.

BETWEEN

Norman Harry John Clost

Applicant (Respondent/Moving Party)

and

Laureen Rennie and June Drysdale

Respondents (Appellants/Responding Parties)

Katie Black and Kelli Day, for the moving party/respondent

Carmen M. Baru, for the responding parties/appellants

Heard and released orally: June 25, 2024

REASONS FOR DECISION

[1] The moving party brings this motion to quash the responding parties' appeal on the basis that this court has no jurisdiction to hear it. He also relies on the same jurisdictional ground to dismiss the responding parties' related motion for leave to appeal.

[2] In our view, this case is governed by the principles set out in *Iris Technologies Inc. v. Rogers Communications Canada Inc.*, 2022 ONCA 634.

In that case, this court quashed a motion for leave to appeal from the decision of a Superior Court judge allowing a review under s. 17(8) of an Arbitrator's decision on a preliminary issue of jurisdiction, explaining, at para. 7: "The *Arbitration Act, 1991* is clear that there is no further right of appeal from the decision of a Superior Court judge hearing a review of an Arbitrator's decision on a preliminary question."

[3] That is the case here. The parties' dispute includes the validity of a lease agreement that purportedly granted the responding parties a tenancy and a right of first refusal over cottage land. The lease contained an arbitration clause. The moving party raised a preliminary issue as to the Arbitrator's jurisdiction to hear the matter because he claimed that the lease was invalid, alleging that he never signed it and his signature was forged. The Arbitrator characterized his decision as a ruling on a preliminary jurisdictional motion under s. 17(1) of the *Arbitration Act, 1991*, and determined that he had jurisdiction to decide whether the moving party was bound to arbitrate the right of first refusal dispute but not the merits of the dispute. The moving party's application under s. 17(8) to the Superior Court of Justice was successful. The application judge overturned the Arbitrator's decision and found that the lease agreement was invalid.

[4] Under s. 17(9) of the *Arbitration Act*, there is no further right of appeal from the Superior Court judge's decision. As a result, this court has no jurisdiction to hear the appeal or motion for leave to appeal and both are quashed.

[5] The moving party, Mr. Clost, is entitled to his partial indemnity costs from the responding parties in relation to the appeal, motion to quash and the responding parties' motion for leave to appeal, in the all-inclusive amount of \$18,000.

“L.B. Roberts J.A.”

“B.W. Miller J.A.”

“S. Coroza J.A.”