

In the Court of Appeal of Alberta

Citation: The Toronto Dominion Bank v Manah, 2025 ABCA 275

Date: 20250811
Docket: 2403-0160AC;
2503-0005AC
Registry: Edmonton

Between:

The Toronto Dominion Bank

Respondent

- and -

Najeeb Rafic Manah and Kristin Renee Manah

Applicants

**Reasons for Decision of
The Honourable Justice Frans Slatter**

Application to Rescind an Administrative Direction of the Case Management Officer

**Reasons for Decision of
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[1] The applicant attempted to file an application under R. 14.47 to “restore” two appeals that had previously been disposed of on the merits. The Case Management Officer rejected the filing, ruling the applicant was seeking to invoke a process not available under that rule. The applicant has now appealed that ruling to a judge of the court under R. 14.36(3). Since this review involves the pure interpretation of a rule, I directed that the review be conducted under R. 14.51 without oral argument.

[2] The applicant had previously filed two appeals arising from the foreclosure of his residence. The oral argument of those appeals was heard on June 2, 2025, and reasons for decision dismissing the appeals were issued on June 9, 2025: *The Toronto Dominion Bank v Manah*, 2025 ABCA 201. The formal Court Generated Judgment dismissing the appeals was filed that day.

[3] On June 19, 2025 the applicant filed a “Formal Objection: Procedural Irregularities, Authentication Deficiencies and Statutory Noncompliance”. The applicant complained that the memorandum of judgment and related documents did not comply with what he alleged were legal requirements with respect to the authentication, signature, and formatting of documents, specifically s. 16(2) of the *Electronic Transactions Act*, RSA 2000, c. E-5.5, s. 33(a) of the *Alberta Evidence Act*, RSA 2000, c. A-18, and the Government of Alberta Visual Identity Manual. He opined (without any supporting authority) that without these procedural requirements being met the judgment held “no legal authority or effect”. The applicant demanded a written explanation within seven days in the form of a sworn affidavit from the Case Management Officer or a member of the appeal panel. A Case Management Officer responded on June 24, 2025, to the effect that there were no authentication, signature or formatting problems with the judgment and related materials.

[4] On July 7, 2025 the applicant attempted to file an application under R. 14.47 to “restore” the two appeals. That rule contemplates an application to “restore an appeal that has been struck, dismissed or deemed abandoned”. The application was filed “due to procedural irregularities, unsigned and unauthenticated judgment dated June 9, 2025, and breach of the fundamental principles of due process and document authentication”. The application essentially repeated the allegations the applicant had made in his June 19, 2025 “Formal Objection”.

[5] On July 8, 2025 the application was rejected. The Mandatory Requirements and Check/Return Form stated:

The Case Management Officer (CMO) has reviewed your proposed application to “restore” your appeals under rule 14.47 and has advised it must be rejected. The

CMO advises that your proposed application cannot be filed because rule 14.47 does not apply to appeals that have been heard and dismissed on the merits as your appeals have been. Rule 14.47 only applies to circumstances such as may occur pursuant to rule 14.37(2)(b) or (d), since the rule only applies to appeals dismissed for procedural reasons. The CMO notes that the Judgment of the Court of Appeal which was issued in these matters is final, and the Court regards these matters as concluded.

On July 9th the Case Management Officer confirmed this information. This is the ruling that the applicant seeks to have set aside in this present application.

[6] There is no error in the Case Management Officer's ruling, and this application must be dismissed.

[7] Rejecting improper materials is within the mandate of the case management officers, who are authorized under s. 14(2) of the *Court of Appeal Act*, RSA 2000, c. C-30 and R. 14.36 to assist the Court with respect to the management of matters before the Court. The mandate of the case management officers is not limited to reviewing documents tendered for filing on procedural grounds, nor is it limited by the fact that a single appeal judge would have concurrent authority under R. 14.37. Further, there is nothing irregular about the informal response provided by the case management officer, which is consistent with the informal procedure contemplated by R. 14.39.

[8] Procedures in the Court of Appeal are governed by the rules and administrative procedures of the Court, not by standards applied by other authorities, nor by standards dictated by litigants. Memoranda of Decisions are signed by the panel members and kept in the Court file under R. 14.91. No further authentication or certification is required. Likewise, formal judgments of the Court are maintained by the Registrar. Prescribed forms can be modified as required under R. 13.16. The applicant provides no authority for his assertions that documents must follow certain technical requirements, much less that the failure to follow those inapplicable requirements would render any decision or document invalid.

[9] Pending appeals may be struck, dismissed or deemed abandoned for a number of reasons. For example, appeals may be dismissed for delay under R. 14.62 and 14.63. An appeal can be struck under R. 14.64 for failure to meet deadlines. Appeals can be dismissed under R. 14.37(2)(b) or (d) for failure to comply with mandatory rules, or for significant delay. Proceedings can be struck under R. 10.53(1)(d)(iii) for contempt. Some of these deficiencies can be corrected, in which case in the right circumstances the appellant can apply to have the appeal restored under R. 14.47.

[10] However, an appeal that has been argued and decided on the merits has been finally concluded. Such an appeal cannot be "restored" because it has already been adjudicated to finality.

Once the formal judgment of the Court is entered, the Court has exhausted its mandate and becomes *functus officio*: ***Canadian Broadcasting Corp. v Manitoba***, 2021 SCC 33 at para. 33, [2021] 2 SCR 785. The procedure in R. 14.47 does not apply to such fully adjudicated appeals.

[11] The application is dismissed. As the applicant has previously been advised, the Court regards these two appeals as having been fully resolved, and no further directions or explanations will be issued.

Written submissions received on July 23, 2025

Reasons filed at Edmonton, Alberta
this 11th day of August, 2025

Slatter J.A.

Appearances:

D. Hughes (no submissions)

K.L. Sejr (no submissions)
for the Respondent

Applicant Najeeb Rafic Manah

Applicant Kristin Renee Manah