

In the Court of Appeal of Alberta

Citation: Stephenson v Stephenson, 2026 ABCA 146

Date: 20260501

Docket: 2603-0082AC

Registry: Edmonton

Between:

Eileen Evelyn Stephenson

Applicant

- and -

**Alan Stephenson, John Stephenson, Ian Ball,
2324695 Alberta Ltd and Cantiro Communities Sherwood Park Ltd**

Respondents

**Reasons for Decision of
The Honourable Justice Kevin Feehan**

Application for Stay Pending Appeal

**Reasons for Decision of
The Honourable Justice Kevin Feehan**

I. Overview

[1] Eileen Stephenson, a 93 year old woman, applies for a stay pending appeal of the decision of a chambers judge dated April 10, 2026, in which he dismissed her application to stay the orders of an applications judge of February 27, 2026. It is in essence an application to stay, a refusal to stay, or to extend a stay, of those original orders, which have not been appealed and are not before this Court.

[2] For the reasons below, the application is dismissed. A consent order has additionally been granted.

II. Background

[3] The issues between the parties and previous parties, involving Ms Stephenson's home in Sherwood Park, date back to November, 2013. These facts have been repeated in detail in decisions reported at 2019 ABQB 798, 2020 ABCA 316, 2020 ABCA 437, and 2025 ABCA 301. They need only very briefly be repeated here.

[4] In November 2013, Romspen Investment Corporation financed a development project in Maui, Hawaii, involving 1,841.2 acres of unimproved ranch land. Ms Stephenson guaranteed the loan for the principal debtor, L&E Ranch LLC, a company owned by her daughter, Janet Stephenson Coflin, secured by collateral mortgage on her acreage in Sherwood Park. The loan went into default in April 2016, and Romspen foreclosed against L&E Ranch on the Hawaii property. There remains an issue as to the proper valuation of the Hawaii property and whether there is a shortfall which places Ms Stephenson's guarantee in jeopardy.

[5] On September 6, 2018, the Second Circuit Court of the State of Hawaii accepted a commissioner's report valuing the Hawaii property at just under \$15.3 million USD, concluding that an offer of \$15.3 million dollars from Romspen was fair and reasonable. At that date, the loan balance was \$26,127,737.70 USD. The Court approved the sale of the Hawaii property at \$15.3 million and title to the property was transferred to a subsidiary of Romspen.

[6] On November 1, 2018, an order for sale to Romspen was granted of Ms Stephenson's property in Sherwood Park. The order for sale was not appealed. At the time of the order, there was an alleged deficiency in excess of \$10 million USD on the L&E Ranch loan, and Ms Stephenson's property was valued at \$5.4 million, with her guarantee and mortgage limited to

that property value. The order for sale was stayed, and that stay was renewed from time to time while the Hawaii proceedings continued.

[7] L&E Ranch filed an appeal in the Hawaii Intermediate Court of Appeals in July 2019, seeking a rehearing and reconsideration of the sale to Romspen.

[8] In July 2019, Ms Stephenson also applied successfully before a Master for a continuing stay of execution pending resolution of the Hawaii proceedings: 2019 ABQB 798. That stay was appealed to the Court of Queen's Bench and overturned. It was then appealed again to this Court, asking for the stay to be restored. This Court granted a stay pending appeal: 2020 ABCA 316.

[9] Upon appeal, this Court held, 2020 ABCA 437, para 9, the chambers judge was correct in concluding that Ms Stephenson had no defense to the unappealed Alberta order for sale of her Sherwood Park property. Romspen was entitled to enforce the guarantee and the collateral mortgage. This Court said when the Hawaiian legal proceedings are finally completed, if Romspen has recovered more than the debt owed, then Romspen will have to account to L&E Ranch, which will in turn have to account to Ms Stephenson. That is her remedy. The appeal was dismissed.

[10] Ms Stephenson then applied to the Court of King's Bench for various remedies, including an interim injunction to restrain Romspen from enforcing the sale order that had been granted on November 1, 2018, an order setting aside the sale order, a reconsideration of the sale order, and an order directing an accounting by Romspen in relation to the underlying corporate loan. Those applications were dismissed, with full indemnity costs awarded against her: 2021 ABQB 486.

[11] In March 2021, the Sherwood Park property was sold to 2324695 Alberta Ltd, a company incorporated by Ms Stephenson's sons, John and Alan Stephenson, and a nephew, Ian Ball. The parties entered into a lease permitting Ms Stephenson to remain on the property for five years until March, 2026.

[12] The Sherwood Park property was again later sold by 2324695 Alberta Ltd to Cantiro Communities Sherwood Park. Ms Stephenson-Coflin advises that Cantiro is owned by her brothers, cousin, and several friends. On March 20, 2024, Cantiro served Ms Stephenson with a written notice to vacate effective June 11, 2024.

[13] On August 9, 2024, Ms Stephenson issued a statement of claim against Cantiro and others. On the same day she applied for and was granted a without notice interlocutory injunction preventing Cantiro from engaging in any construction activities on the property. A different chambers judge set aside the injunction on December 19, 2024. This Court affirmed that decision, determining that the new legal owners were entitled to proceed with their development plans to construct approximately 291 residential and multi-family lots on the property without Ms Stephenson's further interference: 2025 ABCA 301.

[14] On February 27, 2026, an applications judge granted 2 orders. The first was that Ms Stephenson was to deliver vacant possession of the Sherwood Park property on March 31, 2026, at the conclusion of the five-year lease. In the same order, she directed that a Civil Enforcement Agency or sheriff was authorized to evict Ms Stephenson and all other occupants from the property and take all steps necessary to effect vacant possession. The form of order was wrongly described as a consent order, which it was not.

[15] Also on February 27, 2026, the applications judge directed discharge of Ms Stephenson's certificate of *lis pendens* on the property, to “take effect forthwith, notwithstanding the requirements of section 191(1) of the *Land Titles Act*.” The February 27, 2026 orders of the chambers judge were not appealed.

[16] On March 30, 2026, despite the failure of Ms Stephenson to appeal the application judge's orders, a chambers judge stayed those orders on an interim without prejudice basis, pending a more thorough hearing scheduled for April 10, 2026 “at which time the Court [would] consider whether to extend, vary, or terminate the stay granted ..., and ... hear [Ms Stephenson's] application on its merits”.

[17] On April 10, 2026, another chambers judge heard Ms Stephenson's application to further stay the provisions of the applications judge's orders. Ms Stephenson submitted that the Hawaiian courts had never determined there was a deficiency in the original loan owed by L&E Ranch to Romspen, and that, in fact, no money was owed. She said there was no right to foreclose on the Sherwood Park property in the first place, nor for any of the sequence of events thereafter to have occurred. The chambers judge summarized:

... what you hope to do is get a favorable determination on the deficiency, and then you want to unwind all of this, and you want title to be restored ... because all of this was wrong

[18] The chambers judge acknowledged this Court had recognized in its December 12, 2020 decision that “the extent of the deficiency was still something that was up in the air”, but this Court concluded there was no defense to the foreclosure and sale in Alberta. Summarizing this Court’s characterization of Ms Stephenson's eventual remedy, if it turns out there is not a deficiency on the original loan, or if it is not as large as acted upon, the chambers judge said it would be “for Romspen to basically account to the debtor, and then the debtor to account to [Ms Stephenson]”.

[19] The chambers judge held the Alberta foreclosure action had been finalized and vacant possession had been ordered. Although the chambers judge had a question as to his jurisdiction, because there had never been an appeal of the February 27, 2026 orders of the applications judge, he determined on the test in *RJR – McDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311, 111 DLR (4th) 385, that a further extension of the stay was not warranted.

[20] On April 14, 2026, an applications judge granted a police enforcement order of the eviction of Ms Stephenson from her property. The Court is advised that Ms Stephenson has been forcibly evicted from her home and is currently sleeping on a couch at the home of her daughter's husband's friend.

[21] An appeal of the order of the chambers judge of April 10, 2026 for a stay pending appeal of the refusal to extend the stay in the Court of King's Bench was filed to this Court on April 13, 2026. This application for a stay pending appeal was filed on April 14, 2026.

[22] Ms Stephenson advises there was a decision of the Intermediate Court of Appeals of Hawaii dated February 27, 2026, indicating there has been no deficiency judgment, and she has provided a declaration of her Hawaii counsel, unsworn, to that effect. The Hawaii Supreme Court took jurisdiction over the matter on March 17, 2026, and no final decision as to deficiency has been rendered from that Court. Ms Stephenson advises that on May 18, 2026 Romspen must file its complete accounting with the Hawaii Supreme Court. The Court will make a final decision on the deficiency amount, if any, following that disclosure.

III. The Current Status

[23] Ms Stephenson advises that her sons, Alan and John Stephenson, turned off the water to the residence on November 24, 2025. From then to the time of her eviction, Ms Stephenson has been using bottled water and melting snow in her bathtub for water.

[24] Ms Stephenson advises that over the Christmas holidays 2025/26, her sons entered the Sherwood Park residence, boarded up the windows, and removed her personal possessions, including gold coins, cash, and court documents. The gas company removed the gas meter and all access to natural gas.

[25] Currently, Ms Stephenson says her utilities have been turned off. All her appliances have been removed. Her personal belongings have also been removed from the house and are in storage, to be auctioned off on May 20, 2026. Most of the surrounding trees have been taken down. Cantiro's counsel advises that the ceilings have been taken out for asbestos remediation.

[26] Ms Stephenson says she has no place to live and is on a long waiting list for government subsidized seniors housing. Cantiro says she has a residence in Hawaii, where she could move and live, but she replies that is not possible at age 93, without health or other insurance.

IV. Test for Stay

[27] The familiar tripartite test for a stay pending appeal is set out in *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311, 334, 111 DLR (4th) 385 following *Manitoba (AG) v Metropolitan Stores Ltd*, [1987] 1 SCR 110, 38 DLR (4th) 321. The applicant has the burden of showing that:

- (a) there is a serious question to be tried, an arguable issue that is not frivolous or vexatious;
- (b) there will be irreparable harm if the stay is not granted; and
- (c) the balance of convenience favours granting the stay.

[28] The fundamental question is whether a stay of proceedings is just and equitable in all the circumstances. This will necessarily be context-specific: *Piikani Nation v McMullen*, 2020 ABCA 183, para 15. The test for determining whether an appeal is arguable has a low threshold: *Polansky Electronics Ltd v AGT Limited*, 2000 ABCA 46, para 11, 80 Alta LR (3d) 57; *Midland Resources Holding Limited v Shtaif*, 2021 ABCA 286, paras 19-20; *Aubin v Quantiam Technologies Inc*, 2022 ABCA 125, paras 7, 8.

V. Analysis

[29] There are several difficulties with Ms Stephenson's application. The serious questions which she raises have been addressed by this Court before and have been dismissed. See particularly this Court's decision of December 7, 2020; 2020 ABCA 437, paras 9, 10, and September 5, 2025; 2025 ABCA 301, paras 7, 9, 12. Those same submissions have also been rejected by the Court of King's Bench on June 24, 2021; 2021 ABQB 468.

[30] There is no doubt that Ms Stephenson is suffering irreparable harm. That harm was set out in this Court's decision of September 11, 2020; 2020 ABCA 316, paras 26-31, and is more pronounced today.

[31] However, the primary issue is whether a stay of a refusal of a stay, or the extension of a stay, gives any remedy to Ms Stephenson. It does not. If the requested stay were granted, the chambers judge's refusal to stay the provisions of the applications judge's orders would itself be stayed pending appeal, but because there is no appeal of those orders of the applications judge, it is questionable whether or not those orders, and the actions taken on and after those orders would be themselves stopped. They are in fact virtually complete.

[32] Additionally, at this stage, there is really no home to which Ms Stephenson could return. It is not habitable.

[33] Ms Stephenson's real remedy is as suggested by this Court in its 2020 decision and in the April 10, 2026 decision of the chambers judge. If, when the Hawaiian legal proceedings are finally completed, Romspen is said to have recovered more than the debt owing to it, then Romspen will have to account to L&E Ranch, which in turn then will have to account to Ms Stephenson. That is a matter extant in the courts of Hawaii.

[34] Ms Stephenson's notice of appeal asks that this Court set aside the orders for vacant possession and discharging of her certificate of *lis pendens*, but that order was never appealed from

the applications judge to the Court of King's Bench. It cannot now be appealed to this Court and is not before this Court on this stay application.

[35] As indicated, Ms Stephenson's remedy is to await the final determination of the deficiency issue in the Hawaiian courts, which may result in a monetary remedy.

VI. Consent Order

[36] During the course of this application, counsel for Cantiro consented to it covering Ms Stephenson's accommodations and living expenses to the end of June 2026, to allow for a transition period after her removal from her Sherwood Park residence. Additionally he consented on behalf of Cantiro to pay for the storage fees for Ms Stephenson's property removed from the Sherwood Park residence until the end of June 2026, so that it will not be put up for auction before that time, and to allow Ms Stephenson to have full access to the storage facility until that time to remove any of her personal belongings she may wish to keep. These consents are hereby formalized by consent order.

VII. Conclusion

[37] The application is dismissed. The consent order is in effect.

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

Application heard on April 28, 2026

Reasons filed at Edmonton, Alberta
this 1st day of May, 2026

Feehan J. A.

Appearances:

E. E. Stephenson

J. Stephenson-Coflin (Mackenzie Friend) for the Applicant

V.R. Stevenson, KC

J. Pawlyk
for the Respondents