

COURT OF APPEAL FOR ONTARIO

CITATION: Lee v. Choice Bank Limited, 2019 ONCA 24

DATE: 20190115

DOCKET: C65559

Rouleau, van Rensburg and Zarnett JJ.A.

BETWEEN

Mary Lee

Plaintiff (Respondent)

and

Choice Bank Limited

Defendant (Appellant)

Robert Colson, for the appellant

Christopher Cosgriffe, for the respondent

Heard: January 11, 2019

On appeal from the judgment of Justice S. Nakatsuru of the Superior Court of Justice, dated May 25, 2018.

APPEAL BOOK ENDORSEMENT

[1] The court was advised by counsel for the appellant that he has been unable to obtain clear instructions from his client. It appears that the appellant is in liquidation. Counsel advised the court the instructions he has received are that it is not in the appellant's interest at this point for counsel to prosecute the appeal. From this, it is unclear whether the appeal should be abandoned or heard on the

basis of the written submissions. In our view, the matter should proceed on the basis of the written record.

[2] From our review of the record including the appellant's factum, we see no basis to interfere with the motion judge's decision.

[3] The appeal is therefore dismissed. Costs to the respondent fixed at \$6,000 inclusive of disbursements and all applicable taxes.