

CANADA / JUDGMENT

Chayil Church v. Soneil Pickering Inc.

2025 ONCA 809

COURT

Court of Appeal for Ontario

DECIDED

24 November 2025

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Chayil Church v. Soneil Pickering Inc.

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Judges

Thorburn, Julie

Subject

Civil

Decision Content

COURT OF APPEAL FOR ONTARIO

CITATION: Chayil Church v. Soneil Pickering Inc., 2025 ONCA 809

DATE: 20251124

DOCKET: M56368 (COA-25-CV-1241)

Thorburn J.A. (Motion Judge)

BETWEEN

Chayil Church

Applicant (Moving Party)

and

Soneil Pickering Inc.

Respondent (Responding Party)

Jeffrey Radnoff and Asad Khan, for the moving party

Sam Rogers and Dan Poliwada, for the responding party

Heard: November 13, 2025

REASONS FOR DECISION

- [1] This is a motion brought by Chayil Church (“the Church”) for injunctive relief restraining the termination of its lease agreement by the respondent Soneil Pickering Inc. (“the Landlord”), until 30 days after the appeal decision is rendered. As a precautionary measure, the Church also seeks an order staying termination of the lease.
- [2] The Church and its predecessors have continuously occupied space in the current Landlord’s premises since 1992. The lease agreement was amended many times with previous landlords and expires in 2028.
- [3] In April 2024, the Landlord purchased the property. In May 2024, after proposing that the Church pay a nearly two-fold increase in rent which the Church refused, the Landlord moved to terminate the lease on 30 days’ notice. In serving the Notice of Termination, the Landlord relied on a clause in a 1998 amendment to the lease agreement.
- [4] The Church brought an application to invalidate the Notice of Termination, which was dismissed.
- [5] The Church has appealed the decision dismissing the application and has now perfected its appeal. The validity of the termination provision is at issue on this appeal.
- [6] The Church brings this motion for an injunction restraining termination of the lease until 30 days after the appeal decision has been rendered. The Church claims an injunction should be granted because (i) there is a serious issue to be tried in respect of the respondent’s right to terminate the 32-year lease on 30 days’ notice, (ii) refusal to grant the injunction would cause irreparable harm to the Church, and (iii) the balance of convenience favours the Church.

A. The Test for Injunctive Relief [7] A single judge of this court has jurisdiction to grant an interim order under s. 134(2) of the Courts of Justice Act, R.S.O. 1990, c. C.43, if it is considered just to prevent prejudice to a party pending the appeal.

- [8] Section 134(2) provides a single judge of this court jurisdiction to grant an interlocutory injunction preventing a landlord from taking possession of the leased premises pending the appeal: *Hakim Optical Laboratory Ltd. v. 1570710 Ontario Ltd.*, 2010 ONCA 627, at paras. 3-6.
- [9] The test under s. 134(2) is the same as that for granting a stay pending appeal pursuant to r. 63.02(1): *Sub-Prime Mortgage Corporation v. Kaweesa*, 2021 ONCA 215, at para. 46. It is based on the test for an interlocutory injunction set out by the Supreme Court of Canada in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, at p. 334.
- [10] Therefore, a motion for injunctive relief will be granted where there is:
- (i) a serious issue to be adjudicated on appeal,
 - (ii) the moving party will suffer irreparable harm if the relief is refused, and
 - (iii) the balance of convenience favours the moving party.

Serious Issue to be Tried

- [11] The first branch of the *RJR-MacDonald* test is a low threshold: *RJR-MacDonald*, at p. 337.
- [12] The issue in this case involves the principles of contractual interpretation of a commercial lease.
- [13] The Supreme Court in *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633, at paras. 46-47, held that the interpretation of commercial agreements favours a practical approach in which the overriding concern is to determine the intention of the parties and the scope of their understanding. The contract should be read as a whole, giving the words their ordinary meaning, consistent with the surrounding circumstances known when the agreement was formed.
- [14] More recently in *Bennett Law Chambers Professional Corporation v. Camcentre Holdings Inc.*, 2022 ONCA 658, 164 O.R. (3d) 161, at para. 48, Feldman J.A. for this court held that:
- [T]he correct approach to interpreting a notice to vacate a commercial lease is fairness rather than technicality. That approach requires the court to consider and assess what the tenant would have understood about the intent and effect of the Notice of Termination [Emphasis added.]
- [15] The Church claims that, in keeping with the Supreme Court decision in *Sattva*, had the application judge taken a practical approach to the interpretation of the lease, the 1998 termination provision would not have been valid.
- [16] The Church claims the application judge failed to consider important issues in the factual matrix. The lease was amended and extended many times during which, leased space was increased and decreased, termination provisions were provided for in the context of specific terms in the lease, those terms changed over time, and the Church spent money to improve the space.

- [17] For example, the original 1992 five-year lease did not contain an early termination clause. The 1998 lease amendment required the landlord to give only 30 days' notice. The 2008 and 2011 amendments provided for termination of the lease on not less than six months' notice if the landlord wished to demolish, renovate or redevelop the property. Those provisions have never been removed.
- [18] The Church submits that the application judge failed to consider the following aspects of the factual matrix:
- i. the only reason the provision in the 1998 amendment was included was because, at that time, the Church was not sure if it needed all the space it had been leasing;
 - ii. both parties knew when they entered into the 2020 amended lease that the Church could not move all of its operations within 30 days without interfering with its operations;
 - iii. the Church has since invested significant sums to improve the property and has leased as much as 44,222 square feet of space; and
 - iv. the 2020 amendments specifically required the Church to carry out leasehold improvements.
- [19] Second, the Church submits that the application judge did not interpret the contract as a whole. They submit that the application judge failed to address the fact that there were conflicting amendments as the 1998 provision allows the Landlord to terminate on 30 days' notice without cause, while the 2008 and 2011 provisions provide that the Landlord cannot terminate for redevelopment purposes without giving the Church six months' notice.
- [20] Third, the 30-day notice provision has never been specifically referenced in any of the renewal agreements since 1998. By contrast, the requirement to give six months' notice in the event the Landlord wishes to demolish renovate or redevelop was contained in several amendments to the lease agreement.
- [21] In 2024, the parties signed an Estoppel Certificate which provides that, "The Lease has not been altered or amended except as expressly set out herein and is in full force and effect and is enforceable against the Tenant in accordance with its terms, save and except" for the 13 amendments signed by the parties over the years.
- [22] However, the Estoppel Certificate does not resolve the underlying contractual ambiguity claimed by the Church. The Estoppel Certificate includes the 1998 amendment which the Landlord relies on, and the 2008 and 2011 amendments which have different termination provisions that differ from the 1998 amendment and seem to conflict in some ways with the 1998 amendment. As such, there are underlying issues to resolve.
- [23] The Landlord does not dispute that the threshold to establish a serious issue is not high. When seen through the lens of the interpretation of agreements set out in Sattva, these considerations are serious issues to be determined on appeal.

Irreparable Harm

- [24] The Church also claims that the 30-day termination clause will result in irreparable harm to the Church and its community. The Church occupies a very large space. The Church is a charity whose primary purpose is the advancement of religion and charitable efforts including relieving poverty and building strong family. Forty-one ministries volunteer their services and perform charitable work. This includes rehabilitation and reintegration programs for offenders, and work externally with public institutions such as prisons, hospitals, nursing homes and halfway houses. The Church also provides food security, delivers a provincial housing subsidy program, wellness programs, home hospice care and nursing home visitation.
- [25] The Church submits that it has made efforts but has been unable to secure alternate space yet and that it cannot move on short notice without significant disruption to the programs and those in the community they serve.
- [26] Further, allowing for termination of the lease at this stage risks rendering the appeal moot.
- [27] I find this satisfies the test for irreparable harm.

Balance of Convenience

- [28] I am also satisfied that the balance of convenience favours the Church, as it is continuing to pay rent in accordance with the lease, it has no history of non-payment and has provided an undertaking to pay damages the Landlord may suffer because of an order for injunctive relief.
- [29] The Church agrees to an early date for a hearing of this appeal. As such, the balance of convenience favours the Church.

B. Disposition [30] For these reasons, the motion for injunctive relief is granted. On the agreement of both parties, costs are reserved to the panel hearing the appeal.

- [31] The moving party submits that this appeal be heard on an urgent basis. In oral submissions, the responding party acknowledged that they could file their responding materials within 10 days if necessary. At the request of the moving party, the parties may seek an early appeal date from the court.

“Thorburn J.A”

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