
Citation: *New Brunswick (Financial and Consumer Services Commission) v. Pierre Emond and Armel Drapeau*,
2016 NBFCST 4

PROVINCE OF NEW BRUNSWICK
FINANCIAL AND CONSUMER SERVICES TRIBUNAL
IN THE MATTER OF THE *SECURITIES ACT*, S.N.B. 2004, c. S-5.5

Date: 2016-04-26
Docket: 2300-E1

BETWEEN:

Financial and Consumer Services Commission,

Applicant,

- and-

Pierre Emond and Armel Drapeau,

Respondents.

ORDER

PANEL: Enrico A. Scichilone, Panel Chair
Jean LeBlanc, Panel Member
Gerry Legere, Panel Member

DATE OF HEARING: Written hearing on the basis of written submissions.

APPEARANCES: Brian Maude, for the Applicant;
I. Gérald Lévesque, for Armel Drapeau;
Pierre Emond, in his own capacity.

ORDER

WHEREAS on April 22, 2016, the Respondent, Armel Drapeau, filed a motion requesting the following:

- a) that the hearing scheduled from May 2 to May 6, 2016, be moved from Saint John to Edmundston, New Brunswick;
- b) that the settlement hearing be moved from Saint John to Edmundston, New Brunswick;
and
- c) that the times prescribed be abridged.

WHEREAS subsection 38(3) of the *Financial and Consumer Services Commission Act*, S.N.B. 2013, c. 30, provides that the Tribunal may hold hearings within or outside New Brunswick;

WHEREAS pursuant to *Estate A.B.C. v. Respondent 1 and the Superintendent of Pensions, 2015 NBFCST 3*, the Tribunal must take into account the cost and the inconvenience sustained by the parties and their witnesses when considering a request for a change of venue of the hearing;

WHEREAS the cost sustained by the parties will be higher if the hearing is held in Saint John, given that the Respondent, Armel Drapeau, as well as his lawyer and five of the seven witnesses (aside from the parties) will have to travel to Saint John from the Edmundston area;

WHEREAS the factors to be taken into account when considering the inconvenience to the parties and their witnesses demonstrate that it would be more convenient for them if the hearing was held in Edmundston:

- a) Place of residence and of work of the parties and of the witnesses: The Respondent, Armel Drapeau, and his lawyer reside in the Edmundston area. The Respondent, Pierre Emond, lives in Chicoutimi, Québec, which is closer to Edmundston than to Saint John. The Applicant has its offices in both Saint John and Fredericton. Aside from the parties, five of the seven witnesses reside in the Edmundston area;
- b) Need for hearing to be held close to place of work: In his affidavit, Armel Drapeau states that if the hearing is moved to Edmundston he will call other witnesses, who are refusing to come to Saint John to testify in view of the loss of wages they would suffer given the duration of their absence from work;

- c) The subject-matter of the dispute : This is a case involving the enforcement of the legislation opposing two individuals and the Financial and Consumer Services Commission; and
- d) The time saved if the parties don't need to travel: This factor does not apply. The scheduled dates for the hearing will not change, whether the hearing is held in Saint John or in Edmundston. The Registrar has made the necessary arrangements for the hearing to be held either in Saint John or in Edmundston from May 2 to May 6, 2016;

WHEREAS the Respondent, Pierre Emond, and the Applicant consent to the change of venue of the hearing from Saint John to Edmundston;

IT IS HEREBY ORDERED THAT:

1. The request for abridgment of the times prescribed is granted;
2. The most convenient place to hold the hearing on the merits is Edmundston, New Brunswick;
3. The hearing on the merits is moved to the Salle Madawaska of the Centre des congrès Edmundston, situated at 74, chemin Canada, in Edmundston, New Brunswick;
4. The Tribunal will not consider the request for a change of venue of a settlement hearing, given that no Settlement Agreement has been filed with the Tribunal; and
5. The hearing will be held from May 2 to May 6, 2016.

DATED at Saint John, New Brunswick, on April 26, 2016.

"original signed by"

Christine M. Bernard
Registrar

Signed for Panel Members Enrico Scichilone, Jean LeBlanc and Gerry Legere, pursuant to subsection 40(3) of the *Financial and Consumer Services Commission Act*.