Young v. CRC Self-Help 2020 ONSC 1874
Superior Court of Justice, Divisional Court, Favreau J. *March 26, 2020*

The appellant was a veteran who suffered a workplace injury and whose only source of income was from Ontario Works. He was a tenant in building complex owned by the respondent, which provided affordable alternative housing for those hard to house. In 2016, the parties reached a mediated settlement in which the appellant was ordered not to post items or symbols of any kind in the common areas of the residential complex. In 2019, the respondent applied to the Landlord and Tenant Board *ex parte* to evict the appellant for breach of that order. The board made an eviction order in November 2019. The appellant requested a review, resulting in a stay of eviction. On January 21, 2020, the board confirmed the eviction and lifted the stay. The appellant did not move out of his unit by the deadline of February 1, but filed a review of the eviction order. On February 19, the appellant attended the board to discover that his review request had been denied the previous day. He returned to his unit to find that the sheriff's office had executed the eviction and that the lock had been changed, resulting in the commencement of an appeal to the Divisional Court and a stay of the eviction order. The respondent refused to allow the appellant back into his unit. The appellant moved for an order to reinstate his tenancy pending the hearing of the appeal.

Held, the motion should be allowed.
The Divisional Court had jurisdiction to reinstate the tenancy pending the hearing of the appeal. There was a broad jurisdiction under s. 134(2) of the *Courts of Justice Act*, which provided that a court may make any interim order considered just to prevent prejudice to a party pending an appeal. The appellant filed his appeal in time so there was no reason to deprive him of his rights simply because the respondent and the sheriff acted swiftly in executing the eviction order.

The test for interim relief was met. The January 21 order made no reference to the appellant's circumstances other than the fact that he had entered into an agreement not to post symbols. The board did not consider that there was no evidence that the appellant had not complied with the other terms of the settlement agreement, that the breach was relatively minor, that the breach came three years after the settlement was reached, that the appellant was on social assistance and that he depended on a rent subsidy for housing. The February review order found that the Board considered the appellant's circumstances, but nothing in the original decision justified the finding. The low threshold for a serious issue to be tried was met. In light of the appellant's homelessness and low income in the context of the COVID-19 pandemic, he met the requirement to show irreparable harm and likely would have done so even without the pandemic. As the respondent had relied on a relatively minor breach of the settlement agreement in support of the eviction, evidence that the appellant was a difficult tenant who had engaged in threatening behaviour was insufficient to establish that the balance of convenience favoured the respondent.