

Court of King's Bench of Alberta

Citation: Watkins v Ken's Propane Ltd., 2026 ABKB 631

Date: 20260908
Docket: 2612 00058
Registry: Wetaskiwin

Between:

Tyson Watkins and Brittany Watkins

Applicants

- and -

Ken's Propane Ltd.

Respondent

**Reasons for Decision
of the
Honourable Justice K.H. Oviatt**

Overview

[1] This is an application to enforce an adjudicator's order under the *Prompt Payment and Construction Lien Act*, RSA 2000, c P-26.4 (the *Act*).

[2] The applicants, Tyson Watkins and Brittany Watkins (the Watkins), brought an application to discharge a construction lien and for judgment in the amount of an adjudicator's order. By the time of the application, the construction lien issue was moot, and the only remaining issue was the enforceability of the adjudicator's order.

[3] For the reasons that follow, the application is allowed. The adjudicator's order shall be registered as an order of the Court.

Issues

[4] The issues on this application are:

- (a) Does the *Act* require the Clerk of the Court to register an adjudicator's order as an order of the Court once the requirements of section 33.61(1) are met?
- (b) Does the Court have discretion to direct the Clerk of the Court to refuse to register an adjudicator's order in the absence of judicial review?

Mandatory Filing of Adjudicator's Order

[5] Although the *Act* has a long history under its previous name as the *Builders' Lien Act*, recent amendments create a new dispute adjudication process. Part 5 of the *Act* sets out that process. The binding nature of the adjudication process under Part 5 is at issue in this application.

[6] The underlying dispute between the parties is about construction of a luxury home. The Watkins retained the respondent, Ken's Propane Ltd. (KP Ltd), under a fixed price building contract to build their home. That relationship broke down, with the Watkins arguing they had overpaid for unfinished work and KP Ltd arguing that amounts remained outstanding.

[7] On August 15, 2025, KP Ltd issued its last invoice for \$396,433.64, with a balance of \$196,668.60. The Watkins did not pay the balance owing and instead engaged the dispute resolution process under Part 5 of the *Act*, including by referring the dispute to an adjudicator under section 33.4(1). Neither party started a concurrent court action or arbitration under the *Arbitration Act*, RSA 2000, c A-43.

[8] An adjudicator heard the dispute under section 33.6(1) of the *Act*. The adjudicator issued her reasons in a written notice of determination accompanied by the adjudicator's order (Adjudicator's Order) on January 19, 2026, under section 33.6(4). The adjudicator found that the Watkins had overpaid and directed KP Ltd to pay \$53,718.00 to the Watkins.

[9] The Watkins attempted to register the Adjudicator's Order with the Court under section 33.61(1) of the *Act*. The Clerk of the Court refused to register the Adjudicator's Order, resulting in this application.

[10] Adjudicators under the *Act* join a long list of administrative decision makers in Alberta and throughout Canada. "Parliament and the provincial legislatures are constitutionally empowered to create administrative bodies and to endow them with broad statutory powers": ***Canada (Minister of Citizenship and Immigration) v Vavilov***, 2019 SCC 65 at para 24 (*Vavilov*), ***Dunsmuir v New Brunswick***, 2008 SCC 9 at para 27.

[11] There are many reasons a legislature may choose to delegate decision-making authority to an administrative body, including expertise and administrative experience, the decision maker's proximity and responsiveness to stakeholders, the ability to provide simplified and streamlined proceedings to promote access the justice, and the ability to render decisions promptly, efficiently, and flexibly: ***Vavilov*** at para 29.

[12] Subject to specific exceptions, an adjudicator's determination is binding on the parties: s 33.6(5). It is clear from the language of the *Act* that the Legislature intended to give adjudicators

jurisdiction to make binding decisions between parties through an efficient and streamlined process.

[13] Section 33.61(1) of the *Act* states that “[t]he clerk of the court **shall** register an adjudicator’s order...as an order of the court” if all statutory requirements are met [emphasis added]. The language is mandatory not discretionary. That is, the Clerk of the Court **must** register an adjudicator’s order if the following requirements are met:

- (a) the adjudicator’s order is submitted to the clerk of the court not less than 30 days after the parties have received the order;
- (b) no court order has been made affecting the binding nature of the determination of the matter by the adjudicator;
- (c) no arbitration has commenced and is in progress under the Arbitration Act;
- (d) no award has been made under the Arbitration Act;
- (e) the parties have not entered into a written agreement that resolves the matter in dispute;
- (f) the additional requirements, if any, set out in the regulations.

[14] Currently, there are no additional requirements set out in the *Prompt Payment and Adjudication Regulation*, Alta Reg 23/2022 (the *Regulation*).

[15] The requirements in section 33.61(1) do not require judicial oversight; they can be confirmed by an administrative checklist. Presumably, this was the legislative intent by specifically referring to the Clerk of the Court as opposed to the Court more generally.

[16] KP Ltd suggested that the statutory requirements were not met because the Watkins submitted the Adjudicator’s Order more than 30 days after the award. However, this argument misses the clear statutory language that an adjudicator’s order must be submitted **not less than** 30 days after receiving the order. Section 33.61(1)(a) is not a limitation period which requires filing before 30 days, but rather a grace period in which it cannot be filed.

[17] This grace period coincides with the limitation for filing a judicial review application of an adjudicator’s order: s 33.7(2). A party cannot submit an adjudicator’s order, and the Clerk of the Court cannot register it as an order of the Court, while there remains an opportunity for judicial review. Once the limitation period for judicial review has passed, then the order can be submitted and the Clerk of the Court must register it as an order of the Court.

[18] All the statutory requirements of section 33.61(1) were met here. Accordingly, the Clerk of the Court should have registered the Adjudicator’s Order as an order of the Court.

No Discretion to Refuse Filing in the Absence of Judicial Review

[19] Although the statutory requirements of section 33.61(1) were met, KP Ltd asked the Court to refuse to register the Adjudicator’s Order. It relied on the Court’s inherent and legislated jurisdiction under the *Judicature Act*, RSA 2000, c J-2. Much of KP Ltd’s submissions were complaints about the adjudicator’s process, jurisdiction, and alleged errors.

[20] Arguments about fairness, reasonableness and general legality of an administrative decision maker’s decision are appropriate and available in judicial review. The *Act* anticipates

judicial review applications within 30 days. KP Ltd did not apply for judicial review. Having missed the limitation period for judicial review, KP Ltd is now time barred from bringing such an application. In essence, its arguments on this application were an attempt to judicially review the Arbitrator's Order without having brought a judicial review application. Those arguments are not properly before the Court.

[21] To the extent that the *Act* or the *Regulation* purport to limit the Court's ability to judicially review an adjudicator's determination, those limits may need to be assessed considering the Supreme Court of Canada's recent decision in ***Democracy Watch v Canada (Attorney General)***, 2026 SCC 28. However, that issue is not before me. I further note that the Supreme Court of Canada did not preclude legislatures from prescribing the procedure for judicial review, including limitation periods, like the 30-day time limit in section 33.7(2): at para 75.

[22] Since the mandatory statutory requirements in section 33.61(1) were met and no judicial review application was made within the limitation period, there is no basis for the Court to refuse registration of the Adjudicator's Order.

Conclusion

[23] The Watkins are granted a fiat directing the Clerk of the Court to register the Adjudicator's Order as an order of the Court.

Heard on the 02nd day of July, 2026.

Dated at the City of Wetaskiwin, Alberta this 08th day of September, 2026.

K.H. Oviatt
J.C.K.B.A.

Appearances:

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for the Applicants

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for the Respondent