

**RE: LACROIX ET AL V. CMHC ET AL and McCANN ET AL V. CMHC ET AL**

**RULING ON MOTION FOR LEAVE TO APPEAL**

HEARD: June 26, 2008

DECISION RELEASED: June 30, 2008

BEFORE: The Honourable Justice Robert L. Maranger

1. This was a motion seeking an order granting Leave to Appeal a decision of Justice M. Charbonneau dated March 4, 2008.
2. The Endorsement dealt with a motion brought by the Defendant CMHC to stay an action on the basis that the Superior Court of Ontario did not have jurisdiction to entertain an action against an employer for failing to partially terminate a pension plan under the Pension Benefits Standards Act.
3. Leave to appeal is denied. I find nothing in the argument advanced by the moving party to convince me that the correctness of the motion judge's decision is doubtful in any way. What was argued before me was for all intents and purposes a revisiting of all of the arguments made at the original two day hearing, in a condensed format.
4. I would specifically rely on paragraphs 21 through to 27 of Justice Charbonneau's Endorsement. The decision does not stand for the proposition that the Superior Court has jurisdiction under the P.B.S.A., regarding partial termination of pension plans under Section 29. It simply allows for an action pursuant to sections 8(10) and 8(11) when improper conduct is being alleged in not declaring a partial termination. The jurisdiction seems clear.
5. The motion is therefore dismissed. The Respondents to the motion are entitled to reasonable costs. I have considered the amount of costs requested by all parties in the cost envelopes provided; given that there would have been a considerable amount of redundancy in preparing this motion I would fix costs at \$6,500.00 all inclusive payable by the moving party to each of the responding parties law firms forthwith.

(Signature)

Justice R.L. Maranger

- P.S. The Court acknowledges the moving parties request to make further submissions with respect to the applicability of Cousins v. Marine Atlantic Inc. Further submissions are not required. The Court would not grant leave even if the Cousins case were considered inapplicable.

(Signature)

Justice R.L. Maranger