

CANADA / JUDGMENT

## Choi v. Blower

2025 BCCA 316

### COURT

British Columbia Court of Appeal

### DECIDED

9 September 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCCA 316 Choi v. Blower

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

Choi v. Blower,

2025 BCCA 316

Date: 20250909

Docket: CA50894

Between:

Munchang Choi

Appellant

(Plaintiff)

And

Steevy Blower, Jasmeet Ball, Kabir Kandola, Strive Living Society

Respondents

(Defendants)

Before:

The Honourable Justice Iyer

(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated

March 31, 2025 (Choi v. Strive Living Society, Vancouver Docket S250568).

The Appellant, on his own behalf:

M. Choi

Counsel for the Respondents:

M.S. Desmarais

Written Submissions Received:

August 12, 13, 21,

22, 26, 27, 2025

Place and Date of Judgment:

Vancouver, British Columbia

September 9, 2025

Summary:

The applicant seeks an extension of time to apply for leave to appeal an order staying his civil action on behalf of his son until he retains a lawyer or the Public Guardian and Trustee agrees to act as a litigation guardian for his son. He also applies for an order that no fees be payable.

HELD: The application is dismissed. Rule 20-2(4) does not permit a judge to grant exemptions. As the proposed appeal is bound to fail, an extension of time is not warranted.

Reasons for Judgment of the Honourable Justice Iyer:

- [1] Mr. Choi applies for an extension of time to apply for leave to appeal an order staying his civil action on behalf of his son until he retains a lawyer or the Public Guardian and Trustee ("PGT") agrees to act as a litigation guardian for his son. He also applies for an order that no fees be payable.
- [2] Mr. Choi requested that his applications be heard in writing. The respondents did not object and I granted Mr. Choi's request.
- [3] The order Mr. Choi seeks to appeal was made on March 31, 2025. Under Rule 6(2)(a), he had to file his notice of appeal or, if necessary, apply for leave to appeal by April 30, 2025. Mr. Choi filed an application for leave to appeal on August 12, 2025. That means, unless an extension of time is granted, there is no appeal before the Court.
- [4] The legal dispute between Mr. Choi and the respondents started when Mr. Choi filed a notice of civil claim against them. Mr. Choi's son, Seongwon Choi, was living in a residential facility operated by the respondent, Strive Living Society ("Strive"). Mr. Choi did not name his son as a party. His notice of civil claim stated:

I am filing this claim on behalf of Seongwon as his legal guardian, seeking remedies for the failure of Strive Living Society and its staff to provide adequate and promised care, which has led to emotional and physical distress for my son.

- [5] Mr. Choi also filed a petition seeking to set aside the decision of Strive to discharge Seongwon from the facility and an order that he be allowed to return to it.
- [6] Subsequently, Mr. Choi amended his claim. He removed himself as a party and added his son. He then filed an application to be appointed as litigation guardian for his son in relation to both the civil action and petition.
- [7] The respondents applied for a stay of the claim and petition. They argued Rule 20-2(4) required Mr. Choi to either retain a lawyer through whom to act as litigation guardian or have the PGT appointed to act as his son's litigation guardian.
- [8] Mr. Choi applied to attend the chambers hearing remotely, and permission to do so was granted. However, he attended the hearing in person with his son. The chambers judge granted the respondents' application and ordered that the action be stayed until Mr. Choi retained a lawyer or the PGT agreed to act. The judge explained to Mr. Choi that he had no power to appoint Mr. Choi as litigation guardian unless Mr. Choi retained a lawyer and, understanding Mr. Choi's limited financial means, strongly encouraged him to contact the office of the PGT.
- [9] The factors governing an application for an extension of time to begin an appeal, or apply for leave to appeal, were set out in *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256 at 259-260 (C.A.). They are:
  - 1) Was there a bona fide intention to appeal?
  - 2) When were the respondents informed of the intention?
  - 3) Would the respondents be unduly prejudiced by an extension of time?
  - 4) Is there merit in the appeal?
  - 5) Is it in the interest of justice that an extension be granted?
- [10] The overriding question is whether the interests of justice would be served by granting the extension: *Davies* at 260-261. However, regardless of the other *Davies* factors, if the appeal is doomed to fail an extension of time should not be granted: *Stewart v. Postnikoff*, 2014 BCCA 292 at para. 6; *Grewal v. Grewal*, 2022 BCCA 414 at para. 36.
- [11] Therefore, I will first consider the merits of Mr. Choi's proposed appeal. He identifies his grounds of appeal as follows:
  - 1. The lower court erred in law by misapplying Rule 20-2 of the Supreme Court Civil Rules, requiring a litigation guardian for a disabled child even where the co-plaintiff parent is competent and capable of pursuing the matter in his own name.

2. The court failed to consider overwhelming evidence of the Appellant's psychiatric disability (Major Depressive Disorder with psychotic features) and multiple medical reports, which support his request for written proceedings and accommodations.
3. The Appellant, a self-represented litigant and full-time caregiver to his son with ASD, ADHD, OCD, and epilepsy, was denied both procedural fairness and disability accommodations when: a. He was compelled to attend court in person due to the sudden, unauthorized termination of his son's Respite Home placement by the Respondent Strive Living Society; b. His spouse was abroad for emergency care duties for her terminally ill mother; c. He had no alternative care support for his son.
4. The Appellant, while mentally and physically overwhelmed, was pressured to sign a one-sided Order without independent explanation or neutral oversight.
5. The Court's denial of accommodations violates: a. Section 15 of the Charter (equality rights), b. Sections 5 & 6 of the Accessible Canada Act (statutory obligation to proactively remove procedural barriers), c. Sections 8 and 14 of the BC Human Rights Code, d. and the common law principle of audi alteram partem.

[12] With respect to the first ground, Rule 20-2(4) states: "A litigation guardian must act by a lawyer unless the litigation guardian is the Public Guardian and Trustee". The Rule is mandatory; a court cannot grant an exception to it to allow Mr. Choi to represent his son unless he retains a lawyer: *Sahyoun v. Ho*, 2015 BCCA 235 at para. 11.

[13] Mr. Choi also refers to proceeding in his own name. However, that was not what Mr. Choi sought in his notice application, and it is not what he told the chambers judge. He said:

MUNCHANG CHOI: I apply for two applications. First one is for litigation guardian for my disability son because he is unable to understand any word or participate any legal proceedings.

[14] I conclude that the appeal is bound to fail on the first ground.

[15] With respect to the second ground, in his March 3, 2025, notice of application to be appointed as Seongwon's litigation guardian, Mr. Choi requested that the application be heard in writing, but not for reasons related to disability. Instead, he referred to efficiency:

1.2 I also request that this application be determined without a hearing, based on written submissions, to ensure an expedited resolution and to minimize undue procedural delays.

[16] Mr. Choi then filed a requisition asking to attend the March 31, 2025, hearing remotely and that request was granted. (He filed a requisition requesting that a different hearing, scheduled for May 7, 2025, be in writing, which was refused.)

[17] Since Mr. Choi did not tell the court either before or at the March 31 hearing that his request was for disability-related reasons, this ground of appeal cannot succeed.

- [18] I reach the same conclusion on Mr. Choi's procedural fairness argument. Mr. Choi was not compelled to attend the hearing in person. He had permission to attend remotely.
- [19] Mr. Choi's argument that the Order was "one-sided" and he signed it under duress must also fail. The Order was "one-sided" only in the sense that the respondents were successful. It corresponded to the chamber's judge's decision. Mr. Choi does not explain why this gave rise to duress.
- [20] Finally, Mr. Choi's claim that the court or chambers judge denied Mr. Choi disability-based accommodations must fail because, in respect of the order under appeal, Mr. Choi did not seek such accommodations.
- [21] For these reasons, I conclude that Mr. Choi's underlying appeal is bound to fail and I dismiss his application for an extension of time to commence the appeal or apply for leave. That means it is not necessary to consider the no-fee application.

"The Honourable Justice Iyer"

---

### Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE      <https://www.bccourts.ca/jdb-txt/ca/25/03/2025BCCA0316.htm>

CASE PAGE              <https://chat.esheria.ai/case-law/canada/choi-v-blower-2025>

Prepared on 27 October 2026 · Esheria