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F I L E D	FEDERAL COURT COUR FÉDÉRALE	D É P O S É	
September 06, 2024 06 septembre 2024			
Isabelle Sanfacon			
QUE		1	

File Number: _____

FEDERAL COURT

BETWEEN

MICHAEL MOREAU

Applicant

- and -

DEPARTMENT OF FISHERIES AND OCEANS

Respondent

NOTICE OF APPLICATION UNDER

Section 77 of the *Official Languages Act*

TO THE RESPONDENT

A proceeding has been commenced against you by the applicant. The relief claimed by the applicant appears below.

This application will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at **Québec, Québec**

If you wish to oppose this application, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, within 10 days after being served with this notice of application.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

If you fail to oppose this application, judgment may be given in your absence and without further notice to you.

Friday, September 6, 2024

Issued By: _____

Address of local office: 30 McGill Street
Montréal, Quebec H2Y 3Z7

TO: **Attorney General of Canada**
Quebec Regional Office
Department of Justice Canada
Guy-Favreau Complex
East Tower, 9th Floor
200 René-Lévesque Boulevard West
Montréal, Quebec H2Z 1X4

Telephone: 514-283-4934
Fax: 514-496-7876
Email: agc_pgc_montreal@justice.gc.ca

AND TO: **Office of the Commissioner of Official Languages**
30 Victoria Street
Gatineau, Québec K1A 0T8
information.information@clo-ocol.gc.ca

APPLICATION

1. On June 19, 2024, the applicant was vacationing in the Magdalen Islands, Québec, when he noticed the below sign. It is damaged and results in missing information in both English and in French.



2. On June 20, the applicant complained to the Office of the Commissioner of Official Languages (the Commissioner) under section 58 of the *Official Languages Act* (OLA or “the Act”) alleging a violation of Part IV of the Act.
3. On July 8, 2024, the Commissioner informed the applicant of his refusal to investigate. The Commissioner found the complaint does not involve a specific case of a contravention of the letter or spirit of the Act arising from the administration of the affairs of a federal institution, but rather a maintenance issue. Also, the damaged sign did not allow them to clearly identify which federal institution is responsible for the sign in question.
4. The applicant conducted his own research and emailed a Real Property Senior Advisor from the Department of Fisheries and Oceans (DFO). On July 17, DFO confirmed a new sign was ordered and would be installed.

THE APPLICANT MAKES APPLICATION FOR

1. An order under subsection 77(4) of the *OLA* declaring the respondent breached Parts IV and VII of the Act;
2. Damages in the amount of \$1; and
3. All with costs as per subsection 81(2) of the *OLA*.

THE GROUNDS OF THE APPLICATION ARE

1. Subsection 77(1) of the Act provides for a *de novo* review on the merits of a complaint at the time it was submitted to the Commissioner. When this complaint was submitted to the Commissioner, the sign was in the state pictured above. This represents a violation of Parts IV and VII of the Act.
2. The *OLA*'s preamble is clear: all legal obligations related to the official languages apply at all times. This includes maintenance issues. It is not because the service is equally poor in both official languages that a federal institution can say they complied with the *OLA*. The Act implies that services provided in either language are always of the utmost quality.
3. A sign that cannot be understood in both official languages is more than a maintenance issue: it is a safety hazard. This is a violation of paragraph 22(b) of the *OLA*. There is significant demand as per subparagraph 5(1)(h)(i) of the *Official Languages (Communications with and Services to the Public) Regulations*. The service area of the facility has 940 members of the English minority, which is equal to 7.5% of that area's population.
<https://www.tbs-sct.canada.ca/Burolis/DetailedInformation/91244>
4. The applicant was unable to obtain the available services from the sign in either official language. The service in question was giving directions and indicating to the general public where on the island they are situated. The sign represents "facilities" of DFO as per paragraph 22(b).
5. Not only is the sign hazardous, it is unseemly. The respondent's ongoing neglect of their facilities represents a violation to Part VII of the Act.

6. In particular, DFO has an obligation under paragraph 41(1)(b) of the Act to foster the full recognition and use of both official languages. Both languages are not recognized or used equally when a message is not communicated in either official language due to maintenance issues.
7. This commitment triggers the obligation to take positive measures under subparagraph 41(6)(c)(ii) of the Act to foster an acceptance and appreciation of both official languages by members of the public. The positive measure claimed by the applicant under this provision is simple: continued maintenance and upkeep on signs with both official languages.
8. This positive measure would foster acceptance and appreciation of both official languages by members of the public because it would serve as a reminder to members of the public of the importance the federal government attaches to their official languages obligations. The public is more likely to believe in the importance of both official languages if the government takes their obligations seriously. These obligations include regular maintenance and upkeep of facilities in both official languages.
9. The deterioration of the facility in question is evidence the respondent failed to comply with their duties under Parts IV or VII of the *OLA* as of the date of the complaint. The applicant is therefore entitled to a remedy.

THE APPLICATION WILL BE SUPPORTED BY THIS MATERIAL:

1. The applicant's affidavit;
2. The applicant's memorandum of fact and law
3. Such further material the applicant or the respondent may present.

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