Federal Court  Cour fédérale

Date: 20251215

Docket: T-208-25

Citation: 2025 FC 1968

Toronto, Ontario, December 15, 2025

PRESENT: The Honourable Justice Thorne

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF CANADA

Plaintiff

and

COLE VANCE FOUILLARD

Defendant

JUDGMENT AND REASONS

I. Overview

[1] In this motion, the Plaintiff, representing the Minister of Agriculture and Agri-Food Canada (the "Crown"), seeks summary judgment against the Defendant for default of repayment of an advance payment under the *Agricultural Marketing Programs Act*, SC 1997, c 20 ("AMPA"), dating back to the 2017-2018 program year.

[2] For the reasons that follow, I grant the motion for summary judgment.

II. Background

[3] The AMPA is a federal statute which supports agricultural production in Canada by making loans available to agricultural producers. The AMPA provides a mechanism whereby administrators partnered with the government, who are involved in agricultural sales, provide monetary advances to producers to enable them to carry out activities such as purchasing production equipment and otherwise financing their operations. The agricultural producers are required to eventually repay the loans, with interest, to the administrator. However, under subsection 23 of the AMPA, the Minister will backstop and guarantee the repayment of a loan to the administrator should the producer default on their repayment obligations.

[4] Where this occurs, once the Minister makes this payment, they are subrogated to the administrator's rights against the producer, and the producer is liable to the Minister for both the amount owing and interest on the subrogated amount. Subsection 23(4) of the AMPA, however, establishes a limitation period for the Minister, setting out that no action or proceedings may be initiated by the Minister to recover any such amounts, interest and costs that are owing more than six years after the day on which the Minister is subrogated to the administrator's rights.

[5] On or about March 23, 2017, the Defendant, Mr. Fouillard, applied to an administrator, Manitoba Livestock Cash Advance Inc ("MLCA") for an advance payment for the 2017-18 program year. On May 3, 2017, he received an advance payment in the total amount of $400,000.00, less an administration fee. The Defendant fell into default with respect to the

repayment of the advance payment as of April 1, 2019, and after the date of default, interest continued to accumulate in accordance with the terms and conditions stipulated in the advance payment application. After this time, the Defendant made a total of $6,000.00 in voluntary payments, between September 26, 2019 and January 8, 2021.

[6] On March 31, 2021, the Minister of Agriculture and Agri-Food made a payment to the MLCA covering the remaining debt owing from the advance payment, honouring the guarantee under section 23 of the AMPA. The Minister then made demands of Mr. Fouillard for repayment of the defaulted 2017 advance payment amount, in correspondence dated April 22, 2021, September 29, 2021, October 13, 2021, June 27, 2022, September 13, 2022 and September 14, 2022. When these demands were not satisfied, on January 16, 2025 the Crown commenced this action for recovery of the amount it alleges is owed by the Defendant in relation to the 2017-2018 advance payment. The principal and interest outstanding at the date of default was $433,938.08.

[7] Mr. Fouillard filed his Statement of Defence on July 29, 2025, and on November 24, 2025, the Crown filed this motion for summary judgment. The Defendant failed to file a responding motion record, and the time for doing so has now expired.

III. The Test for Summary Judgment

[8] The Crown has moved for summary judgment under Rule 213 of the *Federal Courts Rules*, SOR/98-106 [*Federal Courts Rules*]. Pursuant to Rule 215(1) of the *Federal Courts Rules*, the Court shall grant summary judgment if it is satisfied that there is no genuine issue for

trial with respect to a claim or defence. This Rule must be interpreted and applied to be consistent with Rule 3: "to secure the just, most expeditious and least expensive outcome of every proceeding" (*ViiV Healthcare Company v Gilead Sciences Canada, Inc.*, 2021 FCA 122, 460 DLR (4th) 272 at para. 37). As the Supreme Court of Canada stated in *Canada (Attorney General) v Lameman*, 2008 SCC 14, [2008] 1 SCR 372 at para 10:

> The summary judgment rule serves an important purpose in the civil litigation system. It prevents claims or defences that have no chance of success from proceeding to trial. Trying unmeritorious claims imposes a heavy price in terms of time and costs on the parties to the litigation and on the justice system. It is essential to the proper operation of the justice system and beneficial to the parties that claims that have no chance of success be weeded out at an early stage. Conversely, it is essential to justice that claims disclosing real issues that may be successful proceed to trial.

[9] A Court may conclude there is no genuine issue for trial if there is no legal basis for the claim or defence, or if the Court has the evidence required to fairly and justly adjudicate the dispute (*Milano Pizza Ltd. v 6034799 Canada Inc.*, 2018 FC 1112 (CanLII), [*Milano Pizza*] at para 31, citing *Hryniak v Mauldin*, 2014 SCC 7 at para 66; see also *Elite Insurance Company (Aviva) v Borgatti Estate*, 2025 FC 1471 at para 46 [*Elite Insurance*]).

[10] Further, the test on a motion for summary judgment "is not whether a party cannot possibly succeed at trial; rather, it is whether the case is so doubtful that it does not deserve consideration by the trier of fact at a future trial" (*Milano Pizza* at para 33 citing *Canada (Citizenship and Immigration) v Campbell*, 2014 FC 40 [*Campbell*] at para 14 and the cases cited therein). As a result, "summary judgment is not restricted to the clearest of cases". (*Milano Pizza* at para 33 citing *Campbell* at para 14)

[11] Finally, as the Federal Court of Appeal has made clear in *Canmar Foods Ltd v TA Foods Ltd*, 2021 FCA 7 at para 27:

> The legal burden to establish that there is no genuine issue for trial clearly falls on the moving party. That being said, once the moving party has discharged its burden, the evidentiary burden falls on the responding party, who cannot rest on its pleadings and must come up with specific facts showing that there is a genuine issue for trial: *Cabral v. Canada (Citizenship and Immigration)*, 2018 FCA 4, [2018] F.C.J. No. 21 at para. 23. As the Federal Court stated in *Watson v. Canada (Indian and Northern Affairs)*, 2017 FC 321 at paragraph 22, "[w]hile the burden falls on the moving party, both parties must put their best foot forward." [Further citations omitted]

IV. Analysis

[12] The Plaintiff has straightforwardly established in its evidence that:

- The Defendant applied in writing to the MLCA for an advance payment on March 23, 2017;
- The Defendant received the advance payment in the amount of $400,000.00, less an administration fee on or about May 3, 2017;
- The Defendant defaulted on the repayment of the advance to the MLCA, having only ever paid back a total of $6,000.00;
- The Minister repaid the guaranteed advance on March 31, 2021, establishing this as the subrogation date, after receiving a request from the administrator, MLCA;
- Counsel for the Defendant sent a May 23, 2019 letter to MLCA in which they stated that the Defendant was unable to make the payments set out the Default Repayment Agreement at that time, an assertion which essentially acknowledged the existence of the debt;

- The Crown's action to recover the amounts owing was commenced on January 16, 2025, before the subsection 23(4) subrogation limitation date of March 31, 2027; and

- The Defendant is indebted to the Crown in the amount of $631,455.07 as at November 6, 2025.

[13] Though the Defendant filed a Statement of Defence on July 29, 2025, this document merely baldly denies the allegations against him and denies that the Defendant owes any money to the Plaintiff, while positing in the alternative that the Defendant "says that the plaintiff has failed to accurately calculate whatever amounts might be found owing." No evidence whatsoever has been provided by the Defendant.

[14] Thus, no evidence to the contrary of that of the Plaintiff has been brought to indicate that that the amount is not owed to the Crown. The Defendant has not provided any evidence contradicting the fact that they borrowed the money, or that they failed to repay anything other than $6,000.00 since the time of the advance. Nor has any evidence been put forward in support of the contention that the Plaintiff has failed to accurately calculate the amounts owing. From the evidence before the Court, it is clear that the Minister became subrogated to the rights of the lender upon repaying the amount, and that the action to recover the amounts owed was initiated before the expiration of the limitation period for doing so. The evidence also establishes that interest sought is being claimed in accordance with the repayment agreement made by the Defendant.

[15] In short, the Crown's evidence on this motion clearly establishes that the Defendant owes to the Crown the amounts sought as judgment.

[16] In my view, summary judgment is appropriate in this case. The issues are well defined; the necessary facts have been established; the evidence submitted by the Plaintiff has not been, in any way, contradicted by the Defendant and no issue of credibility arises from the dispute (*Saskatchewan (Attorney General) v Witchekan Lake First Nation*, 2023 FCA 105 leave to appeal ref'd (2023 CarswellNat 5112 (SCC)) at paras 33-40). Under the circumstances, the Statement of Defence filed in answer to the Statement of Claim herein raises no genuine issue for trial, and I see no reason not to grant the motion for summary judgment on the terms requested by the Plaintiff. To this end, the Attorney General also seeks costs fixed at $1,898.18 in lieu of taxation. I find this to be reasonable.

V. Conclusion

[17] For the foregoing reasons, the Crown's motion for summary judgment is granted.

JUDGMENT in T-208-25

THIS COURT'S JUDGMENT is that:

1. Summary judgment in the amount of $631,455.07 is granted in favour of the Plaintiff, with interest thereon accruing at the per diem rate of $84.38 from November 6, 2025, until the date of this judgment, and thereafter at the rate of five percent (5%) per annum pursuant to the *Interest Act*, RSC 1985, c I-15, section 3.

2. Costs shall be payable to the Plaintiff in the fixed, all-inclusive amount of $1,898.18.

"Darren R. Thorne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-208-25
STYLE OF CAUSE:	HIS MAJESTY THE KING IN RIGHT OF CANADA v. COLE VANCE FOUILLARD
JUDGMENT AND REASONS:	THORNE J.
DATED:	DECEMBER 15 2025

WRITTEN REPRESENTATIONS BY:

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