



Reference: *Commissioner of Competition v. Sears Canada Inc.*, 2003 Comp. Trib. 31  
File no.: CT2002004  
Registry document no.: 0103

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

AND IN THE MATTER OF an inquiry pursuant to subparagraph 10(1)(b)(ii) of the *Competition Act* relating to certain marketing practices of Sears Canada Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition for an order pursuant to section 74.01 of the *Competition Act*.

B E T W E E N :

**The Commissioner of Competition**  
(applicant)

and

**Sears Canada Inc.**  
(respondent)

Date of hearing: 20031114  
Member: Dawson J. (presiding)  
Date of order: 20031222  
Order signed by: Madam Justice Eleanor R. Dawson



**ORDER REGARDING EXPERT WITNESS**

[1] UPON the request of Sears Canada Inc. that Dennis DesRosiers be accepted by the Competition Tribunal (the "Tribunal") as an expert witness upon the subject of survey methodology and analysis relating to the Canadian aftermarket for tires;

[2] AND UPON hearing the examination and cross-examination of Mr. DesRosiers upon his qualifications;

[3] AND UPON hearing the submissions of counsel;

[4] AND UPON the Tribunal reserving its decision upon the matter;

THE TRIBUNAL ORDERS THAT:

[5] Mr. DesRosiers may attend to testify and may give opinion evidence touching upon survey methodology and analysis relating to the Canadian after tire market.

[6] The Tribunal will continue to reserve its decision as to whether Mr. DesRosiers is properly qualified to give such testimony.

[7] During closing argument counsel may address further submissions to the Tribunal as to what portion of Mr. DesRosiers' testimony is opinion evidence and whether Mr. DesRosiers is properly qualified to advance such opinion evidence.

DATED at Ottawa this 22<sup>nd</sup> day of December, 2003.

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

(s) Eleanor R. Dawson

## APPEARANCES

For the applicant:

The Commissioner of Competition

John L. Syme  
Arsalaan Hyder  
Leslie Milton

For the respondent:

Sears Canada Inc.

William W. McNamara  
Philip J. Kennedy  
Stephen A. Scholtz  
Teresa J. Walsh  
Abbas Sabur (student-at-law)