

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Komer v. BCIMC Realty Corporation*,
2025 BCCA 429

Date: 20251128
Docket: CA51088

Between:

William Komer

Appellant
(Petitioner)

And

**BCIMC Realty Corporation, Yaletown 939 Holdings Inc.,
Director of the Residential Tenancy Branch, and
Attorney General of British Columbia**

Respondents
(Respondents)

Before: The Honourable Justice Griffin
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated
October 28, 2025 (*Komer v. BCIMC Realty Corporation*,
Vancouver Docket S257342).

Oral Reasons for Judgment

The Appellant, appearing in person:

W. Komer

Counsel for the Respondents, BCIMC
Realty Corporation and Yaletown 939
Holdings Inc.:

L.N. Mackie

Place and Date of Hearing:

Vancouver, British Columbia
November 28, 2025

Place and Date of Judgment:

Vancouver, British Columbia
November 28, 2025

Summary:

In a residential tenancy matter, the applicant was unsuccessful on an application to stay an order of possession. He delayed in seeking an additional stay, pending his application to vary the order of the justice in chambers. He made a request for an urgent application to the Registrar that was refused. He brings a fourth urgent application, ultimately seeking a hearing today of his application for a stay. Held: request for an urgent application denied. The Registrar’s decision denying an urgent application was principled and discretionary. There is no basis for the applicant’s claim that the Registrar displayed a reasonable apprehension of bias. Nor is it likely, given the reasons of the justice in Chambers dismissing his stay application, that another justice in Chambers would grant a stay.

GRIFFIN J.A.:

Nature of the Application

[1] The appellant, Mr. William Komer, brings an urgent application pursuant to Rule 57 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 [*CA Rules*], seeking to vary the decision of the Registrar dismissing Mr. Komer’s urgent application to set down an application for a stay of proceedings on short notice.

[2] For the following reasons, I would dismiss his urgent application.

[3] Rule 57 of the *CA Rules* provides:

57 (1) In this rule, “**urgent application**” means an application made under subrule (2) for permission to bring another application on shorter notice.

(2) In case of urgency, a person may apply for permission to bring an application on shorter notice than otherwise required under these rules by

(a) obtaining a hearing date for the application, and

(b) filing an urgent application in Form 7.

(3) On an urgent application, a justice or the registrar may do one or more of the following:

(a) order that an application be heard on shorter notice than otherwise required under these rules, including

(i) setting the date for hearing the application, and

(ii) setting the date by which documents in relation to the application must be filed and served;

(b) impose conditions or give directions related to the urgent application.

[4] Pursuant to s. 35(2) of the *Court of Appeal Act*, S.B.C. 2021, c. 6, a justice may vary the order of the registrar.

Background

[5] Since May 2021, Mr. Komer has been a tenant of a residential unit owned by the respondents, BCIMC Realty Corporation and Yaletown 939 Holdings Inc. (collectively, the “Landlord”). Since July 2025, he has not paid rent. A month later, the Landlord served him with a 10-day notice to end tenancy for unpaid rent.

[6] Mr. Komer’s appeal originates from a Residential Tenancy Branch (“RTB”) order that granted an order of possession of Mr. Komer’s rental unit to the Landlord. The order was upheld upon judicial review in the Supreme Court by Justice Kirchner with oral reasons on October 28, 2025.

[7] On October 28, 2025, Mr. Komer filed a notice of appeal. The same day, he filed an urgent application in this Court seeking an order permitting him to bring an application for a stay of proceedings pending the appeal, on shorter notice than required by the *CA Rules* (“First Urgent Application”).

[8] The Registrar granted his First Urgent Application and scheduled the hearing of the stay application before a justice in Chambers on an urgent basis, abridging the time requirements that would usually apply for bringing an application. The hearing of Mr. Komer’s stay application thus came before Justice Fisher in chambers the following week on November 6.

[9] On November 6, 2025, with oral reasons indexed as 2025 BCCA 421, Fisher J.A. dismissed Mr. Komer’s application for a stay. She found that Mr. Komer had not met the three-part test for a stay set out in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 at 341, 1994 CanLII 117. However, she provided time until the end of November for Mr. Komer to vacate his unit. The order of possession is enforceable as of Monday, December 1, 2025 (today is the Friday before that Monday).

[10] On November 13, 2025, Mr. Komer filed an application to vary Fisher J.A.'s order dismissing his stay application.

[11] On November 24, 2025, Mr. Komer filed a new urgent application seeking permission to bring a stay application on short notice ("Second Urgent Application"), pending his application to vary Fisher J.A.'s order. The same day, the Registrar heard his Second Urgent Application and dismissed it. The Registrar found that Mr. Komer had not demonstrated urgency in his conduct. The Registrar referred to the fact that Mr. Komer had not acted quickly to bring another stay application upon learning that Fisher J.A. dismissed his stay application on November 6.

[12] On November 25, 2025, Mr. Komer filed a third urgent application seeking permission to bring an interim stay of proceedings on short notice, pending his application to vary Fisher J.A.'s order ("Third Urgent Application"). He asked the Registrar to recuse himself from hearing his urgent application, alleging a reasonable apprehension of bias.

[13] On November 26, 2025, the Registrar wrote to Mr. Komer refusing to set his Third Urgent Application down for hearing and declining to recuse himself. The Registrar noted that Mr. Komer sought substantially the same relief as in his Second Urgent Application, which had been dismissed, and had not substantiated his allegation of bias.

[14] On November 27, 2025, Mr. Komer filed a fourth urgent application seeking permission for short notice to bring an application to vary the Registrar's decision refusing to recuse himself and dismissing his urgent application ("Fourth Urgent Application"). Mr. Komer tells me today that I am confused by the nature of what he filed, and he is not seeking to vary the Registrar's decision refusing to recuse himself. However, he is seeking to vary the Registrar's decision dismissing his urgent application made on November 24, 2025. In other words, Mr. Komer seeks permission for short notice to vary the Registrar's decision. Ultimately the relief Mr. Komer is seeking, if his urgent application is granted, is an order allowing him to proceed with a hearing today of his stay application. At the same time, he wants

permission to bring today his application for an extension of time to file materials for his application to vary Fisher J.A.'s order. He has requested that today's Fourth Urgent Application be before a justice in chambers rather than the Registrar.

[15] As I am the judge in chambers today, this Fourth Urgent Application has been referred to me.

[16] We are hearing this matter during the hours normally reserved for a lunch break because counsel for the respondent is otherwise in a full day court hearing. I too have a full chambers list today.

Analysis

[17] On reviewing the procedural history, respectfully I see this Fourth Urgent Application to really be about Mr. Komer's inability to accept the decision of the Registrar on the Second Urgent Application.

[18] I see no merit in an application to vary the Registrar's decision to dismiss the Second Urgent Application. The reasons of the Registrar on the Second Urgent Application provide a principled basis for his decision, which was discretionary, and so will be given considerable deference.

[19] Justice Fisher dismissed Mr. Komer's stay application on November 6, 2025, with oral reasons for judgment. While the reasons for judgment were oral, Mr. Komer understood the result. He did not act immediately to bring the Second Urgent Application, although by this time he was clearly familiar with the process and with bringing stay applications.

[20] In his affidavit filed November 26, 2025, Mr. Komer deposes that his concussion symptoms made it difficult to review Fisher J.A.'s reasons for judgment, which were not released until November 21, 2025. I do not doubt that he has difficulties, but he was able to bring the First Urgent Application and his stay application before Fisher J.A. before the reasons for judgment of the trial court were produced in written form: Fisher J.A. reasons at para. 11.

[21] I see no realistic prospect that Mr. Komer will succeed in establishing a basis for interference with the Registrar's refusal to grant the Second Urgent Application; likewise with the Registrar's refusal to entertain a Third Urgent Application. This weighs heavily against granting this Fourth Urgent Application.

[22] I appreciate that Mr. Komer will lose his tenancy if no stay is granted, but his arguments have been made before Fisher J.A. and dismissed. I also appreciate that he says Fisher J.A. made errors and showed a reasonable apprehension of bias. However, in my view, there is little likelihood that another judge in chambers will form a different view than Fisher J.A. and grant him a stay, or that he will ultimately succeed on an application to review Fisher J.A.'s decision. Permitting him to bring another urgent application is not in the interests of justice.

[23] As for the claim of bias, as set out in *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25 at para. 20, the longstanding test for a reasonable apprehension of bias is:

... what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly. [Citation omitted.]

[24] Counsel for the respondent points out that Mr. Komer is fairly quick to allege reasonable apprehension of bias. He has made similar allegations against Kirchner J. who he suspects is deliberately delaying the release of his reasons, and has made similar allegations against Fisher J.A.

[25] In my view, there is no basis for the suggestion put before me that there is a reasonable apprehension of bias in the Registrar's ability to consider and refuse repeated duplicative requests by Mr. Komer for an urgent application. Rather, the raising of this suggestion on this Fourth Urgent Application gives me concern that Mr. Komer is simply trying to get before another judge to make the same argument he has lost already, engaging in judge-shopping, rather than accepting the Registrar's discretionary decision refusing the Second Urgent Application.

[26] For these reasons, I decline Mr. Komer's Fourth Urgent Application seeking short notice to vary or review the Registrar's decisions declining his urgent applications.

Disposition

[27] I dismiss Mr. Komer's urgent application.

"The Honourable Justice Griffin"