

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Pinkerton v. Sport Dispute Management Inc.*,
2025 BCCA 355

Date: 20251016
Docket: CA50710

Between:

Jennifer Pinkerton

Appellant
(Petitioner)

And

Sport Dispute Management Inc.

Respondent
(Respondent)

Before: The Honourable Justice Griffin
The Honourable Justice Iyer
The Honourable Justice Warren

On appeal from: An order of the Supreme Court of British Columbia, dated
May 8, 2025 (*Pinkerton v. Sport Dispute Management Inc.*,
Victoria Docket S248360).

The Appellant, on her own behalf: J. Pinkerton

Counsel for the Respondent: M.S. Finn

Written Submissions Received: September 12 and 15, 2025

Place and Date of Judgment: Vancouver, British Columbia
October 16, 2025

Written Reasons of the Court**Summary:**

The respondent sought costs under s. 23 of the Court of Appeal Act after the appellant abandoned her appeal. When the appellant disputed the respondent's entitlement to costs, the matter was referred to a division for summary determination under s. 21 of the Act. Held: Application dismissed. The appellant did not demonstrate a compelling reason to depart from the established practice that a respondent is entitled to costs where the appellant abandons the appeal.

Reasons for Judgment of the Court:

[1] This matter has been referred to us for summary determination under s. 21 of the *Court of Appeal Act*, S.B.C. 2021, c. 6. The question is whether the respondent is entitled to costs following the appellant's abandonment of her appeal.

[2] Briefly, the appellant, Jennifer Pinkerton, applied for judicial review after the respondent, Sport Dispute Management Inc. ("SDM"), commenced an administrative dispute resolution process to deal with a complaint filed against Ms. Pinkerton. SDM applied to strike the petition as premature because the hearing had not occurred and SDM had not issued a decision. On May 8, 2025, the chambers judge granted SDM's application and struck the petition as premature.

[3] Ms. Pinkerton filed a notice of appeal and applied to stay SDM's hearing of the complaint. That application was adjourned because Ms. Pinkerton had not filed a copy of the chambers judge's reasons. It became clear that she could not do so before the date set for hearing of the underlying complaint, and based on its policies SDM did not consent to adjourn that hearing. Ms. Pinkerton then filed a notice of abandonment of her appeal. SDM sought costs and scheduled an assessment before the registrar.

[4] The established practice is that a respondent is entitled to costs when an appellant abandons an appeal unless there is a "compelling reason" otherwise: *Hollander v. Mooney*, 2017 BCCA 238 at para. 93.

[5] Ms. Pinkerton makes two arguments. First, she says that test was established under the former statute, and the current *Court of Appeal Act* is different. Second, she says she did not lose the appeal, she only abandoned it because it became moot for reasons outside her control (the time to get the reasons transcribed and SDM's refusal to adjourn the hearing), so it would be unfair to order costs against her. SDM says the appeal had no chance of success and it should not be deprived of costs because its dispute resolution process is continuing as it should have.

[6] We would not accede to either of Ms. Pinkerton's arguments. First, there is no material difference between the former s. 23 and the current s. 44. Both provide that a successful party is entitled to costs of the appeal, unless a court or justice

orders otherwise. Second, the practice affirmed in *Hollander* is that appellants pay the costs of an abandoned appeal, not only an appeal where the appellant has lost.

[7] No authority has been cited to us, and we have not found any case, where an appeal abandoned because it is moot has been found to be a compelling reason to excuse the appellant from the usual costs obligation. In our view, the circumstances in this case do not give rise to a compelling reason.

[8] SDM seeks costs on Scale A. There is no reason to depart from the usual award.

[9] In conclusion, SDM is entitled to its costs on the ordinary scale.

“The Honourable Justice Griffin”

“The Honourable Justice Iyer”

“The Honourable Justice Warren”