CITATION: Sunova v. CLAAS of America, 2025 ONSC 6657
COURT FILE NO.: DC-24-00000013
DATE: 2025/11/28

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
Sunova Implement Ltd.	)	Eric Gillespie, for the Applicant
Applicant	)	
– and –	)	
CLAAS of America Inc.	)	Christopher Casher, for the Respondent
Respondent	)	
	)	**HEARD:** November 27, 2025

BEFORE: Firestone RSJ, Lococo & Shore, JJ.

[1] It is important to understand what the case before this panel is about and what this case is not about. This is an application for judicial review of the decision of the Agricultural and Rural Affairs Tribunal (the "Tribunal") dated December 19, 2023. That decision dismissed the applicant's recusal motion, which was based on an alleged apprehension of bias on the part of the presiding Member of the Tribunal regarding the determination of various production motions.

[2] The underlying administrative proceeding before the Tribunal involves the alleged unlawful termination of a regulated dealership agreement. The proceeding was commenced by a request for hearing dated September 1, 2022, and is ongoing.

[3] The first production motion was brought by the applicant. This motion sought production from a third party and was heard by the Tribunal on August 23, 2023. The Tribunal delivered its decision on September 22, 2023, and dismissed the motion.

[4] The second motion was brought by the respondent seeking various productions from the applicant. That motion was heard by the Tribunal on September 5, 2023. The Tribunal released its decision on September 22, 2023, and ordered that the applicant produce various documents.

Extension of Time

[5] This judicial review application was not brought within in the time provided for under s. 5(1) of the *Judicial Review Procedure Act,* R.S.O. 1990, c. J.I. (the "Act"). This subsection requires that such application be brought within 30 days of the Tribunal's decision.

[6] The application for judicial review was not commenced until March 14, 2024. Section 5(2) of the Act provides that the Divisional Court may extend the 30-day time limit if it is satisfied that there are apparent grounds for relief and that no substantial prejudice or hardship will result to any person affected by the delay.

[7] The applicant has not formally moved by way of motion for an extension of time. The request for such relief has been made in the applicant's factum. The respondent was made aware well in advance that such request would be made and has addressed the applicant's request in their factum.

[8] Having considered the parties' written and oral submissions as well as the procedural timeline of this proceeding, we are not persuaded that the respondent will suffer substantial prejudice or hardship if the applicant's request for an extension is granted.

[9] An order extending the time for the service and filing of the application pursuant to s. 5(2) of the Act is granted.

[10] In making that order, we note that in the normal course, an applicant seeking an extension in the filing time is required to bring a formal motion, and failure to do so may cause the court to refuse to extend the filing deadline. However, as an additional factor in favour of granting leave in this case, extending the filing deadline provides the opportunity to provide further guidance relating to prematurity as a ground for declining to hear a judicial review application in circumstances in which reasonable apprehension of bias is alleged as grounds for relief.

Prematurity

[11] The respondent argues that this application for judicial review is premature and should be dismissed given that the underlying administrative proceeding has not yet been concluded.

[12] Absent "exceptional circumstances" an application for judicial review will not be heard until the completion of the underlying proceeding: *Malekzadeh v. Ontario Labour Relations Board*, 2024 ONSC 2559 (Div. Ct.), at para 5. The decision in *Yatar v. TD Insurance Meloche Monnex*, 2024 SCC 8 does not alter this principle.

[13] In *Yatar* at para. 54, the Supreme Court of Canada reaffirmed the principle that a reviewing court must still determine whether judicial review is appropriate and retains the discretion to refuse a remedy and may decline to consider the merits of the application. *Yatar* did not remove or abolish the prematurity principle and the exceptional circumstances standard in making such determination.

[14] As the court stated in *Kadri v. Windsor Regional Hospital*, 2019 ONSC 5427 (Div. Crt), at paras 49-51, citing *C.B. Powell Ltd. v. Canada*, 2010 FCA 61 at para. 33:

> Exceptional circumstances are best illustrated by the very few modern cases where courts have granted prohibition or injunction against administrative decision-makers before or during their proceedings. Concerns about procedural fairness or bias, the presence of an important legal or constitutional issue, or the fact that all parties have consented to early recourse to the courts are not exceptional circumstances allowing parties to bypass an administrative process, as long as that process allows the issues to be raised and an effective remedy to be granted."

[15] See also: *National Car Rental Inc. v. Municipal Property Assessment Corp.*, 2023 ONSC 2989 at paras. 31-32.

[16] The applicant submitted that the Tribunal made a significant error in ordering disclosure arising from a draft report used in the process of settlement discussions and that not granting the application will open the floodgates for motions by other litigants to request disclosure arising from settlement discussions. This is not the issue before this Court, nor was it raised in the written submissions on the disclosure motion before the Tribunal. The applicant has not sought judicial review of the disclosure decisions. The applicant has brought an application for judicial review of the recusal motion, for a finding that there is bias or a reasonable apprehension of bias. The applicant is asking this Court to determine an issue not properly before the panel.

[17] In considering the issue of the recusal motion, based on the totality of the record in the exercise of our discretion, we are not satisfied that the applicant

has demonstrated "exceptional circumstances" which would justify prematurely determining this application for judicial review on bias from an interlocutory administrative decision prior to the completion of the underlying proceeding on the merits. To do so will lead to a fragmented administrative process and possible multiplicity of court proceedings.

[18] In reaching this decision, we wish to make it clear that alleging actual bias or reasonable apprehension of bias relating to a tribunal's interlocutory decision is not an automatic way to avoid dismissal, as premature, of an application for judicial review of that decision. Whether there is actual bias or reasonable apprehension of bias is more appropriately determined based on the conduct of the administrative proceeding as a whole. Judicial review of an interlocutory decision on the grounds of bias should proceed only in the clearest of cases.

[19] This application for judicial review of the Tribunal's recusal motion determination is dismissed as premature. This is without prejudice to renew the application once the underlying administrative proceeding currently before the Tribunal is completed.

[20] The parties agreed on costs of $10,000 to the successful party, with no costs for or against the Tribunal.

[21] Costs of this application are awarded to the respondent, CLAAS, in the all-inclusive amount of $10,000.

Firestone RSJ.

Lococo J.

Shore J.

Released: November 27, 2025

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REASONS FOR JUDGMENT

Firestone RSJ., Lococo J., Shore J.

Released: November 27, 2025