

September 21/05

Mr Lofaso
Mr. Lévesque
Mr Cuttman.

1. I reject the submission that the existence of two official languages as considered in ss. 125 & 126 of the C.T.A. combine to make ss. 125 & 126 unconstitutional. Counsel has been unable to cite any authority for the proposition. I find ss. 125 & 126 do not require the Court or the issuing plaintiff in Toronto to provide an English translation of documents issued in French.
2. I reject the submission that s. 14 of the Charter can be read to extend the requirement to provide an interpreter to the requirement to provide a translation.
3. I reject the submission that ss. 125 + 126 (CTA) are inconsistent with s. 15 of the Charter. Sec. 15 cannot be invoked to supplement language rights which the Charter has not expressly conferred.
Lalonde v. Ontario. (2001) 56 O.R. (7A) 505 (C.A.) at paras. 96-102.

(See further inside)

4. I reject the submission that ss 125 & 126 of the CTA are inconsistent with § 16 of the Charter. No authority has been cited.

§ 16(3) does not establish rights, but rather is declaratory. See Lalonde v. Ontario paras 92-95

5. Counsel submits in the alternative that, in the special circumstances of this case I should order the Court to provide an English translation, invoking the inherent jurisdiction of the Court. I refuse to do so. The "special circumstances" are that exist in any case where documents are issued in either English or French, and the recipient understands one or the other. Absent impecuniosity, the treatment should be the same for everyone.

6. The relief sought in para 2 + 3 of the Notice of Motion is refused.

7. I refuse the motion for leave to appeal for the following reasons:

(see inside)

(a) I am prepared to assume, without deciding, there is good reason to doubt the correctness of one motion judge's decision or that there is a conflicting decision in Ontario. I make this assumption because the motions judge essentially gave no reasons for ordering costs. In an ex parte motion in the face of r. 57.03(3).

(b) However I am not persuaded it is either "desirable" or "a matter of importance" to the administration of justice in Ontario. It is of considerable importance to the parties. Nevertheless, where the rule permits the judge to "order otherwise," the exercise of that discretion cannot be elevated to a matter affecting the administration of justice, particularly where it is a cost order in dispute.

V. A. C. J.

Costs. There shall be no order as to costs. I exercise my discretion in this fashion to reflect the absence of reasons in the decision of the motions judge. It is not surprising the moving parties felt compelled to seek leave.

V. A. C. J.