

COURT OF APPEAL FOR ONTARIO

CITATION: Kudwah v. Centennial Apartments, 2012 ONCA 777

DATE: 20121113

DOCKET: C55100

Doherty, MacPherson and Simmons JJ.A.

BETWEEN

Wajid Kudwah

Plaintiff (Appellant)

and

Centennial Apartments, Princess Management Partnership and Michael Edward
Halperin

Defendants (Respondents)

P. Michael Rotondo, for the plaintiff (appellant)

Robert L. Love and Natalie Kolos, for the defendants (respondents, Centennial
Apartments

Heard: November 9, 2012

On appeal from the order of Justice Lederer of the Superior Court of Justice,
dated February 17, 2012.

APPEAL BOOK ENDORSEMENT

[1] The motion judge did not address the requirements of s. 5 of the *Limitations Act, 2002* in his reasons. In our view, he erred in law in failing to do so.

[2] It is important when considering a limitation period claim to appreciate that the terms of the 2002 *Act* must govern. A court considering the limitation claim must address the specific requirements of s. 5 of the *Act*, particularly on the facts of this case, the requirement of s. 5(1)(a)(iv).

[3] The appeal is allowed and the judgment below is set aside.

[4] Costs of the motion to the appellant in the amount of \$7,000, inclusive of all applicable taxes. Costs of the appeal to the appellant in the amount of \$5,000, inclusive of all applicable taxes.