

In the Court of Appeal of Alberta

Citation: The Toronto Dominion Bank v Monk, 2025 ABCA 277

Date: 20250811
Docket: 2503-0080AC
Registry: Edmonton

Between:

The Toronto Dominion Bank

Respondent

- and -

Constance Monk

Applicant

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

Application for Extension of Time and Permission to Appeal

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

[1] On June 13, 2025 I released written reasons denying the applicant’s application for an extension of time to appeal a chambers judge's order made March 31, 2025: 2025 ABCA 209. That chambers order dismissed her appeal and entitled the Toronto-Dominion Bank (TD) to proceed with sale of property as provided in the order confirming sale and vesting title (OSCVT). The one-month time limit for filing an appeal to this Court applied: *Alberta Rules of Court*, AR 124/2010, r 14.8(2)(a)(iii). Ms Monk filed her notice of appeal on May 1, 2025, one day late.

[2] On May 7, 2025 TD obtained an order setting aside the OSCVT, confirming that TD was to retain possession of the property until further order of the court, and permitting the property to be relisted, thus rendering Ms Monk’s appeal moot. I determined that while the delay was understandable and minor, such that in the normal course an extension may be readily granted, the appeal itself had no reasonable prospect of success.

[3] Ms Monk has now applied for permission to appeal my decision refusing the extension request, pursuant to rule 14.5(1)(a), and an extension of the time for doing so. My decision was released June 13, 2025. Ms Monk filed her notice of appeal on July 22, 2025, when under the same one-month time limit it should have been filed no later than July 14, 2025: r 14.8(3); *Rana v Rana*, 2019 ABCA 278 at para 22, leave to appeal to SCC refused, 39297 (28 January 2021).

[4] While once again this is not a lengthy delay and causes no prejudice to the respondent, the appeal itself remains moot and accordingly has no chance of success. Having regard to the applicable governing principles regarding extensions and considering the low probability of success of applications for permission to appeal to a full panel, Ms Monk’s application for an extension of the time to file the application for permission to appeal my earlier order is denied: *Ouellette v Law Society of Alberta*, 2021 ABCA 283 at paras 14-15.

[5] As a result, it is not necessary to determine the application for permission to appeal my earlier order. Had I gone on to determine the application, I would have denied the application in any event as it fails to establish a serious question of general importance, possible error of law, unreasonable exercise of discretion, or misapprehension of important facts: *Kabir v Complaints Director (College of Registered Nurses of Alberta)*, 2025 ABCA 269 at para 4.

[6] I note that in her written materials submitted in the present application, Ms Monk has provided evidence from the bailiff involved with her eviction on April 23, 2025 that she eventually vacated the property voluntarily: the Edmonton Police Service did *not* have to

attend her home to assist with eviction as stated in my previous decision. I accept that evidence. I take it that counsel for TD simply made an understandable error when submitting argument on that point. In any event, while clearly important to Ms Monk, it is a mistake of fact that was irrelevant to determination of the issues before me at the time.

[7] The application for an extension of time to file an application for permission to appeal a decision of a single judge is denied.

[8] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order or judgment.

Written submissions filed on July 22, 2025 and August 1, 2025

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

Friesen J.A.

Submissions:

C.J. Mohr
for the Respondent

Applicant C. Monk