

Competition Tribunal



Tribunal de la Concurrence

Reference: *The Commissioner of Competition v. Parkland Industries Ltd.*, 2015 Comp. Trib. 27
File No.: CT-2015-003
Registry Document No.: 092

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an Application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*;

B E T W E E N:

The Commissioner of Competition
(applicant)

and

Parkland Industries Ltd. and Parkland Fuel Corporation
(respondents)



Date of case management conference: 20151207
Before Judicial Member: Gascon J. (Chairperson)
Date of Order: December 15, 2015

ORDER FOLLOWING A CASE MANAGEMENT CONFERENCE

[1] **FURTHER TO** the application filed by the Commissioner of Competition (the “Commissioner”) pursuant to section 92 of the *Competition Act*, RSC 1985, c C-34, as amended (the “Act”), against Parkland Industries Ltd. and Parkland Fuel Corporation (the “Respondents”);

[2] **AND FURTHER TO** the Revised Scheduling Order of November 16, 2015, pursuant to which the examination for discovery of the Commissioner’s witness is scheduled to commence on December 16, 2015;

[3] **AND FURTHER TO** the case management conference of December 7, 2015, at which counsel for the Respondents made a request to postpone the examination for discovery of the Commissioner’s witness on the basis of his belief that the Commissioner would file shortly applications under section 11 of the Act and that the production of any documents in the context of such a proceeding could have an impact on the Tribunal proceedings;

[4] **AND FURTHER TO** the correspondence of counsel for the Commissioner of December 10, 2015, in which he advised counsel for the Respondents and the Tribunal that section 11 applications had been filed with the Federal Court and offered to provide copies of the applications to counsel for the Respondents;

[5] **AND FURTHER TO** the correspondence exchanged between counsel for the Commissioner and for the Respondents on December 10 and 11, 2015, indicating that counsel for the Respondents was provided copies of the Commissioner’s section 11 application and has received the section 11 materials from the Commissioner;

[6] **AND WHEREAS** the dates set in the Revised Scheduling Order are firm and compelling reasons must exist to justify a change to the Order (see: Rule 139 of the *Competition Tribunal Rules*, SOR/2008-141);

[7] **AND WHEREAS** the Respondents will have another opportunity to examine the Commissioner’s witness should the Commissioner serve an additional affidavit of documents further to the section 11 applications;

[8] **AND WHEREAS** the Respondents have not established that they will be prejudiced if the examinations are to proceed as scheduled;

[9] **AND WHEREAS** the Respondents have not established that compelling reasons exist to amend the Revised Scheduling Order;

THE TRIBUNAL ORDERS THAT:

[10] The Respondents' request to postpone the examination for discovery of the Commissioner's witness is denied.

DATED at Ottawa, this 15th day of December, 2015.

SIGNED on behalf of the Tribunal by the Chairperson

(s) Denis Gascon

APPEARANCES

For the applicant:

The Commissioner of Competition

John Syme
Antonio Di Domenico

For the respondents:

Parkland Industries Ltd.
Parkland Fuel Corporation

John F. Rook
Emrys Davis