In the Court of Appeal of Alberta

Citation: EPCOR Distribution & Transmission Inc v Watt, 2026 ABCA 365

Date: 20261113
Docket: 2603-0208AC
Registry: Edmonton

Between:

EPCOR Distribution & Transmission Inc.

Applicant

- and -

Paige Watt

Respondent

The Court:

The Honourable Justice Anne Kirker
The Honourable Justice Jane Fagnan
The Honourable Justice Tamara Friesen

Memorandum of Judgment

Application to Dismiss Appeal

Memorandum of Judgment

The Court:

[1] EPCOR Distribution & Transmission Inc. (EDTI) applies for an order dismissing the appeal filed by Ms. Watt on the basis that the appeal has no merit. Rule 14.74(c) of the *Alberta Rules of Court*, Alta Reg 124/2010 provides that a panel of this Court may dismiss all or part of an appeal if "the appeal is frivolous, vexatious, without merit or improper".

[2] Ms. Watt requested an adjournment of EDTI's application. It was denied. The Court directed that the application would proceed in writing only.

[3] By way of brief background, EDTI terminated Ms. Watt for cause for violating several policies and privacy legislation by accessing and/or using confidential customer and other business information in a manner that was neither authorized nor required for legitimate business purposes and for removing information from the EPCOR group of companies' secure systems, thereby compromising EDTI's ability to safeguard customer data.

[4] On August 6, 2026, EDTI filed an originating application, seeking an injunction requiring Ms. Watt to:

> ...immediately return to EDTI all Confidential Information and permanently destroy all copies of the Confidential Information stored on any personal device, email account or other medium, and restraining Ms. Watt from accessing, using, copying, reproducing, distributing, or disclosing any of the Confidential Information for any purpose whatsoever…

While an originating application must be served 10 days or more before the hearing date (*Alberta Rules of Court*, rule 3.9), with its injunction application, EDTI filed an urgent request form pursuant to the Court of King's Bench urgent application process for an expedited chambers hearing. As a result, the hearing was scheduled for August 11, 2026.

[5] Ms. Watt was served with notice of the application by email on August 6, 2026; however, she did not attend the hearing. She acknowledges she received the email on August 6, 2026, but says she did not become aware of the application until approximately one week after the hearing, on August 17, 2026, which was when the order was filed.

[6] At the hearing on August 11, 2026, as a preliminary matter, the chambers judge deemed service on Ms. Watt by email to be good and effective as of August 6, 2026. He recognized the "unique circumstances" of the case and noted that EDTI had made numerous attempts to serve the

application and supporting materials on Ms. Watt. This included by physically delivering the documents, which Ms. Watt either "saw or [was] likely to be evading service". The chambers judge also considered that Ms. Watt had used her email address "in very close proximity" to the date in which EDTI emailed its materials to her.

[7] The chambers judge granted EDTI's injunction application. In doing so, he considered the test for a mandatory injunction set out in *R v Canadian Broadcasting Corp*, 2018 SCC 5. He ordered Ms. Watt to permanently destroy all confidential information (as defined in the order) and all copies of the confidential information stored on any personal device, email account or other medium within five days, and to restrain from accessing, using, copying, reproducing, distributing, or disclosing any of the confidential information for any purpose whatsoever. Upon compliance with the first direction regarding destruction of the confidential information, Ms. Watt was further ordered to swear a statutory declaration confirming that: all the specified confidential information had been permanently destroyed; all copies stored on any personal device, email account or other medium owned or controlled by Ms. Watt had been permanently deleted by Ms. Watt; and that none of the confidential information had been disclosed, transferred, or made available by Ms. Watt to any third party other than her union and/or the Alberta Labour Relations Board. The chambers judge also ordered costs against Ms. Watt in the amount of $8,000.00.

[8] Ms. Watt has not complied with the order. Her notice of appeal says she was not provided with sufficient notice of EDTI's injunction application, and she is unable to swear the statutory declaration for two reasons. First, she disclosed confidential information to the Alberta Utilities Commission (AUC) through its "ConfidenceLine", which allows individuals to report concerns related to potential wrongdoing by utilities, and that information will remain accessible to her via the AUC portal until the file is closed. Second, she cannot destroy the records that were sent to her personal email "without causing irreversible harm" because the "files comprise primarily [her] own personal health records" and the files have been provided to her union and the Alberta Labour Relations Board and are required to advance ongoing legal proceedings.

[9] In response to EDTI's application to dismiss her appeal, Ms. Watt further submits that the following appeal issues are arguable:

> 1. Whether [Ms. Watt] received procedural fairness in relation to the August 11, 2026 injunction proceedings.
>
> 2. Whether the Injunction Order extends beyond what was necessary in the circumstances.
>
> 3. Whether materials exchanged with accredited union representatives in grievance, position evaluation, and labour-relations processes were properly characterized.

> 4. Whether factual disputes exist regarding the nature, content, retention, deletion, and disposition of records relied upon by [EDTI].
>
> 5. Whether [EDTI's] own materials demonstrate continuing factual disputes that cannot be resolved summarily.
>
> 6. Whether the interaction between the Injunction Order and ongoing proceedings before other tribunals raises issues requiring appellate review.

[10] Based on her notice of appeal and responding materials filed in this application, Ms. Watt seems to be taking issue with the specific terms of the order and with the order being granted in her absence. We do not understand her to be raising issues with the chambers judge's understanding of the law or the application of the test for injunctive relief to the facts of this case.

[11] Much of the relief Ms. Watt appears to seek is not relief this Court would grant. Her proposed appeal is also premature. If the order needs to be varied to, for example, account for the "ConfidenceLine" disclosure and Ms. Watt's continued access to documents via the AUC portal, an application can be made in the Court of King's Bench. Similarly, the Court of King's Bench is the appropriate venue to address Ms. Watt's stated need to use the confidential information in the ongoing complaints with the union and/or the Alberta Labour Relations Board, if the order does not adequately address that issue. Ms. Watt's arguments regarding notice and the granting of an order in her absence are equally matters to be resolved in the Court of King's Bench given the circumstances of this case.

[12] Rules 9.15 and 9.16 of the *Alberta Rules of Court* allow for the setting aside, variation, or discharge of an order by the judge who originally granted it, if the order was made without notice to an affected party or following a hearing where an affected person did not appear because of an accident, mistake or insufficient notice. Absent exceptional circumstances, if such issues arise, they should be addressed in the Court of King's Bench by way of review under rule 9.15, not in this Court by launching an appeal: *Lavoie v Lukiw*, 2025 ABCA 377 at para 9 and the cases cited therein; *Thompson v Procrane Inc (Sterling Crane)*, 2016 ABCA 71 at para 6. We recognize there is a deadline to apply for a review under rule 9.15, but the Court of King's Bench has the discretion to extend this time period in appropriate circumstances: *Alberta Rules of Court*, rules 9.15(2), 13.5(2), 1.5; *Lavoie* at para 11.

[13] While the test for dismissing an appeal under rule 14.74 is a high bar, we are satisfied this is one of those rare cases where the proposed appeal discloses no arguable basis and ought to be dismissed: *DeCourcy v Korlak,* 2025 ABCA 189 at paras 6-7.

[14] EDTI's application to dismiss Ms. Watt's appeal is allowed.

[15] We remind Ms. Watt that she is still bound by the injunction order and must comply with it absent an order staying its enforcement. The order cannot simply be ignored.

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

Written submissions filed on October 2, 15 and 16, 2026

Memorandum filed at Edmonton, Alberta
this 13th day of November, 2026

Kirker J.A.

Authorized to sign for: Fagnan J.A.

Friesen J.A.

Appearances:

E. Paplawski
for the Applicant

Respondent P. Watt