



Halifax, NS

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December 11, 2014

VIA FAX

Judicial Administrator
Federal Court of Appeal
Ottawa, ON K1A 0H9

Dear Madam or Sir:

**Re: Dr. Gábor Lukács v. Canadian Transportation Agency
Federal Court of Appeal File No.: A-218-14
Request for directions from the Court**

I am writing to seek directions from the Honourable Court as the Privacy Commissioner's motion for leave to intervene was decided without affording me an opportunity to file a responding motion record. The chronology of the events is as follows:

1. On October 16, 2014, the Privacy Commissioner of Canada brought a motion for leave to intervene in the proceeding. On October 23, 2014, the Commissioner's affiant was cross-examined.
2. On November 14, 2014, Madam Justice Gauthier, J.A., directed that:

The applicant shall have until November 20, 2014 to serve and file its said motion to compel answers and to seek an extension of the time to respond to the PC motion. [...] If a motion is filed as directed above, the PC motion will be held in abeyance until the applicant's motion is determined by the Court.

[Emphasis added.]

3. On November 14, 2014, I filed a motion as directed, and sought, among other things, a 10-day extension from the determination of the motion to serve and file a responding motion record in relation to the motion for leave to intervene.

4. On November 24, 2014, the Privacy Commissioner filed its responding motion record, and agreed that I should be granted the sought extension:

51. The Privacy Commissioner submits that the Applicant should have 10 days from the date on which the Court disposes of this motion to serve and file his response to the Privacy Commissioner's motion for leave to intervene, in accordance with the period set out in Rule 369(2) of the *Federal Court Rules*.

[Emphasis added.]

Based on the November 14, 2014 directions of the Court (and the November 24, 2014 submissions of the Privacy Commissioner), I held back on filing my responding motion record to the motion for leave to intervene pending disposition of my motion.

Thus, the Court was misinformed that “All materials have been filed for the motions. Both are ready to be determined” (paragraph 3 of the Reasons for Order of Mr. Justice Stratas, J.A., dated December 10, 2014).

I am seeking directions from the Honourable Court in relation to what transpires as an administrative error causing significant prejudice, and which deprived me of the right to be heard.

In the past, a similar administrative error of this nature occurred, and was resolved by the Court by revoking the order and referring the motion to a new panel (see Directions of Stratas, J.A., dated February 11, 2013).

Sincerely yours,

Dr. Gábor Lukács

Cc: Ms. Odette Lalumière, counsel for the Canadian Transportation Agency
Ms. Jennifer Seligy, counsel for the Privacy Commissioner of Canada

Federal Court of Appeal



Cour d'appel fédérale

MEMORANDUM

Comments

TO: Judicial Administrator
FROM: Stratas J.A.
DATE: February 11, 2013
RE: *Gabor Lukacs v. CTA et al.* (13-A-7)

– DIRECTION –

The Registry has received a letter from the moving party, dated January 31, 2013.

The moving party is quite correct. The Court wishes to apologize to him. He does have the right to reply to the memorandum of Air Canada under Rule 355.

By new order issued under Rule 399, the Court shall revoke its order dated January 30, 2013.

After receiving the moving party's reply a differently constituted panel of the Court will consider it afresh. To confirm, Nadon, Trudel and Stratas J.J.A. will not be involved in the consideration of the moving party's motion for leave to appeal.

“DS”