

CANADA / JUDGMENT

Yeoh v. Rawat

2025 BCCA 388

COURT

British Columbia Court of Appeal

DECIDED

22 October 2025

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2025 BCCA 388 Yeoh v. Rawat COURT OF APPEAL FOR BRITISH COLUMBIA Citation: Yeoh v. Rawat, 2025 BCCA 388 Date: 20251022 Docket: CA50941 Between: Fayth Hui Ching Yeoh Appellant (Plaintiff) And Sharnjit Rawat and Manish Rawat Respondents (Defendants) Before: The Honourable Madam Justice Horsman The Honourable Justice Fleming The Honourable Justice MacNaughton On an application to vary: An order of the Court of Appeal for British Columbia, dated September 26, 2025 (Yeoh v. Rawat, Vancouver Docket CA50941). Oral Reasons for Judgment The Appellant, appearing in person: F.H.C. Yeoh The Respondents, appearing in person: S. Rawat M. Rawat Place and Date of Hearing: Vancouver, British Columbia October 22, 2025 Place and Date of Judgment: Vancouver, British Columbia October 22, 2025 Summary: The appellant applies to vary the September 26, 2025, order of a justice in chambers refusing her application for a stay. Held: The appellant did not serve both respondents with the notice of appeal within the time requirements of the Court of Appeal Rules. Therefore, the appeal has not been properly brought. The order of the chambers judge should be vacated as there was, at the time of the order, no existing appeal.

- [1] HORSMAN J.A.: These are the reasons of the Division on this application.
- [2] The appellant applies to vary the September 26, 2025, order of Justice Groberman, in chambers (the "Chambers judge"), dismissing her application for a stay of an order requiring her to pay costs pending the determination of her appeal of the dismissal of her civil claim. The respondents to the appeal both appeared before us today.
- [3] At the outset of the hearing, the Court raised an issue with Ms. Yeoh as to whether her notice of appeal had been served in accordance with the requirements of the Court of Appeal Rules, copies of which we provided to her. Having heard Ms. Yeoh's submissions, and for the reasons that follow, we are of the view that this appeal has not been properly brought.
- Chronology of events
- [4] The relevant chronology is as follows: · On June 10, 2025, the appellant filed a notice of civil claim, seeking damages relating to her purchase of a dog from the respondents. She alleged that the respondents misrepresented the health of the dog and that she has incurred expenses in dealing with the dog's undisclosed health and behavioural issues. · On August 5, 2025, the respondents filed a notice of application seeking an order striking the notice of

civil claim pursuant to R. 9-5(1) of the Supreme Court Civil Rules, without leave to amend. · On August 26, 2025, the respondents' application was heard in Supreme Court chambers. On that day, the Supreme Court chambers judge granted orders: (1) striking the appellant's claim, and (2) requiring the appellant to pay the respondents lump sum costs of \$3,000. · On September 2, 2025, the appellant filed a notice of appeal. · On September 18, 2025, the appellant filed an application in this Court seeking a stay of the order that she pay costs pending the determination of her appeal. · On September 26, 2025, the stay application came before the Chambers judge in Court of Appeal chambers. By this point, neither respondent had entered an appearance to the appeal, and they did not appear on the stay application. In response to inquiries from the Chambers judge at the hearing, the appellant stated that she had served the stay application on the respondents. · In oral reasons issued on September 26, 2025, the Chambers judge dismissed the application. · On October 1, 2025, the appellant filed an application to vary or cancel the decision of the Chambers judge. This application was scheduled for hearing before this division today. · On October 15, 2015, the Court of Appeal Registrar sent a letter to the appellant directing her to file an affidavit of service "confirming that the Notice of Appeal was properly served on both respondents" in accordance with R. 4(1) of the Court of Appeal Rules. · On October 15, 2025, the appellant filed an affidavit of service (sworn on October 8, 2025) stating that the notice of appeal and the application to vary the order of the Chambers judge was personally served on one of the respondents (Manish Rawat) on October 2, 2025.

- [5] We note that the respondent Manish Rawat stated to us today that the process server did not actually serve him on October 2, 2025, but rather served his brother. In any event, Mr. Rawat acknowledges that both he and his wife, the other respondent who is also present here today, now have a copy of the notice of appeal. We are satisfied that there has been effective service of the notice of appeal, at least as of today's date.
- [6] Thus, it appears from the materials that the notice of appeal was served more than 30 days after the date of pronouncement of the order under appeal, and it was not served personally on both respondents as required by R. 4(1) of the Court of Appeal Rules. Discussion
- [7] Rule 6(2)(a) of the Court of Appeal Rules requires that a notice of appeal be filed and served no more than 30 days after the order appealed from is pronounced. Proper service of the notice of appeal is required to commence an appeal. Rule 22 of the Court of Appeal Rules provides: 22 An appeal is brought for the purposes of these rules as follows:
- (a) if leave to appeal is not required, when the appellant
 - (i) files the notice of appeal, and (ii) serves a copy of the filed notice of appeal on each respondent named in the notice of appeal;
 - (b) if leave to appeal is required, when leave to appeal is granted. [Emphasis added.]

- [8] As observed by Justice Harris in *Wu v. Murray*, 2023 BCCA 270 at para. 12: "A failure to serve a copy of the filed notice of appeal on each named respondent within the timeframe prescribed by the Rules is a failure to bring the appeal."
- [9] The appellant did not serve a copy of the filed notice of appeal on each named respondent within 30 days of the order appealed from. It is open to the appellant to seek an extension of time to bring her appeal. However, she has not brought such an application to date. Therefore, her appeal has not yet been brought, and it had not been brought at the time of her stay application before the Chambers judge.

Disposition

- [10] For these reasons, we would declare that the appellant's appeal has not been brought as of this date. It follows that the order of the Chambers judge should be vacated as there was, at the time of the order, no existing appeal.
- [11] If the appellant wishes to proceed with this appeal, she must, as a first step, obtain an extension of time to serve her notice of appeal on both respondents in compliance with the requirements of the Court of Appeal Rules. "The Honourable Madam Justice Horsman" "The Honourable Justice Fleming" "The Honourable Justice MacNaughton"

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