

Competition Tribunal



Tribunal de la Concurrence

Reference: *Allan Morgan and Sons Ltd. v. La-Z-Boy Canada Ltd.*, 2004 Comp. Trib. 12  
File no.: CT2003009  
Registry document no.:0015

IN THE MATTER OF an application by Allan Morgan and Sons Ltd. for an order pursuant to section 75 of the *Competition Act*, R.S.C. 1985, c. C-34.

B E T W E E N:

**Allan Morgan and Sons Ltd.**  
(applicant)

and

**La-Z-Boy Canada Ltd.**  
(respondent)



Date of tele-conference hearing: July 7, 2004  
Presiding Member: Simpson J. (Chairperson)  
Date of reasons: July 7, 2004

**ORAL DECISION AND REASONS RENDERED JULY 7, 2004 REGARDING A  
MOTION FOR A STAY OF PROCEEDINGS.**

[1] **FURTHER TO** an application for leave pursuant to subsection 103.1(1) of the *Competition Act*, R.S.C. 1985, c. C-34 (the “Act”) to make an application under section 75 of the Act;

[2] **AND FURTHER TO** Justice Lemieux’s Order granting leave dated February 5, 2004;

[3] **AND UPON** a motion for a stay of the section 75 application filed by counsel for La-Z-Boy Canada Ltd. (“La-Z-Boy”) on June 16, 2004;

[4] **AND UPON REVIEWING** the materials filed by both parties;

[5] **AND UPON HEARING** the submissions of counsel for both parties during a tele-conference hearing on July 7, 2004;

**NOW THEREFORE THE TRIBUNAL ORDERS THAT:**

[6] This motion for a stay of the application filed by Allan Morgan and Sons Ltd. (“Morgan”) pursuant to section 75 of the Act, pending La-Z-Boy’s appeal of Justice Lemieux’s decision of February 5<sup>th</sup> 2004, in which he granted Morgan leave to proceed in the Tribunal, is hereby dismissed. This decision is based on the following:

(i) La-Z-Boy has provided no persuasive evidence of irreparable harm. In particular, there is no evidence about the cost of supplying Morgan with brochures, upholstery samples and recliners for showroom display in the event that the Tribunal orders that La-Z-Boy is to supply Morgan before the Court of Appeal deals with La-Z-Boy’s appeal.

(ii) There is no basis for concluding that La-Z-Boy’s reputation will be damaged if Morgan sells La-Z-Boy furniture for a short time given that La-Z-Boy intends to honour any orders received by Morgan.

DATED at Ottawa, this 7<sup>th</sup> day of July, 2004.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) Sandra J. Simpson

## APPEARANCES

For the applicant:

Allan Morgan and Sons Ltd.

Deborah L.J. Hutchings  
Lisa Clarke

For the respondent:

La-Z-Boy Canada Ltd.

Kristina Savi-Mascaro