

COURT OF APPEAL FOR ONTARIO

CITATION: Royal Bank of Canada v. 1512632 Ontario Inc. (Cheema & Sons Transport), 2026 ONCA 618

DATE: 20260825¹

DOCKET: M57413 & COA-26-OM-0341

Osborne J.A. (Motion Judge)

BETWEEN

Royal Bank of Canada

Applicant

and

1512632 Ontario Inc. o/a Cheema & Sons Transport and 2856586 Ontario Inc.

Respondents (Appellants/Debtors)

Kirpal Singh, for the appellants/debtors

Matilda Lici, for Grant Thornton Limited in its capacity as Receiver

Louis Raffaghello, for Gateway Landscaping Group (2005) Inc. and 8412-8424 Goreway Drive Holdings Inc., the Purchaser

Pathik Baxi, for Satish Chopra, Second Mortgagee

Heard: August 14, 2026

REASONS FOR DECISION

¹ These reasons were released to the parties on August 25, 2026 and published on August 31, 2026.

[1] These motions arise in the context of an ongoing receivership proceeding that continues in the Superior Court.

[2] Terms in this Endorsement not defined herein have the meaning given to them in the motion materials unless otherwise stated.

[3] On application by the Royal Bank of Canada (RBC) following loan repayment and other defaults, the Receiver was appointed over the property of the appellants, Debtors, 1512632 Ontario Inc. and 2856586 Ontario Inc. by order dated June 12, 2025, pursuant to s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (“BIA”), and s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (“CJA”).

[4] RBC has registered charges securing its debt in the amount of \$4,320,000. Mr. Chopra, the second mortgagee, has a charge in the amount of \$1,100,000.

[5] The Appointment Order appointing the Receiver authorized the Receiver to market and sell the property of the Debtors and to seek an approval and vesting order.

[6] On July 14, 2026, the motion judge granted an Approval and Vesting Order (AVO) approving a sale transaction of the Real Properties of the Debtors located at 8412 and 8424 Goreway Dr., Brampton, Ontario, following a lengthy marketing process, and an Ancillary Relief Order (ARO), approving activities of the Receiver

and authorizing it to make distributions from the proceeds of the sale transaction, among other things.

[7] It is the AVO and ARO that is the subject of these motions and the proposed appeal. The moving parties challenge the sale and the AVO and seek to appeal therefrom.

[8] These motions were brought on an urgent basis since the sale transaction was scheduled to close no later than August 15, 2026 and the AVO expressly provides for provisional execution, notwithstanding any appeal (this provisional execution term is discussed further below).

[9] Before me are the following requests for relief:

(1) by the appellants, Debtors:

- (a) an extension of time to file appeal materials;
- (b) an interlocutory stay of the closing of the sale transaction; and
- (c) an interim stay of the closing of the sale transaction pending a determination of these motions, and to the extent necessary, an order that the Receiver not close the transaction;

(2) by the Receiver:

- (a) a declaration that the relevant provisions of the *BIA* govern the appeal procedures;

- (b) a declaration that the appellants require leave to appeal the AVO and ARO and have not sought or obtained leave;
- (c) an order denying leave; and
- (d) in the alternative to an order denying leave, and if leave is granted, security for costs in the amount of \$50,000.

[10] While this court has been clear that it is cautious in granting declarations, it is common ground that the substantive issue of whether the provisions of the *BIA* govern, and the issue of whether leave to appeal is required, are central to these competing motions.

[11] The appellants seek to appeal the AVO and ARO with the practical effect of terminating the Sale Transaction. They submit that they demonstrated a continuing intention to appeal, but that the delay arose from a procedural misunderstanding.

[12] They submit that leave under the *BIA* is not required, but in the alternative, and if leave is required, leave should be granted in the circumstances.

[13] In addition, they allege that the AVO and the ARO resulted from a process that was procedurally unfair, essentially, since they requested an adjournment that was denied, and their counsel was unavailable on the date of the motion. Finally, they submit that the prejudice to them is real, since their property will be sold free of encumbrances, with the result that they will suffer irreparable harm if the relief is not granted.

[14] The Receiver submits that the motions of the appellants represent yet a further attempt (following a series of earlier attempts) to simply delay the closing of the Sale Transaction following a court-ordered sale process, and that there was no procedural or substantive unfairness. The Receiver submits that leave under the *BIA* is required and should not be granted, but if it is granted, the appellants should be required to post security in the amount of \$50,000.

[15] For the reasons that follow, the appellants' motion is dismissed, and the Receiver's motion is granted in accordance with this Endorsement.

[16] As stated above, the Receiver was appointed by order dated June 12, 2025, after the Debtors failed to repay all amounts owing to RBC and failed to provide evidence (as required by the Endorsement of the Superior Court) that the Debtors' accounts with the Canada Revenue Agency were current by July 2, 2025.

[17] On March 24, 2026, the Debtors served a Notice of Motion (dated February 17, 2026) seeking an order to vacate the Receivership Order by discharging the Receiver or materially restricting its powers, approving the proposed refinancing transaction, invalidating the Receiver's arrangements with its real estate broker (who had been retained to assist in the marketing of the Properties), and to recover unsold equipment.

[18] That motion was dismissed by Endorsement dated March 24, 2026, which authorized the Receiver to continue its efforts to market and sell the

Real Properties. The motion judge observed that she did not find “the refinancing plan to be fair and equitable to all the creditors in this case.”

[19] The Debtors sought to appeal that March 24 Endorsement by serving a Notice of Motion for Leave to Appeal on April 8, 2026. That Notice of Appeal (served late) was brought pursuant to section 19(1)(b) of the CJA, and not pursuant to the provisions of the *BIA*.

[20] The Debtors delivered the motion record in support of their motion on April 17, 2026. As of the date of the Receiver’s Report of August 6, 2026, the Debtors had not taken any further steps to schedule or perfect an appeal from the March 24, 2026 Endorsement. That Report was then served and filed in support of the motion of the Receiver for the AVO and ARO.

[21] I pause to observe that the Debtors have still taken no steps to perfect or schedule any appeal from the March 24, 2026 Endorsement, notwithstanding that one of their submissions is that the Endorsement of the motion judge granting the AVO and ARO failed to expressly reference that pending appeal.

[22] In any event, the motion resulting in the order sought to be appealed was scheduled in accordance with the applicable regional practice direction for July 7, 2026. The Receiver’s motion record was served, well in time, on June 26, 2026.

[23] On June 30, 2026, counsel to the Debtors advised counsel to the Receiver that they were unavailable to attend the motion on July 7. Expressly to

accommodate Debtors' counsel, counsel to the Receiver reviewed the hearing dates available through the court's online scheduling platform (Calendly). The earliest available date was July 14, 2026. The next available date thereafter was not until September.

[24] Given that the Sale Transaction had a target closing date of July 31, 2026, an adjournment until September was neither commercially nor practically feasible, with the result that the Receiver's counsel rescheduled the motion for July 14, 2026 and served a revised motion record on the Service List that same day – June 30.

[25] Approximately one week later, on July 6, 2026, Debtors' counsel advised that they were not available to attend the motion on July 14, 2026, and they proposed other dates later in July on which they were available. They had not, however, contacted the court to inquire whether there was court availability on those dates, or at all. There was not.

[26] The Report reflects that counsel to the Receiver responded and advised, as set out above, that July 14 was the earliest hearing date, and that the next available date was not until September, with the result that the Receiver was not prepared to consent to a further adjournment of the motion. Counsel to the Receiver requested that if the Debtors intended to oppose the motion, responding material should be delivered in accordance with the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[27] Counsel to the Debtors did not respond or provide any further communication to the Receiver or its counsel. They did not bring a motion seeking an adjournment of the July 14, 2026 hearing date. Most fundamentally, the Debtors did not deliver any responding affidavit, factum or other materials opposing the relief sought by the Receiver.

[28] At the hearing of the motion in the Superior Court on July 14, new counsel (Mr. Joshi) appeared for the Debtors as agent. He requested an adjournment on the basis that Debtors' counsel was not available to attend the motion.

[29] The motion judge declined the adjournment request and directed that the motion would proceed as scheduled. The Debtors had still not filed any responding materials.

[30] Following the disposition of the request for an adjournment, the Debtors did not otherwise oppose the substantive relief sought by the Receiver, with the result that the motion was unopposed. It was supported by RBC and the Purchaser. Following a brief discussion between counsel for the Receiver and counsel for the second mortgagee concerning distributions, the second mortgagee did not oppose the motion either. The motion judge then granted the AVO and ARO.

[31] I pause to observe that counsel to the Receiver subsequently noted that the AVO had inadvertently included a provision providing for provisional execution notwithstanding any appeal (pursuant to s. 195 of the *BIA*), although that relief was

not expressly sought in the notice of motion or in oral submissions with the result that the Receiver advised the service list that it did not intend to rely on that paragraph and contacted the court (on notice to all relevant counsel) to request that the AVO be corrected to remove that paragraph. In any event, the Receiver did not rely on the provisional execution provision and the Sale Transaction has not closed pending a determination of these motions.

[32] On July 30, 2026, new counsel to the Debtors served a notice of appeal and a certificate respecting evidence together with the Debtors' motion record seeking a stay pending appeal (I note that counsel had delivered a cover email the day before, but none of the documents were attached). No Notice of Change of Lawyer was delivered, then, or at any time on behalf of the Debtors.

[33] Court staff advised counsel on July 30 that a notice of appeal from an order made in a proceeding under the *BIA* must be served and filed with the Registrar of the Bankruptcy Court within 10 days of the order or decision appealed from, and if that had not been filed, the Debtors would require either an order extending the time to appeal or consent of the responding parties. Staff also identified other deficiencies with the Notice of Appeal.

[34] The notice of appeal was required to be filed no later than July 24, 2026, and was not served until July 30, 2026. The responding parties declined to consent to an extension of time with the result that the Debtors seek that today.

[35] Notwithstanding that there is no stay in effect pending a determination of these motions, the objections of the Debtors have created uncertainty with the result that the Sale Transaction has not closed pending a determination of these motions.

[36] During argument on these motions, and given that the scheduled closing date for the Sale Transaction was one day after the hearing of the motion, I expressly inquired of counsel for the Purchaser whether it was still prepared to close the Sale Transaction and would remain prepared to do so, pending the release of my decision on these motions, and counsel confirmed that it was. Accordingly, I do not need to address the request for an interim stay.

[37] The Receiver submits, and I accept, that any further delay in completing the Sale Transaction may ultimately jeopardize its completion to the risk of the creditors and all stakeholders in the proceeding. There is a serious risk that the Purchaser may not close the Sale Transaction if the closing date is further delayed.

[38] If the Sale Transaction is terminated, the Receiver may be required to remarket the Real Properties. There is no assurance that a replacement transaction would produce an equivalent or superior recovery. There is, however, a certainty that a remarketing process would result in additional carrying and professional costs, thereby reducing (and delaying) recoveries for creditors.

[39] As many of the issues on the competing motions overlap, I have addressed them by issue, although many of the factual findings apply to multiple issues.

Do the Procedures Set Out in the BIA Apply?

[40] The provisions of the *BIA* govern rights of appeal and appeal routes in this matter. The Receiver was appointed under both s. 243 of the *BIA* and s. 101 of the *CJA*. The doctrine of paramountcy prevents an appellant from resorting to the *CJA* appeal provisions where they are in operational conflict with those of the *BIA* in respect of timing and leave requirements: *Business Development Bank of Canada v. Astoria Organic Matters Ltd.*, 2019 ONCA 269, 69 C.B.R. (6th) 13, at paras. 66-67.

[41] Accordingly, the Debtors must demonstrate that they have an appeal route available to them under s. 193 of the *BIA*. They conceded as much in their motion materials and submissions.

Is Leave Required?

[42] An appeal lies as of right only if the circumstances set out in one of subsections 193(a) – (d) applies; otherwise leave from a judge of this court is required pursuant to subsection 193(e).

[43] Due to the broad automatic stay on appeal contained in s. 195, this court has expressly taken a narrow approach to the interpretation of the appeal rights in s. 193 (a) – (d): *Hillmount Capital Inc. v. Pizale*, 2021 ONCA 364, 462 D.L.R. (4th)

228, at para. 28; and *Enroute Imports Inc. (Re)*, 2016 ONCA 247, 35 C.B.R. (6th) 1, at para. 5.

[44] In this case, none of subsections (a) – (d) applies.

[45] “Future Rights” required to engage s. 193(a) are rights that cannot be presently asserted, but will come into existence at a future date: *2403177 Ontario Inc. v. Bending Lake Iron Group Limited*, 2016 ONCA 225, 396 D.L.R. (4th) 635, at paras. 21-22. Future rights are not procedural rights or commercial advantages that may accrue from the order sought to be challenged on appeal: *Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282, 115 O.R. (3d) 617, at para. 15; and *North House Foods Ltd. (Re)*, 2025 ONCA 563, 20 C.B.R. (7th) 1, at para. 25.

[46] No future rights of the Debtors are engaged by their proposed appeal. They seek to challenge the procedure related to the hearing of the Receiver’s motion below. They do not identify any legal right that did not exist when the AVO and ARO were granted but will arise at some point in the future. I agree with the submission of the Receiver that the fact that closing of the Sale Transaction would (necessarily) occur after the date of the AVO does not convert existing interests of the Debtors into future rights. Accordingly, s. 193(a) does not apply.

[47] Nor does s. 193(b). The issues here are very fact specific. The order or decision is not likely to affect other cases of a similar nature in the bankruptcy

proceedings: see *Bending Lake*, at para. 32. Again, the complaint of the Debtors, boiled down, is a challenge to the decision of the motion judge to deny their request for an adjournment of the July 14, 2026 hearing.

[48] With respect to s. 193(c), a proper interpretation requires an approach which meets the needs of modern, “real-time” insolvency litigation. This court has been clear that this subsection does not apply to orders that are procedural in nature, orders that do not bring into play the value of the debtor’s property, or orders that do not result in a loss: *Bending Lake*, at paras. 53, 59.

[49] To be clear, an order concerning the method by which a receiver or trustee disposed of assets does not engage s. 193(c) even if the assets at issue had a value that exceeds the statutory threshold: *Continental Forwarding Limited v. Canadian Credit Men's Association Limited*, [1965] M.J. No. 49 (M.B.C.A), at para. 18. Note: the section was at the time of that case numbered as s. 150(c).

[50] That decision is consistent with the jurisprudence of this court to the effect that grounds of appeal involving, among other things, a receiver’s negotiation process and treatment of persons affected by the sale agreement that was the subject of the AVO sought to be appealed were procedural in nature and did not fall within s. 193(c): *Bending Lake*, at para. 58.

[51] Finally, with respect to this subsection, a “determination of whether the property involved in the appeal exceeds \$10,000” is necessarily fact specific. Here,

the Debtors have not demonstrated that the granting of the AVO has resulted or would result in a loss of more than \$10,000 because the Receiver could have obtained a higher price for the Real Properties. A mere bald assertion is not sufficient: *Bending Lake*, at para. 64; and *Trimor Mortgage Investment Corporation v. Fox*, 2015 ABCA 44, at para. 8.

[52] In any event, the Debtors here do not allege that the Sale Transaction was improvident or that a higher offer (let alone higher by at least \$10,000), ought to have been accepted. Rather, they want the Sale Transaction quashed in order that they themselves can attempt (yet again) to obtain refinancing and not have the Real Properties sold at all.

[53] The observation of this Court in *Marshallzehr Group Inc. v. La Pue International Inc.*, 2025 ONCA 124, at para. 11 applies equally here: “the AVO is procedural in nature, does not bring into play the value of the debtor’s property, and does not result in a direct loss to any interested party.”

[54] There is no issue that s. 193(d) has no application here.

[55] Accordingly, leave to appeal is required.

Should Leave be Granted?

[56] The test for leave is well established and was recently articulated again by this court in *KingSett Mortgage Corporation v. 30 Roe Investments Corp.*, 2022 ONCA 479, 100 C.B.R. (6th) 218, at para. 26:

- (a) Does the proposed appeal raise an issue of general importance to the practice in bankruptcy/insolvency matters or to the administration of justice as a whole and therefore is one that an appellate court should consider and address?
- (b) Is the proposed appeal *prima facie* meritorious and does it involve a point that is of significance to the proceeding? and
- (c) Would the proposed appeal unduly hinder the progress of the bankruptcy/insolvency proceedings?

[57] That test is clearly not met here. The proposed appeal does not raise any issue of general importance to insolvency practice or to the administration of justice. It is a fact specific complaint about the scheduling history of the motion, the refusal of the motion judge to grant an adjournment, and the lack of a reference in his Endorsement to the request for an adjournment or the prior pending appeal (assuming for the moment that it is indeed still pending given that it has not been perfected). No novel question is raised.

[58] Moreover, in my view, the notice of appeal does not disclose a *prima facie* meritorious appeal. The chronology of the proceeding below, and in particular the steps leading to the motion on which the AVO and ARO were granted, is set out above.

[59] The Debtors have sought to challenge almost every step of the proceeding below, unsuccessfully. The Appointment Order for the Receiver expressly authorized it to market and sell the Real Properties, negotiate the terms of a transaction and seek an approval and vesting order. The evidence before the motion judge, uncontested and unchallenged given the absence of any responding materials filed, demonstrated that the Real Properties were exposed to the market through a professional broker for a period of approximately five months, and that the Purchaser submitted the highest offer.

[60] It is clear from the motion materials filed by the Debtor that what they actually seek is a further delay to attempt (yet again) to obtain refinancing of the Real Properties and discharge the Receiver (see, for example, Notice of Motion for the extension of time, para. 24).

[61] The decision of the motion judge to grant the orders, including the decision to decline to adjourn the motions, yet again, was a discretionary decision of a supervising judge managing an insolvency proceeding, and is entitled to a high degree of deference: *AFC Mortgage Administration Inc. v. Sunrise Acquisitions (Elmvale) Inc.*, 2024 ONCA 764, 22 C.B.R. (7th) 209, at para. 35.

[62] The orders made were clearly contemplated from the outset of the proceeding when the Appointment Order itself was made. This was well known to all parties. The Real Properties had been exposed to the market, openly and

through a reputable broker, for months. No one was taken by surprise. This motion in particular was brought on notice, materials were served on time, and the Debtors had an opportunity to file responding materials and make submissions if they wished to do so. They also had the opportunity to bring a motion (if properly brought and supported with evidence) for an adjournment and they did not do so.

[63] I also observe that the electronic mail correspondence between the Debtors and their previous counsel (produced voluntarily by them, so there is no issue of privilege) is clear that their then counsel advised them immediately upon the rescheduling of the motion from July 7 until July 14 (which rescheduling was consensually agreed to by the Receiver specifically to accommodate that counsel) that he was not available and they should retain new counsel. There is no evidence in the record that they took any steps to do so. In fact, the evidence is that they did nothing, and certainly communicated nothing to counsel for the Receiver or the service list, until new counsel appeared at the motion on July 14 in the capacity as agent (still not counsel of record) to request a further adjournment.

[64] As noted, insolvencies and receivership proceedings proceed in real time. This particular case is no exception. The motion judge had the discretion to decline to grant the requested adjournment. The deference owed to the exercise of that discretion here is such that the unavailability of counsel, which would, on the record here, have resulted in an adjournment until at least September of this year and put

into real jeopardy a pending transaction, is not a sufficient basis to warrant appellate intervention.

[65] The Debtors submit, notwithstanding that they brought no motion for an adjournment in the proceeding below (on a proper record or at all), that the decision of the motion judge to proceed on July 14 deprived them of “a meaningful opportunity to prepare, respond, and participate.” For the reasons set out above, I reject this submission also.

[66] The Endorsement of the motion judge is clearly brief. However, in my view, it was adequate and appropriate in the circumstances. As noted, the appellants did not challenge the motion, and their agent appeared only to request an adjournment. When that request was denied, that agent made no submissions on the motion. The Debtors had filed no responding materials. Accordingly, the motion proceeded on an unopposed basis.

[67] In those circumstances, and particularly on a motion within a “real-time” receivership proceeding, nothing more than a brief Endorsement was required here. It was not a requirement that the Endorsement refer to every single event, fact or submission. I reject the submission of the Debtors made on these motions that the failure of the motion judge to specifically reference in his Endorsement the pending appeal from the March 24, 2026 Endorsement or the adjournment request frustrate meaningful appellate review.

[68] There is no merit to that submission. Nor is there any affidavit from Mr. Joshi, the agent. What the Debtors are clearly seeking is a further opportunity to attempt to obtain refinancing (about which efforts there is no evidence in the record), by terminating the Sale Transaction and giving them more time. Nothing in the Endorsement of the motion judge, or absent therefrom, affects that position.

[69] For all of these reasons, leave is denied.

[70] Given that I have denied leave, I need not consider the alternative relief sought by the Receiver in the form of security for costs of \$50,000 which the Receiver requested only in the event leave was granted.

[71] Moreover, as there is no pending appeal, the Debtors' requests for an extension of time to file appeal materials and for a stay pending appeal are also moot. For completeness only, I set out briefly below why I would have denied both requests even if I had granted leave to appeal.

Extension of Time

[72] There is no dispute about the applicable law relevant to an extension of time.

[73] With respect to an extension of time, the court may order an extension or abridgment of time on such terms as are just: *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, r. 3.02(1). The overarching principle is that an extension should be granted if required by the "justice of the case": *Frey v. MacDonald* (1989), 33 C.P.C. (2d) 13 (Ont. C.A.), at p. 14; *Enbridge Gas Distribution Inc. v.*

Froese, 2013 ONCA 131, 114 O.R. (3d) 636, at para. 15; and 2363523 *Ontario Inc. v. Nowack*, 2018 ONCA 286, 10 C.P.C. (8th) 296, at para. 4. In applying this principle, the court has generally considered the following factors:

- (a) whether the appellant formed an intention to appeal within the relevant period;
- (b) the length of, and explanation for delay;
- (c) prejudice to respondent; and
- (d) merits of the appeal.

[74] The degree of significance of each of the factors depends on the nature of the case: *Liu v. Chan*, 2024 ONCA 699, at para. 17. The failure to meet any one of those factors is not necessarily fatal in itself because consideration must be given to all the factors in deciding whether the overall justice of the case requires that leave be granted: *Leighton v. Best*, 2014 ONCA 667, 20 C.B.R. (6th) 326, at para. 14.

[75] The onus is on the moving party seeking an extension of time to demonstrate that the extension should be granted: *Mahilum v. Consentino*, 2024 ONCA 829, at para. 11; *Ontario (Attorney General) v. \$38,570 in Canadian Currency (In Rem)*, 2024 ONCA 293, at para. 2.

[76] I am satisfied that the overall justice of the case in these particular circumstances militates against the request for an extension of time even if leave

had been granted. While the Debtors submit that the delay arose from their misunderstanding, I am not satisfied that they have provided an adequate explanation for the delay.

[77] The relevant circumstances are set out above. While they or their counsel may have been confused about whether the appeal routes under the *BIA* governed, I am not satisfied that they acted with diligence and maintained an intention to appeal. Again, they did not even challenge the motion below once their adjournment request was denied.

[78] There would be significant prejudice to the responding parties resulting from a termination of the Sale Transaction, the risk that there will be no replacement transaction or no replacement transaction as favourable as the Sale Transaction, and there would inevitably be additional delay and costs.

[79] Finally, for the reasons set out above, the Debtors have not satisfied me that there is any merit to their proposed appeal.

Stay

[80] The test for staying an order pending appeal under r. 63.02 is the same as the test for an interlocutory injunction established by the Supreme Court of Canada in *RJR MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, at p. 334. The test requires the court to determine whether a stay is in the interests of justice considering the following three factors:

- (a) a preliminary assessment must be made of the merits of the case to ensure that there is a serious question to be tried;
- (b) it must be determined whether the applicant would suffer irreparable harm if the application were refused; and
- (c) an assessment of the balance of inconvenience must be made as to which of the parties would suffer greater harm from the granting or refusal of the remedy pending a decision on the merits.

See *Circuit World Corp. v. Lesperance* (1997), 33 O.R. (3d) 674 (C.A.), at pp. 676-77; *Essar Steel Algoma Inc. (Re)*, 2016 ONCA 274, 36 C.B.R. (6th) 56, at paras. 27-28; *Wilfert v. McCallum*, 2017 ONCA 895, 54 C.B.R. (6th) 249, at para. 6; and *Carvalho Estate v. Verma*, 2024 ONCA 222, 170 O.R. (3d) 781, at paras. 4-5.

[81] The applicant bears the burden of proof in demonstrating that the stay pending appeal should be granted: *International Corona Resources Ltd. v. Lac Minerals Ltd.* (1986), 21 C.P.C. (2d) 252 (Ont. C.A.), at p. 255; *Stuart Budd & Sons Limited v. IFS Vehicle Distributors*, 2014 ONCA 546, 122 O.R. (3d) 472, at para. 23.

[82] For the reasons set out above, the test for a stay is not satisfied here. For the same reasons, I am not persuaded that there is a serious issue to be tried, and the balance of convenience clearly favours the denial of a stay.

Disposition

[83] Leave to appeal is required, and leave is denied. The balance of the relief sought is therefore moot.

“Osborne J.A.”