

In the Court of Appeal of Alberta

Citation: Shakeri v Condo Corporation: Series Management Inc (203532171), 2024 ABCA 398

Date: 20241209
Docket: 2403-0224AC
Registry: Edmonton

Between:

Hooshang Shakeri

Applicant

- and -

Condo Corporation: Series Management Inc (203532171)

Respondent

- and -

Gerald Simpson

Respondent

**Reasons for Decision of
The Honourable Justice Tamara Friesen**

Application to Extend Time to File Notice of Appeal

**Reasons for Decision of
The Honourable Justice Tamara Friesen**

Introduction

[1] The applicant Mr Shakeri applies to extend time to appeal the part of a chambers judge’s order *permitting* him to amend his originating application and affidavit to add the properly named legal entity “Condominium Corporation No. 052 4360” as respondent.

[2] The order was made March 18, 2024, and the one-month time limit for filing an appeal applied: Rule 14.8(2)(a)(iii), *Alberta Rules of Court*, AR 124/2010. Mr Shakeri did not file his notice of appeal until October 7, 2024, approximately six months after the time limit for doing so expired.

[3] The application to extend time to appeal is dismissed.

Background

[4] Mr Shakeri is the registered owner of a unit in Condominium Corporation No. 052 4360. On February 26, 2024, he filed an originating application naming as respondents “Condo Corporation: Series Management Inc (203532171)” and Gerald Simpson, another resident of the condominium. The application alleged that Series Management Inc failed to disclose financial documents, failed to maintain the condominium building, failed to install security cameras, and cut off the heat to his unit, and further alleged harassment by Mr Simpson.

[5] The respondent Series Management Inc submits that the relief sought in the originating application is in substance a request for improper conduct remedies pursuant to s 67 of the *Condominium Property Act*, RSA 2000, c C-22. That section deals with statutory duties and obligations owed by condominium corporations to unit owners like Mr Shakeri. Section 67 relief can only be obtained from a condominium corporation.

[6] “Condo Corporation: Series Management Inc. (203532171)” is not a legal entity. The name chosen by Mr Shakeri combines two separate legal entities: Condominium Corporation No. 052 4360 and its management company, Series Management Inc.

[7] On March 18, 2024, the chambers judge granted Mr Shakeri’s application to amend the originating application to name the proper legal entities. Paragraph 1 of that order says:

The Applicant is permitted to amend the Originating Application and his Affidavit sworn and filed on February 26, 2024 to add the name of the Condominium Corporation: Condominium Corporation No. 052 4360. The amendment must be filed and served by Monday, March 25, 2024.

[8] On May 29, 2024, Mr Shakeri filed an amended originating application naming as respondents “Condo Corporation Plan No. 052 4360” and Mr Simpson. Then on May 31, 2024, he filed an amended amended originating application, once again naming “Series Management Inc (203532171)” and Mr Simpson as respondents.

[9] On September 11, 2024, with the assistance of *amicus curiae*, Mr Shakeri obtained another chambers order, this time allowing him to amend his amended amended originating application to *remove* Series Management Inc as a party, and properly name “Condominium Corporation No. 052 4360” as a respondent to the action.

[10] He then appealed that order to this Court on the basis that the *amicus* had not followed his instructions in obtaining the order. On October 21, 2024, that appeal was struck for failure to file the appeal record in time.

[11] Counsel for the respondent Series Management Inc has provided Mr Shakeri with a copy of the certificate of title for his unit; a corporate registry search for “Series Management Inc”; a condominium plan for the condominium corporation registered at the Land Titles Office for the North Alberta Land Registration District; and additional condominium information including a copy of the condominium corporation’s bylaws. Mr Shakeri continues to take issue with the names and even the existence of the involved legal entities and insisted in oral argument that he is entitled to the “contract between Series Management and the Condo Corp.” as it is essential to his claim.

Analysis

[12] In exercising its discretion with respect to extending the time limit to file an appeal, this Court will consider whether the applicant has shown that:

- a) the applicant had a *bona fide* intention to appeal the decision while the right to appeal existed;
- b) the explanation given for the failure to appeal in time excuses or justifies the delay in filing;
- c) the other party has not been prejudiced by the delay to such a degree that it would be unjust to disturb the judgment;
- d) the applicant did not benefit from the judgment under appeal; and
- e) the appeal has a reasonable prospect of success.

Cairns v Cairns, [1931] 4 DLR 819 at 826-827 (Alta SC (AD)); *Sohal v Brar*, 1998 ABCA 375 at para 1, 223 AR 141; and *Li v Morgan*, 2020 ABCA 186 at para 4.

[13] If the applicant cannot satisfy some or all of these criteria, the court may still exercise its discretion to grant an extension in unique or special circumstances, if it is in the interests of justice to do so: *Stoddard v Montague*, 2006 ABCA 109 at para 8, 412 AR 88; *Johnston v Hader*, 2010 ABCA 47 at para 12, 22 Alta LR (5th) 353; and *Miller-Tait v Miller-Tait*, 2024 ABCA 263 at para 9.

[14] Mr Shakeri’s affidavit states he has paid all his condo fees to “Series Management Inc” and that “Condominium Corporation No. 052 4360” is not registered and does not exist. He does not attest to a *bona fide* intention to appeal the order while the right to appeal existed, nor to any special circumstances justifying his failure to appeal in time. In oral argument Mr Shakeri said that he filed late because he did not understand the Rules. However, even unrepresented persons are required to familiarize themselves with the Rules and understand those Rules in terms of proceeding in Court: *Jutt Management Inc v Legends Condo Development Corp*, 2024 ABCA 367 at para 19.

[15] Perhaps most importantly, there is no reasonable chance the appeal can succeed. The chambers judge’s order gave Mr Shakeri precisely what he asked for, allowing him to name *both* the condominium corporation and Series Management Inc in his application. No error or basis for appeal has been identified. Extending time for hopeless appeals is of no benefit to anyone: *Stoddard* at para 21.

[16] The application to extend time to appeal is dismissed. Rule 9.4(2)(c) is invoked.

Application heard on December 5, 2024

Reasons filed at Edmonton, Alberta
this 9th day of December 2024

Friesen J.A.

Appearances:

Applicant H. Shakeri

R. Noce, K.C.

R. Schmidt

for the Respondents