

CITATION: Mounted Police Association of Ontario v. Canada (Attorney General), 2010  
ONCA 635  
DATE: 20101001  
DOCKET: M39188 (C50475)

COURT OF APPEAL FOR ONTARIO

Doherty, Feldman and Blair JJ.A.

BETWEEN:

Mounted Police Association of Ontario and BC Mounted Police  
Professional Association on their own behalf and  
on behalf of all Members of the Royal Canadian Mounted Police

Applicants (Respondents in Appeal/Cross-Appellants)

And

The Attorney General of Canada

Respondent (Appellant/Respondents in Cross Appeal)

Kathryn Hucal for the appellant The Attorney General of Canada

Laura Young, for the respondents the BC and Ontario Associations of the RCMP

Heard and released orally: September 27, 2010

ENDORSEMENT

[1] The appellant seeks an order staying the declaration of MacDonnell J. striking down s. 96 of the *Royal Canadian Mounted Police Regulations, S.O.R./88-361* pending the outcome of the appeal in this court. The current status is that the appeal to this court

*Fraser v. Ontario (A.G.)*, [2009] S.C.C.A. No. 9, heard and reserved in December 2009. MacDonnell J. imposed an 18-month stay on his declaration of invalidity, which is set to expire on October 6, 2010.

[2] In our view, given the current status and having regard to the 3-part test for granting a stay set out in *RJR-MacDonald Inc. v. Canada (A.G.)*, [1994] 1 S.C.R. 311 at paras. 76-81, that:

- (1) a serious issue is to be tried;
- (2) the moving party would suffer irreparable harm; and
- (3) the balance of convenience favours the granting of the stay;

as well as the justice of the case, a stay should be granted, expiring 30 days following the release of the Supreme Court of Canada's decision in *Fraser*, but on conditions.

[3] The respondent has asked for four conditions on any stay that may be granted, in order to level the playing field between the SRR's and the Associations in their relations with the RCMP employees. The appellant has raised a concern that practical difficulties may arise in giving the Associations access to certain internal email communication systems, but there is no evidence in the record that there are such problems. In those circumstances, as a condition of the stay, we impose the following four conditions as requested:

- (a) The Association executives are permitted to use the internal email system to communicate with employees;

- (b) the Associations are permitted to hold meetings with the employees during their off-duty hours, on the employer's property;
- (c) the Associations are permitted to post information about the Associations on the employer's intranet; and
- (d) the Associations are permitted to post information on employer bulletin boards;

all without interference from the SRR Program or RCMP management.

[4] If any issues arise during the term of this stay, a motion may be brought before any member of this panel for directions.

[5] There will be no costs awarded on the motion.

*K. Zee J.A.*  
*Robly J.A.*  
*PA Blaw J.A.*