

## CITIZENSHIP AND IMMIGRATION

### IMMIGRATION PRACTICE

Judicial review of Immigration and Refugee Board of Canada, Immigration Appeal Division (IAD) decision allowing respondent's appeal from decision of visa officer, granting permanent residence application of respondent's wife — Respondent, Canadian citizen, applying to sponsor wife, Vietnamese citizen, as permanent resident — Officer not satisfied as to genuineness of marriage, denying visa — Hearing of appeal from that decision set for July 18, 2017 — Applicant determining no hearing officers available to attend this hearing, requesting postponement of hearing date — IAD denying postponement, citing, *inter alia*, factors in *Immigration Appeal Division Rules*, SOR/2002-230 (IADR), r. 48(4), *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 162(2) — Concluding that lack of resources not exceptional circumstance warranting postponement — IAD proceeding with hearing, concluding marriage genuine, granting visa application — Real issue herein IAD's refusal, prior to hearing date, to grant postponement — Applicant arguing, *inter alia*, that IAD focusing almost exclusively on administrative convenience, failing to consider certain factors, including that applicant not consulted in advance about dates — Also arguing significant public interest in not letting visa applications like this proceed unopposed, without scrutiny for fraud or other adverse effects on immigration system — No reasonable basis hearing for holding that postponement decision facilitating fraud or some adverse effect on immigration system — To succeed applicant having to show that not only did it claim not to have available resources or hearing officers, but also that it had no reasonable alternative other than postponement — No evidence that on hearing date, no hearing officers available for other scheduled cases— If some hearing officers available but insufficient for all scheduled cases, incumbent on applicant to explain why present case selected as one for which there was no hearing officer — Not Court's role to second-guess reasonable choices made by management, if there had been evidence that reasonable choices were made — Absent this type of evidence of justification for applicant's action, applicant cannot show either unreasonableness or unfairness — Application dismissed.

CANADA (CITIZENSHIP AND IMMIGRATION) V. CHUNG (IMM-3671-17, 2018 FC 238, Phelan J., judgment dated March 2, 2018, 11 pp.)