

In the Court of Appeal of Alberta

Citation: Reinink v Alberta (Labour Relations Board), 2025 ABCA 1

Date: 20250103
Docket: 2401-0273AC
Registry: Calgary

Between:

Renxian Reinink

Applicant

- and -

Alberta Labour Relations Board and Health Sciences Association of Alberta

Respondents

**Reasons for Decision of
The Honourable Justice Jolaine Antonio**

Application for Permission to Appeal
Application to Extend Time to File Notice of Appeal
Application to Restrict Court Access

**Reasons for Decision of
The Honourable Justice Jolaine Antonio**

[1] The applicant seeks three orders: permission to appeal a 2020 decision of the Alberta Labour Relations Board, an extension of time to file the permission to appeal application, and an order for restricted court access.

[2] As detailed in *Reinink v Alberta Labour Relations Board*, 2022 ABCA 343, the applicant filed a complaint alleging her union, the Health Sciences Association of Alberta, had failed in its duty of fair representation. Her complaint was summarily dismissed. She applied to the Board under s 12(4) of the *Labour Relations Code*, RSA 2000, c L-1 for a reconsideration of its decision. That application was summarily dismissed (the Reconsideration Decision). The applicant applied to the Court of Queen's Bench for judicial review of the Reconsideration Decision. The application was dismissed. The applicant appealed that decision to this Court. The appeal was dismissed. The applicant sought leave to appeal this Court's judgment to the Supreme Court of Canada in 2023. The application for leave was dismissed: *Reinink v Alberta Labour Relations Board*, 2022 ABCA 343, leave to appeal to SCC refused, 40522 (11 May 2023).

[3] The applicant now seeks to appeal the Reconsideration Decision under s 145.1(1) of the *Code*. She applies for permission and an extension of time to appeal under this provision.

[4] The Board is named as a respondent in this matter and has made submissions appropriately focused on providing information about its home statute: *Ontario (Energy Board) v Ontario Power Generation Inc*, 2015 SCC 44 at paras 52, 53. The Board submits s 145.1(1) of the *Code* is not a general appeal provision. Rather, it provides for appeals from the narrow set of decisions made under s 145(3).

[5] As noted, the decision the applicant seeks to appeal was made under s 12(4), not s 145(3). Therefore s 145.1(1) does not provide her with a route to appealing the Reconsideration Decision. The appropriate avenue for reviewing a decision made under a 12(4) was to seek judicial review pursuant to s 19(2) of the *Code*. As noted, the applicant has exhausted that avenue.

[6] To receive an extension of time, the applicant must establish the following:

- a) She had a bona fide intention to appeal while the right to appeal existed and there was some special circumstance that would excuse or justify the failure to appeal;
- b) There is an explanation for the delay and the other side was not so seriously prejudiced by the delay that it would be unjust to disturb the judgment having regard to the position of both parties;

- c) The applicant has not taken the benefits of the judgment from which the appeal is sought; and
- d) The appeal would have a reasonable chance of success if allowed to proceed: *Pe Ben Oilfield Services v WCB*, 2018 ABCA 139 at para 4, citing *Cairns v Cairns*, 1931 CanLII 471 (AB CA), [1931] 4 DLR 819 at 826-827 (Alta SC (AD)).

These factors are “weighed to determine if it is in the interest of justice to permit the appeal to proceed”: *Piikani Nation v Kostic*, 2017 ABCA 350 at para 21.

[7] The proposed appeal does not have a reasonable chance of success. As explained above, s 145.1(1) does not provide this Court with jurisdiction to hear an appeal from the Reconsideration Decision. The applicant has already challenged the Reconsideration Decision via judicial review and exhausted all avenues of appeal therefrom. The proposed appeal is an attempt at relitigating final judgments and would constitute an abuse of process: *Danyluk v Ainsworth Technologies Inc*, 2001 SCC 44 at para 20; *Behn v Moulton Contracting Ltd*, 2013 SCC 26 at paras 39-41. The effect of the prior judgments is that courts have already determined the proposed appeal to be unmeritorious.

[8] The applicant submits her time to file should be extended because the COVID-19 pandemic hindered her ability to hire a lawyer and access the courts, and she was not advised of her right to appeal within the appeal period. I observe the applicant was able to pursue other applications and appeals during the pandemic. I do not accept the applicant had a *bona fide* intention to appeal, as distinct from an intention to pursue judicial review, within the 30-day period.

[9] The applicant has not persuaded me an extension of time should be granted. The application for permission to extend time is denied.

[10] Had it been necessary to consider the application for permission to appeal, I would have denied it. The proposed appeal does not present a question that merits the attention of a panel of this Court, and it would not be in the interests of justice to allow it to proceed.

[11] The applicant also seeks to have the style of cause in this matter varied to replace her name with initials. She submits this is necessary to protect her private information.

[12] Altering the style of cause as requested would be a form of restriction on access to court documents. Such restrictions are exceptional in light of the strong presumption for public access to court documents: *Sherman Estate v Donovan*, 2021 SCC 25 at paras 1-3 [*Sherman Estate*]. I have discretion to restrict access in exceptional circumstances where court openness poses a serious risk to an important public interest, the restriction is necessary to prevent the risk, and when the benefits of such an order outweigh its negative effects: *Sherman Estate* at para 3; *JM v*

EM, 2022 ABCA 49 at para 56. I am not satisfied such exceptional circumstances exist here. The application for a restricted access order is denied.

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

Application heard on December 18, 2024

Reasons filed at Calgary, Alberta
this 3rd day of January, 2025

Antonio J.A.

Appearances:

Applicant, R. Reinink

T.S. Zurbrigg
for the Respondent, Alberta Labour Relations Board

D. Scott, KC
for the Respondent, Health Sciences Association of Alberta