

COURT OF APPEAL FOR ONTARIO

CITATION: Baker v. Van Dolder’s Home Team Inc., 2025 ONCA 829

DATE: 20251201

DOCKET: M56431 (COA-25-CV-0297)

Monahan J.A. (Motion Judge)

BETWEEN

Frederick Baker

Plaintiff  
(Respondent/Responding Party)

and

Van Dolder’s Home Team Inc.

Defendant  
(Appellant/Responding Party)

Tim Lawson, Brandon Kain, Marco Fimiani and John Gray, for the appellant<sup>1</sup>

Christopher Achkar, Filip Pejovic, Madison Chilvers, for the respondent

Jackie Esmonde, Stephen Moreau, and David McQuillan, for the proposed interveners, Income Security Advocacy Centre and Parkdale Community Legal Services

Heard: in writing

REASONS FOR DECISION

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<sup>1</sup> Neither the appellant nor the respondent made any written submissions on the motion.

[1] The Income Security Advocacy Centre (“ISAC”) and Parkdale Community Legal Services (“PCLS”) jointly seek leave to intervene as a coalition (the “Coalition”) and make submissions as a friend of the court in this appeal, pursuant to rr. 13.02 and 13.03(2) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. The respondent, Frederick Baker, consents to the Coalition’s intervention, and the appellant, Van Dolder’s Home Team Inc., does not oppose.

[2] The appeal concerns an employment matter and the enforceability of termination provisions in an employment contract. I set out the background of this appeal in greater detail in my reasons in *Baker v. Van Dolder’s Home Team Inc.*, 2025 ONCA 578, a previous motion in this matter. On that motion, I determined that the appeal raises issues that transcend the interests of the immediate parties, including the remedial purposes of the *Employment Standards Act* (“ESA”), and its aim of protecting employees, as well as whether there is a need for this court to bring greater certainty and clarity to the interpretation of termination provisions. On that basis, I granted leave for the Ontario Chamber of Commerce (“OCC”) to intervene and denied leave to the Canadian Association of Counsel to Employers (“CACE”).

[3] Having reviewed the Coalition’s present application to intervene, I am satisfied that the Coalition’s proposed submissions are likely to assist the court in the appeal. The Coalition is uniquely situated to provide a broader perspective on the adverse impact of termination clauses on vulnerable and low wage workers

and speak to the disparity in bargaining power and legal sophistication at issue in much of the employment law jurisprudence.

[4] I do not see significant duplication between the Coalition's proposed submissions and the respondent's arguments on appeal. While the respondent's factum makes passing references to the *ESA*'s remedial purpose, it does not address the specific purpose and intention of the Legislature in filling gaps in the common law or speak to the specific circumstances in which termination "at any time" may be excluded by the *ESA*.

[5] A further relevant consideration is the importance of ensuring that intervenors do not overwhelm the appeal or result in the court receiving submissions that unduly skew towards one of the parties: *Yatar v. TD Insurance Meloche Monnex*, 2022 ONCA 173, at para. 12. That was the basis for my denial of CACE's motion for leave to intervene, since both the OCC and CACE were more closely aligned with the appellant. In contrast, the ICAC and PCLS sought status as a single intervenor in the form of a coalition, rather than as separate intervenors, and their intervention more closely aligns with the respondent, thereby ensuring a balance of perspectives is brought to bear on the appeal.

[6] I therefore grant ISAC and PCLS leave to intervene as the Coalition, on substantially the same terms as set out in the order granting OCC leave to intervene, namely:

- (1) The Coalition shall take the record as it is and not supplement the record by way of its factum or otherwise;
- (2) The Coalition shall be permitted to serve and file a single joint factum of no more than 15 pages in length, within 14 days of the date of this decision;
- (3) The Coalition shall make efforts to avoid duplicating the submissions of the respondent;
- (4) The appellant shall be permitted to serve and file a supplementary factum of no more than 15 pages in length responding to the factum of the Coalition, within 30 days of delivery of the Coalition's factum;
- (5) The Coalition shall be permitted a maximum of 10 minutes, in total, to make oral submissions at the hearing of the appeal, with those 10 minutes divided between ISAC and PCLS as they see fit;
- (6) The appellant will be provided with an additional 10 minutes to make oral submissions responding to the Coalition; and
- (7) The Coalition shall not be entitled to, nor subject to, any costs of this motion or of the appeal.

"P.J. Monahan J.A."