

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20180322**

**Docket: A-54-17**

**Citation: 2018 FCA 60**

**CORAM: RENNIE J.A.  
WOODS J.A.  
LASKIN J.A.**

**BETWEEN:**

**WILLIAM HAMILTON CROOK**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Toronto, Ontario, on March 22, 2018.

Judgment delivered at Toronto, Ontario, on March 22, 2018.

**REASONS FOR JUDGMENT BY:**

**RENNIE J.A.**

**CONCURRED IN BY:**

**WOODS J.A.  
LASKIN J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180322

Docket: A-54-17

Citation: 2018 FCA 60

**CORAM: RENNIE J.A.  
WOODS J.A.  
LASKIN J.A.**

**BETWEEN:**

**WILLIAM HAMILTON CROOK**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**REASONS FOR JUDGMENT**

**RENNIE J.A.**

[1] William Crook appeals an order of the Federal Court dated January 20, 2017 *per* Justice Diner dismissing his application for an extension of time to appeal an order of Prothonotary Aalto dated October 3, 2016. In that decision, the prothonotary struck out Mr. Crook's statement of claim in its entirety without leave to amend.

[2] The motions judge denied Mr. Crook's application for an extension of time to file an appeal of the prothonotary's decision because "[t]he reasons provided by [Mr. Crook] ... do not justify any extension of time". He also found that Mr. Crook "... fail[ed] to raise any argument which would serve as a basis for the Court to intervene" in the prothonotary's order.

[3] The decision whether or not to grant an application for an extension of time is a discretionary decision reviewable for a palpable and overriding error (*Leishman v. Canada*, 2017 FCA 206 at para. 8; *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215 at para. 79, [2017] 1 F.C.R. 331).

[4] It is well-established that there are four factors to be considered when determining whether an application for an extension of time should be granted: whether the moving party had a continuing intention to pursue the application; the potential merit to the appeal; prejudice to the opposing party, and the existence of a reasonable explanation for the delay (*Canada (Attorney General v. Larkman*, 2012 FCA 204 at para. 61, 433 N.R. 184 (*Larkman*)).

[5] The overriding consideration is to ensure that the interests of justice are served, and not all four factors must be in the applicant's favour (*Larkman* at para. 62).

[6] Although the motions judge does not explicitly apply this test, it is clear from his reasons, when read in light of the prothonotary's decision, the proposed statement of claim, and the appellant's arguments in support of the extension, that the Federal Court judge turned his mind to the relevant factors. I see no error that would justify this Court's intervention.

[7] This appeal will therefore be dismissed, with costs fixed in the amount of \$500.00 all inclusive.

“Donald J. Rennie”

---

J.A.

“I agree

Judith Woods J.A.”

“I agree

J.B. Laskin J.A.”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE DINER OF THE  
FEDERAL COURT DATED JANUARY 20, 2017 IN DOCKET NO. T-1161-16.**

**DOCKET:** A-54-17  
**STYLE OF CAUSE:** WILLIAM HAMILTON CROOK v.  
HER MAJESTY THE QUEEN  
**PLACE OF HEARING:** TORONTO, ONTARIO  
**DATE OF HEARING:** MARCH 22, 2018  
**REASONS FOR JUDGMENT BY:** RENNIE J.A.  
**CONCURRED IN BY:** WOODS J.A.  
LASKIN J.A.  
**DATED:** MARCH 22, 2018

**APPEARANCES:**

William Hamilton Crook FOR THE APPELLANT  
(Self-represented)  
Heather Thompson FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Nathalie G. Drouin FOR THE RESPONDENT  
Deputy Attorney General of Canada