

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Old Navy Property Corporation, 2014 ONCA 471

DATE: 20140616

DOCKET: C55683

Doherty, Rouleau and Benotto JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Old Navy Property Corporation

Appellant

Leonard Hochberg, for the appellant

Tom Andreopoulos and Niall Gilks, for the respondent

Heard: June 13, 2014

On appeal from the sentence imposed by Justice Forestell of the Superior Court of Justice, June 7, 2012.

APPEAL BOOK ENDORSEMENT

[1] The application was brought under s. 16 of the *Controlled Drugs and Substances Act* (the “CDSA”). The forfeiture order was made under s. 16(1). Section 16(3) expressly limits the right of appeal from that order to the “person convicted” or the Attorney General. The appellant is neither. The statute does not grant a right of appeal to persons who were not accused, but claim an interest in the property on a s. 16 application: see *R. v. Talbot*, 2012 ONCA 460 at para. 4.

[2] It may well be that there is an anomaly between the absence of a right of appeal under s. 16 for third parties and the availability of an appeal under s. 20 from an application for relief from forfeiture brought by the same party. That anomaly does not, however, assist the appellant in the face of the clear language of s. 16(3) for the CDSA. There is no right of appeal.

[3] The appeal is quashed.