

In the Court of Appeal of Alberta

Citation: Julien v Alberta (Human Rights Tribunal), 2026 ABCA 327

Date: 20261016

Docket: 2603-0083AC

Registry: Edmonton

Between:

Francis Julien and Albert Stephen

Applicants/Cross-Respondents

- and -

Alberta Human Rights Tribunal

Respondent on the Stay Application

-and-

Brazeau Foundation (Brazeau Seniors Foundation)

Respondent/Cross-Applicant

**Reasons for Decision of
The Honourable Justice Jo'Anne Strekaf**

Application for Stay Order
Application for Security for Costs

**Reasons for Decision of
The Honourable Justice Jo'Anne Strekaf**

[1] The applicants, Francis Julien and Albert Stephen, are appealing a Court of King's Bench decision that dismissed their judicial review application, which sought to set aside an Alberta Human Rights Tribunal (Tribunal) decision dismissing complaints they brought against their former employer, Brazeau Foundation (Brazeau). The applicants seek a stay of enforcement of costs awards issued against them pending their appeal. Brazeau cross applies for an order requiring the applicants to post security for costs. For convenience, Mr. Julien and Mr. Stephen are jointly referred to as "the applicants" throughout this decision.

[2] The applicants filed complaints with the Tribunal alleging that Brazeau discriminated against them contrary to s 7 of the *Alberta Human Rights Act*, RSA 2000, c A-25.5. Mr. Julien filed an additional complaint alleging that Brazeau retaliated against him contrary to s 10 of the *Alberta Human Rights Act*. The Tribunal heard the matters over 21 days from January 30, 2023 to October 6, 2023, and dismissed all of the applicants' complaints on January 31, 2025: *Stephen and Julien v Brazeau Seniors Foundation*, 2025 AHRC 10 [Tribunal Decision].

[3] Midway through the hearing, the Tribunal ordered \$1,000 in thrown-away costs against the applicants due to adjournments caused by delays in hearing from one of the applicants' witnesses: *Stephen and Julien v Brazeau Seniors Foundation*, 2023 AHRC 48. After dismissing the complaints, the Tribunal awarded Brazeau \$20,000 in costs, payable by Mr. Stephen, as it found that Mr. Stephen's complaint was vexatious and that he engaged in dishonest conduct: *Stephen and Julien v Brazeau Seniors Foundation*, 2025 AHRC 34 at paras 41, 44-45.

[4] On judicial review, the Court of King's Bench upheld the Tribunal Decision: *Julien v Alberta (Human Rights Tribunal)*, 2026 ABKB 208. The applicants filed a notice of appeal on April 14, 2026.

[5] In a subsequent decision issued May 8, 2026, the Court of King's Bench ordered enhanced costs against each applicant in the amount of \$18,258.75 plus disbursements, other charges and GST: *Julien v Alberta (Human Rights Tribunal)*, 2026 ABKB 363.

Stay of Enforcement of Cost Awards

[6] In an application for a stay pending appeal, the applicants must show that (a) there is a serious question to be tried; (b) they will suffer irreparable harm if the stay is not granted; and (c) the balance of convenience favours granting the stay: *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311. These criteria relate to the fundamental question of whether it is just and equitable to grant the stay in the circumstances: *Dow Chemical Canada ULC v NOVA*

Chemicals Corporation, 2026 ABCA 50 at para 7; *Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at para 25.

[7] At the oral hearing of this application, Brazeau acknowledged that it was prepared to assume, but not concede, for the purpose of this application, that there was a serious question to be tried. As a result, these reasons focus on the second and third criteria.

[8] The applicants have not paid the previous cost awards ordered by the Tribunal and the Court of King's Bench. On April 30, 2026, the applicants advised Brazeau that they had no means to pay the cost awards and requested Brazeau to defer any enforcement until the appeal is settled. Brazeau has filed writs of enforcement respecting the previous costs awards and on property owned by Mr. Stephen. However, Brazeau has undertaken to refrain from taking any further enforcement steps until this appeal is decided.

[9] Given Brazeau's undertaking not to pursue enforcement of the previous cost awards beyond the registrations already in place, I am satisfied that the applicants will not suffer irreparable harm if the stay is not granted.

[10] Further, the balance of convenience does not support the stay application. The applicants are protected from any further enforcement proceedings and Brazeau from the dissipation of any existing equity in Mr. Stephen's property pending disposition of the appeal. In the event that execution proceedings are taken by any other creditors of the applicants, Brazeau would share in the proceeds by virtue of having its writs registered. I am satisfied that the undertaking is sufficient and that it is not necessary to grant a further stay.

[11] The application for a stay of enforcement pending appeal is therefore dismissed.

Security for Costs

[12] Brazeau cross-applies for security for costs pursuant to r 14.67(1) of the *Alberta Rules of Court*, Alta Reg 124/2010. Rule 4.22 allows a court to order security for costs if it is just and reasonable to do so, taking into account the following factors:

- (a) Whether it is likely the applicant for the order will be able to enforce an order or judgment against assets in Alberta;
- (b) The ability of the respondent to the application to pay the costs award;
- (c) The merits of the action in which the application is filed;
- (d) Whether a security for costs order would unduly prejudice the respondent's ability to continue the action; and
- (e) Any other matter the Court considers appropriate.

[13] A decision ordering security for costs is a discretionary one that “balances the reasonable expectations and rights of parties” in order to achieve a just and reasonable outcome: *Haymour v The Owners Condominium Plan No 802 2845*, 2016 ABCA 367 at para 8. A party’s failure to pay trial costs awards coupled with a demonstrated inability to pay costs is generally a good reason to order security for costs: *DataNet Information Systems, Inc v Belzil*, 2011 ABCA 40 at para 4. However, a party should not be deprived of pursuing a meritorious appeal simply because it cannot afford to post security for costs: *Poole v City Wide Towing and Recovery Service Ltd*, 2020 ABCA 102 at para 55.

[14] Brazeau seeks Column 5 security for costs in the amount of \$29,025 plus GST. It argues that Column 5 costs were awarded below and are warranted due to the applicants’ decisions to raise duplicative arguments and make serious allegations, which required extensive responses. Brazeau argues that because of the applicants’ failure to pay prior costs awards and their inability to pay those costs, there is a real risk that it will be unable to recover cost awards from the applicants.

[15] The applicants have filed affidavits stating that they are barely able to meet their basic needs, without financial assistance from their families.

[16] I have considered the factors outlined in Rule 4.22, including:

- a. the challenges that Brazeau will likely face if it is successful on appeal in enforcing a further costs award against the applicants arising out of the appeal;
- b. the considerable costs already incurred by Brazeau over the course of this dispute;
- c. the applicants’ failure to pay any amount toward the outstanding costs awards;
- d. the financial circumstances of the applicants;
- e. my assessment of the merits of the appeal;
- f. the applicants’ failure to provide focused grounds for their appeal;
- g. the conduct of the applicants in the proceedings below that contributed to the magnitude of the costs awards; and
- h. the likely inability of the applicants to post the security sought in the amount of \$29,025, with the result that such an order would likely deprive them of pursuing their appeal.

[17] I am satisfied that it is just and reasonable in the circumstances to require the applicants to post security in the amount of \$5,000 as a condition of proceeding with their appeal. The amount

is to be posted within 30 days, failing which the appeal will be deemed abandoned without further order: *Alberta Rules of Court*, r 14.67(2).

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

Applications heard on September 10, 2026

Reasons filed at Edmonton, Alberta
this 16th day of October, 2026

Strekaf J.A.

Appearances:

F. Julien and A. Stephen

Alberta Human Rights Tribunal (no appearance)

R. Silverberg (no appearance)

K. Ueland

Z. Dietrich

for the Brazeau Foundation (Brazeau Seniors Foundation)