COURT OF APPEAL FOR ONTARIO

CITATION: Tehama Group Inc. v. Pythian Services Inc., 2026 ONCA 326
DATE: 20260505
DOCKET: COA-25-CV-1176

George, Copeland and Gomery JJ.A.

BETWEEN

Tehama Group Inc.

Applicant (Appellant)

and

Pythian Services Inc. and Pythian Services USA Inc.

Respondents (Respondents)

Michael Schafler, Chloe A. Snider and Ekin Cinar, for the appellant

Alan Merskey and Kate Byers, for the respondents

Heard and rendered orally: April 24, 2026

On appeal from the judgment of Justice Jana Steele of the Superior Court of Justice, dated July 14, 2025, with reasons reported at 2025 ONSC 4134.

REASONS FOR DECISION

[1] Tehama Group Inc. (“Tehama”) appeals the dismissal of its application to set aside an arbitral award under Article 34 of the *UNCITRAL Model Law on*

International Commercial Arbitration,[1] set out in Schedule 2 to the *International Commercial Arbitration Act, 2017*, S.O. 2017, c. 2, Sched. 5.

[2] The arbitrator, an accountant, was appointed by the parties to determine whether Tehama was entitled to receive an additional $10 million USD from the respondents ("Pythian"). The arbitration turned on the calculation of the adjusted EBITDA[2] of the business that Pythian acquired from Tehama in the year after closing. The arbitrator concluded that the earnings target that would oblige Pythian to make the additional post-closing payment to Tehama was not met.

[3] In its application, Tehama alleged that the process followed by the arbitrator was contrary to the parties' arbitration agreement or violated the principles of natural justice. The application judge rejected these allegations. She found that the arbitrator followed the process agreed upon by the parties; that Tehama was not deprived of a right to make submissions; that the arbitrator did not breach natural justice by not explicitly addressing two procedural objections raised by Tehama in the reasons for the final award; and that the arbitrator did not make the award based on a new theory not advanced by Pythian. The application judge stated that, even if she had found any breach of natural justice, she would have exercised her discretion not to set aside the award.

[1] Adopted by the United Nations Commission on International Trade Law on June 21, 1985, and as amended on July 7, 2006.
[2] Earnings before interest, tax, depreciation and amortization.

[4] In its appeal to this court, Tehama contends that the application judge erred in law by assessing the alleged breaches of natural justice on a lower standard of procedural fairness because the arbitrator was a chartered accountant as opposed to a person with legal training.

[5] We disagree. The application judge set out the relevant principles governing her assessment of Tehama's allegations. She then made a series of findings of fact based on her interpretation of the parties' arbitration agreement and the application record. Her reasons, read as a whole, do not show that the arbitrator's lack of legal training drove her analysis. She repeatedly found that the arbitrator complied with the process that the parties had agreed upon. She observed that the choice of process was undoubtedly informed by the nature of the parties' dispute and the arbitrator's expertise. This does not mean that she held the arbitrator to a lower standard of procedural fairness.

[6] We do not find any reviewable error in the application judge's reasons. Tehama is seeking to re-litigate findings of fact that were open to the application judge to make on the record.

[7] The appeal is dismissed, with all-inclusive partial indemnity costs of $40,000 to the respondents.

"J. George J.A."
"J. Copeland J.A."
"S. Gomery J.A."