

9105-8015 Québec Inc. c. Canada (Attorney General), 2026 FC 852 (CanLII)

Source: Federal Court
Date: 2026-06-22
File number: T-1564-25
Quote: 9105-8015 Québec Inc. c. Canada (Attorney General), 2026 FC 852 (CanLII), < <https://canlii.ca/t/klq1m> >, retrieved on 2026-07-01

Date :20260622

Case :T-1564-25

Reference: 2026 FC 852

Montreal (Quebec), theJune 222026

In the presence ofMr. Judge Joyal

BETWEEN :

9105-8015 QUÉBEC INC.

plaintiff

And

ATTORNEY GENERAL OF CANADA

respondent

REASONS AND JUDGMENT

I. Introduction

[1] The Court is seized of a written application by the plaintiff, 9105-8016 Québec Inc., pursuant to [art. 369](#) of the *Federal Courts Rules* SOR/98-106 (*Rules*), seeking an extension of time to appoint a new lawyer.

[2] In this case, the Court allowed the plaintiff's former counsel to cease practicing and imposed a one-month deadline on the plaintiff to retain new counsel. Approximately two months later, and therefore one month late, her new lawyer attempted to file a notice of change of counsel and a motion requesting, among other things, an extension of time to retain new counsel. The Court did not accept the filing of these documents. I will return to this point later.

[3] To resolve the procedural impasse in which this case finds itself, I am of the opinion that this motion should be granted. Although the motion has some weaknesses, the interests of justice require that the applicant be allowed to regularize her representation before this Court. This will enable the applicant to take the steps she deems necessary to advance her case and allow it to be heard on its merits as soon as possible.

II. Context

[4] The present proceeding arises from an application for judicial review filed on May 9, 2025 by the applicant against a decision of the Canadian Food Inspection Agency (CFIA).

[5] At first glance, the applicant is challenging the validity of the cancellation of its licence, decided on April 9, 2025, by the CFIA. The applicant primarily alleges procedural irregularities, claiming that the CFIA's inspection and investigation process was flawed and failed to respect the principles of natural justice. I say "at first glance" because a full reading of the notice of application reveals that the applicant is also challenging a previous CFIA decision to suspend its licence, dated December 18, 2024.

[6] It appears from the defendant's response file that, at the outset of this case, discussions took place between the parties to encourage the plaintiff to amend its notice of application for judicial

review and correct certain irregularities raised by the defendant. In particular, the defendant maintained that the notice of application was irregular in that it challenged two separate decisions, contrary to rule 302, which provides that, "[s]ew no contrary order of the Court, an application for judicial review may relate to only one order for which relief is sought .

[7] These discussions did not lead to an agreement, because on August 20, 2025, the plaintiff's original lawyer, Mr. ^{Pierre}-David Gagnon, filed a motion to cease occupying the premises, in which he cited, among other things, a breakdown of the relationship of trust with his client.

[8] On January 27, 2026, Associate Judge Molgat granted this request and ordered the applicant to appoint a new prosecutor by February 27, 2026.

[9] On March 25, 2026, the plaintiff attempted to file a notice of change of counsel, appointing Mr. ^{Jean}-François Landry as the new counsel for the case. On March 31, 2026, the plaintiff also attempted to file a motion seeking various orders. In addition to an extension of time to retain new counsel, this motion sought leave to apply for judicial review of two separate decisions and to amend the initial notice of application for judicial review to specify all the legislative and regulatory provisions on which the application for judicial review was based. Finally, the plaintiff requested that the proceedings continue as a special case management proceeding according to a new procedural timetable.

[10] On April 16, 2026, Associate Judge Shannon issued a directive refusing to allow the filing of the notice of change of counsel due to its lateness. Consequently, the Court refused to allow the filing of the motion of March 31, 2026, noting that, in the absence of a duly granted extension of time for the appointment of counsel, the applicant was not entitled to initiate such proceedings.

[11] On April 22, 2026, the applicant therefore filed this application seeking an extension of time to retain new counsel. She argues that she should not be penalized by the delays incurred, which

she explains by the need to resolve various "procedural obstacles" and to "take a step back" from the case.

[12] The defendant, however, opposes the application. He argues that the plaintiff has not demonstrated a consistent intention to pursue her action between February and March 2026, that she has not provided a reasonable explanation for her delay, and that she has not established the merits of her application for judicial review.

III. Issues in Dispute

[13] The applicant's request raises only the following question:

Should the Court grant the plaintiff an extension of time to appoint a new lawyer?

IV. Analysis

a) Preliminary considerations

i. Title of the case

[14] As a preliminary matter, the defendant requests that the title be changed to name the Attorney General of Canada as the defendant, instead of the CFIA.

[15] Pursuant to [paragraph 303\(1\)](#) (a) of the *Rules* , a notice of application for judicial review cannot name the federal office that made the decision in question as the respondent. In this case, I am of the opinion that, pursuant to [subsection 303\(2\)](#) of the *Rules* , the Attorney General of Canada must be designated as the respondent.

[16] Consequently, the title of the case will be amended in the manner proposed by the defendant.

ii. Affidavit of the plaintiff

[17] The defendant raises the irregularity of the affidavit that the plaintiff submitted in support of her application and requests that it be dismissed.

[18] In support of her application, the applicant filed an affidavit from one of her directors, in which the director merely attests to the veracity of the facts set out in the notice of application. This affidavit follows a practice specific to Quebec procedural law, reflected in particular in [articles 105 and 106](#) of the *Code of Civil Procedure* , CQLR c C-25.01.

[19] However, the *Rules* already contain provisions regarding the format of affidavits submitted to the Federal Court, which any lawyer practising before that Court is required to comply with (*Akme Poultry Butter & Eggs Distributors Inc. v Canada (Public Safety and Emergency Preparedness)* , [2024 CanLII 30068 \(CF\)](#) at paras. 18-19 [*Akme Poultry Butter*]; *Mackie v. Via Rail Canada* , [2022 CF 871](#) at para. 29).

[20] The plaintiff's affidavit does not comply with [subsection 80\(1\)](#) of the *Rules* , which requires that an affidavit be written in the first person and prepared in accordance with Form 80A, according to which the affidavit must "[t]he state the facts in consecutively numbered paragraphs, each of which, as far as possible, is limited to a single fact .

[21] That being said, considering the particular circumstances of this case, I am of the opinion that this irregularity is not fatal. Indeed, the Court is seized of a motion whose sole purpose is to regularize the plaintiff's representation and to resolve the procedural impasse that is currently paralyzing the case. The outright rejection of the plaintiff's affidavit would not advance the case in any way and, for this reason, appears to me disproportionate. Consequently, I will not reject the plaintiff's affidavit. Rather, I will ensure that it is given the weight it deserves, as the case may be.

b) Request for an extension of time

[22] In exercising its discretion to grant or withhold an extension of time, the Court must consider the four factors set out by the Federal Court of Appeal in *Canada (Attorney General) v Hennelly* , (1999) [1999 CanLII 8190 \(CAF\)](#) , 244 NR 399 (*Hennelly*), at paragraph 3, namely whether the claimant has demonstrated: i) that he has shown a consistent intention to pursue his claim; ii) that

the claim has some merit; iii) that the defendant will not suffer prejudice as a result of the extension of time; and iv) that there is a reasonable justification for the delay.

[23] Failure to meet one of these criteria is not necessarily fatal, the overriding consideration remaining that justice be done between the parties (*Alberta v Canada* , [2018 FCA 83](#) at para . 45 ; *Canada (Human Resources Development) v Hogervorst* , [2007 FCA 41](#) at para. 33).

[24] For the following reasons, I am of the opinion that it would be in the interests of justice for the applicant to be granted an extension of time in order to regularize her legal representation.

iii. Reasonable explanation for the delay

[25] Pursuant to the Court order of January 27, 2026, the plaintiff had 30 days to file a notice of change of counsel. It was only on March 25, 2026, that the plaintiff attempted to file such a notice, nearly a month after the expiry of the allotted time.

[26] I note that the applicant's affidavit, which refers primarily to her notice of application, does not explain why she was unable to file her notice of change of counsel within the time limit set by the Court. In her factum, the applicant states that "the delays were due, in particular, to the Applicant's need to resolve several procedural obstacles and to take a step back to address the issues holistically ." This statement alone is insufficient to concretely explain the delay.

[27] In any event, upon reading the entire file, I am able to see that the applicant took some time to appoint a new lawyer, but also to prepare a motion aimed at addressing the defendant's concerns regarding the wording of the notice of application for judicial review and to put in place procedural measures to ensure that the case can now proceed efficiently.

[28] In this context, I am of the opinion that the applicant's one-month delay in filing her notice of change of counsel is at least partly justified.

[29] In any event, placed in the overall perspective of the case, this delay remains of relatively minor importance. It should therefore not preclude the granting of an extension, especially in light of the other applicable criteria, which I will now examine.

iv. Continued intention to pursue the application

[30] For the following reasons, I cannot conclude that the applicant has failed to demonstrate a continuing intention to pursue the claim.

[31] At the beginning of the case, the plaintiff's former counsel engaged in good faith in discussions with the defendant's counsel to resolve some concerns raised by the latter regarding the wording of the notice of application, which took some time.

[32] The application to remove the plaintiff's former counsel has certainly slowed the progress of the case, but I am not prepared to place the blame for this on the plaintiff. The current stagnation of the case stems primarily from the procedural impasse in which the plaintiff finds herself, as she is unable to formally appoint her new counsel.

[33] In this regard, I note, as a positive factor, the fact that, on March 31, 2026, the plaintiff attempted to file a motion not only to be relieved of her failure to appoint a new lawyer in a timely manner, but also to obtain permission to correct her originating pleadings and to put in place procedural measures in order to get the case back on track as quickly as possible.

[34] Even though the Court refused to allow the applicant's motion of March 31, 2026, I cannot entirely fault the applicant for this. The applicant sought to obtain—along with an order allowing her to appoint new counsel—statements on the merits of the case. Since applications on the merits could not be filed until the issue of legal representation was formally resolved, the Court could not accept the motion as formulated.

[35] If the applicant can be faulted, it is for trying to rush things. Nevertheless, she acted diligently by promptly remedying the situation: the following week, she filed a separate application for an extension of time.

[36] Considering the entire up-to-date file, I am of the opinion that the applicant has demonstrated a continuing intention to pursue her claim.

v. Merits of the request

[37] Although the applicant is not required to convince the Court that its application for judicial review will necessarily be granted, it must convince the Court that its application for judicial review has some merit and a reasonable chance of success (*Canada (Human Resources Development) v. Hogervorst* , [2007 FCA 41](#) at paras. [37-38](#) ; *LeBlanc v. National Bank of Canada* , [1994] 1 RCF 81 at page 92; *MacDonald v. Canada (Attorney General)* , [2017 FC 2](#) at paras . [17 and 23](#)).

[38] I agree with the respondent that the application file does not dwell on the merits of the application for judicial review. However, I am of the opinion, upon reading the notice of application for judicial review, that the application is supported by arguable grounds, which are based primarily on breaches of procedural fairness and the arbitrary nature of decisions made by the CFIA in respect of it, as alleged by the applicant.

[39] In particular, the notice of application states that the applicant was subjected to an inspection process, which “shifted into an investigation process without the applicant being properly notified .” The applicant alleges that the CFIA imposed control measures without providing “clear guidelines or normative references” and failed to follow its own internal policies. The applicant claims to have implemented significant changes after the suspension of its licence, but that these were not properly considered by the CFIA. Finally, it argues that the principle of graduated sanctions was not applied, leading to “extreme and permanent” penalties .

[40] In his reply, the defendant refutes the plaintiff's arguments regarding the merits of her claim, addressing both the form and substance of the claim. While I consider that the defendant has raised serious arguments in response to the claim, I do not believe that they justify, at this stage, my refusal of the plaintiff's requested extension of time. Here's why.

[41] On the one hand, the defendant points out certain irregularities which, in his view, affect the notice of application in terms of form. He argues in particular that the applicant is, in fact, challenging two separate decisions in the context of her application for judicial review, which would contravene rule 302 of the *Rules* .

[42] Admittedly, rule 302 is normally interpreted to require that an application for judicial review relate to only one administrative decision. However, case law recognizes that this rule does not apply where several decisions “ are so closely related that they can legitimately be considered as forming a single whole” (*Farjaoui v. Canada (Public Safety and Emergency Preparedness)* , 2026 FC 764 at para. 50 , citing, among others, *Apsassin v. Councillor Yahey* , 2025 FC 1830 at paras. 25-27 , and *Johnny v. Dease River First Nation* , 2024 FC 1636 at paras. 33-34). This is sufficient to conclude that the applicant's position with respect to rule 302 is not without merit at this stage.

[43] On the other hand, the defendant presents substantive arguments, alleging that the process followed by the CFIA with respect to the plaintiff was fair. In this regard, it included in its response file an affidavit from a CFIA manager, which contains several documents outlining the administrative process followed by the CFIA with respect to the plaintiff. In its factum, it argues that the plaintiff was duly informed of the CFIA's concerns regarding it and was given an adequate opportunity to respond to them.

[44] At this stage of the proceedings, it seems premature to me to make a definitive judgment on whether the process followed in this case was unfair to the plaintiff, as the defendant invites me to do.

[45] I would like to reiterate that, at present, the case is stalled because the applicant is unable to formally appoint her counsel. Consequently, the applicant has not yet had the opportunity to present the necessary evidence to regularize and subsequently substantiate her application for judicial review.

[46] My reading of the response file convinces me that there is at least a serious debate between the parties on the question of whether the plaintiff was treated fairly or not. It will be for the trial judge to decide this question, in light of a complete record of evidence and the arguments of the parties.

(v) No harm resulting from the delay

[47] I note at the outset that the defendant does not argue that an order allowing the plaintiff to retain new counsel and advance her case would prejudice the defendant. This position appears wise in the circumstances. In my view, it is clear that the plaintiff is the only party who would suffer prejudice if an extension of time were not granted.

[48] An unfavourable decision would, in effect, require the applicant to consider whether to file a motion under [section 120](#) of the *Rules* to obtain authorization to be represented by one of its directors. It is difficult to see how such a step would ensure better progress of the case.

[49] The existence of prejudice to the plaintiff is further illustrated concretely by the defendant's position, who not only requests the dismissal of the application for an extension of time, but also asks the Court to dismiss the proceedings in their entirety. The defendant invokes in this regard [Article 168](#) of the *Rules* , which authorizes the Court to dismiss proceedings when their continuation is "irretrievably impeded as a result of an order of the Court" .

[50] I do not consider that [Rule 168](#) applies in this case. The Court usually relies on this provision to terminate proceedings after, for example, granting a motion to dismiss a declaration (*Arfaeian v. Canada (Citizenship and Immigration)* , [2025 FC 1167](#) ; *Suss v. Canada* , [2024 FC 137](#)) or a

notice of application for judicial review (*Baptiste v. Canada (Attorney General)* , [2025 FC 1789](#) ; *Makoundi v. Canada (Attorney General)* , [2025 FC 1169](#)). This is clearly a last resort. The present case has not reached that stage.

[51] The Court understands that the defendant wishes the litigation to proceed without undue delay and for the merits of the claim to be decided as quickly as possible. However, the fairest and most expeditious way to achieve this objective is to resolve the current procedural impasse and allow the plaintiff to regularize its representation. This will enable it to take any steps it deems necessary to advance its case and ensure that it is heard on the merits as soon as possible.

V. Conclusion

[52] For these reasons, I grant the applicant's request for an extension of time to appoint a new attorney.

[53] I will therefore order the registry to accept, for filing, the notice of change of counsel transmitted on March 25, 2026. Furthermore, I will allow the applicant to file a new motion, if she so wishes, to regularize her notice of application for judicial review and establish a procedural framework for the remainder of the litigation. In the circumstances, I consider that a period of 15 days will be sufficient for this purpose.

[54] Even if the applicant is successful in this application, I will not award any costs. In this regard, I have taken into account, in particular, the fact that the application file contains certain deficiencies which, although they do not prevent me from granting the remedy sought, have unduly complicated the analysis of the present file.

[55] In conclusion, I reiterate that the [Rules](#) are not merely suggestions of practice, but rather constitute a “binding regulation” for lawyers practicing before the Court (*Le-Vel Brands, LLC v. Canada (Attorney General)* , [2023 FCA 66](#) at para. 14 (*Le-Vel*)). Thus, lawyers who deviate from

the requirements of the *Rules* do so at their own risk (*Akme Poultry Butter* at para. 19 , citing *Le-Vel* at para. 14).

[56] In order to ensure the orderly progress of this proceeding, the plaintiff's new counsel is strongly encouraged to familiarize himself with all *applicable Rules* and to ensure that he complies with them with the utmost rigor for the remainder of the case.

JUDGMENT IN T-1564-25

THE COURT RULES that:

1. The title is changed so that the Attorney General of Canada is designated as the defendant;
2. The registry will accept for filing, from the date of this judgment, the notice of change of attorney and the proof of service transmitted by the plaintiff on March 25, 2026;
3. The plaintiff will have a period of 15 days from this judgment to file, if she so wishes, a request to regularize her notice of application for judicial review and establish a procedural framework for the continuation of the dispute;
4. Unless the Court orders otherwise, the time limits provided for in Articles 306 et seq. of the *Rules* will begin to apply again from the expiry of this 15-day period.
5. All without any expense.

“François Joyal”

Judge

CASE : T-1564-25

TITLED : 9105-8016 QU.BEC INC. v. THE ATTORNEY GENERAL OF CANADA

WRITTEN MOTION EXAMINED IN MONTREAL, QUEBEC, IN ACCORDANCE WITH RULE 369 OF THE FEDERAL COURTS RULES

DATE : JUNE 22, 2026

REASONS AND JUDGMENT: JOYAL, J.

DATE OF REASONS: JUNE 22 , 2026

LAWYERS LISTED IN THE CASE FILE :

Alpeni Gauthier
Montreal (Quebec)

Attorney General of Canada
Montreal (Quebec)

FOR THE PLAINTIFF

FOR THE DEFENDANT