

COURT OF APPEAL FOR ONTARIO

CITATION: Orgaworld Canada Ltd. v. Ontario (Environment and Climate
Change), 2014 ONCA 654
DATE: 20140924
DOCKET: C58575

Simmons, Rouleau and Hourigan JJ.A.

BETWEEN

Orgaworld Canada Ltd.

Applicant
(Appellant)

and

Her Majesty the Queen

Respondent
(Respondent in Appeal)

Thomas J. Corbett, for the appellant

Justin Jacob and Andrea Huckins, for the respondent

Heard and released orally: September 19, 2014

On appeal from the judgment of Justice K.A. Gorman of the Superior Court of Justice, dated March 13, 2014.

ENDORSEMENT

[1] We reject the appellant's submission that the application judge erred in declining to entertain the appellant's s. 24(1) *Charter* application which was premised on post-trial delay – the Justice of the Peace gave his decision about 15 months after the close of submissions.

[2] The appellant was entitled to raise the s. 11(b) *Charter* issue of post-hearing delay in an appeal to the Provincial Offences Appeal Court under the *Provincial Offences Act* and had done so. In these circumstances, the application judge had discretion to decline to entertain the appellant's s. 24(1) *Charter* application to the Superior Court. We see no error in her exercise of discretion.

[3] On appeal, we are now informed that the issue has been argued before the Provincial Offences Appeal Court and is under reserve. While we are advised that the Crown argued in the Provincial Offences Appeal Court that that court should not entertain the s. 11(b) argument because it should have been raised before the Justice of the Peace, that same argument would have been available to the Crown before the application judge. The appellant, therefore, is under no disadvantage in proceeding in the Provincial Offences Appeal Court. Rather, it has the advantage of having a full record.

[4] The appeal is therefore dismissed.

"Janet Simmons J.A."

"Paul Rouleau J.A."

"C.W. Hourigan J.A."