

COURT OF APPEAL FOR ONTARIO

CITATION: Deng v. Han, 2023 ONCA 846

DATE: 20231219

DOCKET: M54558 (COA-23-CV-0810)

Roberts, Sossin and Dawe JJ.A.

BETWEEN

Ping Deng

Plaintiff (Respondent/Moving Party)

and

Danjing Han and Canamex Fire Protection International Inc.

Defendants (Appellants/Responding Parties)

Shane Greaves, for the respondent/moving party

Danjing Han, acting in person

Heard: December 18, 2023

On appeal from the judgment of Justice Markus Koehnen of the Superior Court of Justice, dated May 17, 2023.

REASONS FOR DECISION

[1] The respondent's motion to quash the appeal is allowed on the basis that this appeal lies to the Divisional Court.

[2] In her statement of claim, the respondent sought damages of \$50,000 plus punitive damages of \$50,000. The trial judge awarded the respondent \$39,797.26 plus costs of \$52,667.55. He dismissed the claim for punitive damages.

[3] The relevant statutory provisions regarding appellate jurisdiction are as follows. Section 6(1)(b)(i) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, provides that an appeal lies to this court from a final order of a judge of the Superior Court of Justice, except an order under s. 19(1)(a). Section 19(1)(a) states that an appeal lies to the Divisional Court from a final order of a judge of the Superior Court of Justice. In this case, the following subsections are relevant: s. 19(1.2) (a) an appeal from an order for a single payment of not more than \$50,000, exclusive of costs (the award of \$39,797.26); and (c) appeal from an order dismissing a claim for an amount that is not more than \$50,000 (claim for punitive damages).

[4] In these circumstances, this court has no jurisdiction to hear the appeal. It is within the jurisdiction of the Divisional Court. See: *Harte-Eichmanis v. Fernandes*, 2012 ONCA 266.

[5] We are persuaded that this is not an appropriate case for a transfer under s. 110 of the *Courts of Justice Act*. That said, the quashing of this appeal is without prejudice to the appellants' seeking leave to extend the time to appeal the decision to the Divisional Court.

[6] Accordingly, the appeal is quashed. The respondent is entitled to her costs from the appellants in the amount of \$4,000.

“L.B. Roberts J.A.”

“L. Sossin J.A.”

“J. Dawe J.A.”