

**CITATION:** Mohammad v. OLRB and McMaster University, 2025 ONSC 2224  
**DIVISIONAL COURT FILE NO.:** 476/24  
**DATE:** 20250604

**SUPERIOR COURT OF JUSTICE – ONTARIO  
DIVISIONAL COURT**

**RE:** AHMAD MOHAMMAD, Moving Party

AND:

ONTARIO LABOUR RELATIONS BOARD, MCMASTER UNIVERSITY AND  
CUPE 3906, Respondents

**BEFORE:** Matheson J.

**COUNSEL:** *Self-represented Moving Party*

*Jennifer R. Bernardo*, for McMaster University

*Devon M. Paul*, for the Canadian Union of Public Employees, Local 3906

*Andrea Bowker and Aaron Hart*, for the Ontario Labour Relations Board

**HEARD:** In writing.

**ENDORSEMENT**

[1] By notice from the Registrar dated February 5, 2025, Ahmad Mohammad was given notice that the Court is considering making an order staying or dismissing this proceeding under r. 2.1.01 of the *Rules of Civil Procedure*.

[2] In July 2024, Ahmad Mohammad (the “moving party”) submitted a motion for an extension of time to apply for judicial review of the decision of the Ontario Labour Relations Board (the OLRB) dated June 2, 2021 (the “OLRB 2021 Decision”). The respondents requested that the Court initiate the process under r. 2.1 of the *Rules of Civil Procedure*.

[3] I did not proceed under r. 2.1 at that time, as set out in these directions:

Justice Matheson acknowledges that the respondents have requested that the Court invoke the process under r. 2.1 of the *Rules of Civil Procedure* with respect to this motion to extend the time to apply for judicial review of a June 2, 2021 decision of the OLRB. Therefore,

the application should have been brought by July 2021 and the moving party needs an extension of time.

Rule 2.1 will not be invoked at this time. The moving party shall serve and file his motion record including his notice of motion and any affidavits he relies on, and his factum. He shall have an extended time to do so, until Nov. 30, 2024.

[4] The moving party was directed to include a response to the following history of his proceedings in the Divisional Court in his motion materials:

In his notice of motion, the moving party gives, as a ground for his motion, that he was unable to file the application for judicial review within the prescribed time due to post-traumatic stress disorder. In his motion materials, in addition to whatever else the moving party relies on, the moving party should address the fact that between the date when this application was due in July 2021, and this new motion, he has commenced over fifteen proceedings in this Court.  
[Emphasis added.]

[5] The moving party requested an extension of time to await the outcome of proceedings he was pursuing at the Supreme Court of Canada. The following directions, dated December 3, 2024, responded to that request:

The moving party seeks an extension of time pending SCC proceedings. This Court does not normally await other appellate decisions. However, the moving party may include that request in his motion materials. Those materials were due by today. The moving party shall have an additional 30 days, but should not expect any further extensions of time. The motion material must be served and filed and uploaded by Jan. 2, 2025.

[6] The moving party then requested a further extension of time, giving rise to directions of January 6, 2025:

In the emails in support of the new request for an extension, Mr. Mohammad relies on events in 2019 giving rise to his complaint against McMaster, the ongoing effects of a concussion in January 2019 and the motion he brought to the Supreme Court, again requesting that this matter be held in abeyance pending his Supreme Court motion. With respect to the January 2019 injury, Mr. Mohammad has submitted a copy of a claim he has made to the WSIB, submitted in December 2024, and other documents about that 2019 incident. Mr. Mohammad has submitted that he believes that CSIS may be interfering in his case, he has put forward his views on a neutral stance regarding the Palestinian conflict and put

forward his concerns about fabrication. Mr. Mohammad has also said that his psychiatrist is currently away and he has been unable to obtain his medication. Mr. Mohammad submits as follow[s] by email dated Jan. 4, 2025:

Given the unresolved health issues, potential manipulation by CSIS (as referenced in [File]), and the concerns about the relationship between administrative judges and CSIS, I am unable to effectively represent myself.

I respectfully request that all legal proceedings in my case be halted until these matters are fully investigated and resolved. This includes examining the role of CSIS, McMaster University, and any undue influence that may compromise the fairness of judicial processes.

The materials and difficulties expressed by Mr. Mohammad do not support a request for an extension of time pending his Supreme Court motion. However, it does appear that he has had difficulty renewing his medication, and should have a reasonable period of time to do so. He must pursue that diligently and ordinarily would be able to have assistance from one of his doctor's offices or his pharmacy. I grant an extension until February 3, 2025 on that basis for his motion materials seeking an extension of time.

[7] As set out above, the moving party was given another extension of time. He then submitted his motion record and factum for the motion.

[8] The respondents then made a further request to invoke the process under r. 2.1, giving rise to my directions on February 5, 2025:

Mr. Mohammad has now submitted a motion record and factum for his motion for an extension of time to judicially review an OLRB decision from June 2021. That material includes a new notice of motion that is mainly focused on the underlying labour proceedings. As well the motion record contains many individual documents about the underlying labour proceedings, which are not put forward properly as part of an affidavit. The materials in the motion record also include some recent medical correspondence and correspondence about CSIS. However, the notice of motion no longer relies on medical grounds for the delay of about three years from the required time to commence an application for judicial review. With respect to delay, Mr. Mohammad now asserts that the extension of time is needed due to institutional failures by the respondents. The related emails from the moving party also raise

allegations against certain named individuals, and the court, alleging ongoing surveillance and interference by CSIS and others.

The court may, on such terms as it considers just, extend the time for making an application for judicial review 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 reason of delay: *Judicial Review Procedure Act*, s. 5(2). The court may also consider the length of the delay, and any explanation offered for the delay, in the exercise of the court's discretion. The impact of these facts may vary depending on the case and will be considered in the context of a 30-day time limit. Even before the imposition of the 30-day time limit, a delay of more than six months could justify the dismissal of an application for judicial review for delay: *Unifor and its Local 303 v Scepter Canada Inc.*, 2022 ONSC 5683.

The motion materials do not appear to provide an explanation for the very lengthy delay in commencing the application for judicial review. Ordinarily, such a lengthy delay would give rise to implied prejudice. There is also a high degree of deference to decisions from the OLRB.

The Registrar is directed to issue a notice pursuant to r. 2.1 of the *Rules of Civil Procedure* that the court is considering dismissing the motion as frivolous, vexatious and an abuse of process, as a result of the above concerns. The Registrar shall give Mr. Mohammad 30 days to respond rather than the usual 15 days to accommodate his disability. He may respond earlier. Mr. Mohammad shall also be given 20 pages, rather than 10 pages.

[9] The moving party immediately emailed the Court in response to the above directions. His email included the following submissions:

- (i) that “if Matheson J. doesn't consider the concussion and its consequences due severe conspiracy as a reasonable ground for my serious and lengthy PTSD; then I believe that csis intervenes in the juridical administration”;
- (ii) that “if Matheson J. cannot realize the extraordinary narrative from Dr. Syed's office to block my access from submitting a comprehensive medical letter from Dr. Syed; then I believe that csis intervenes the juridical administration; and,
- (iii) that if “Matheson J. believes that some amendments are required for better comprehension, I am willing to do so but not under r. 2.1, which is known as provoking my C-PTSD!”

[10] The moving party sent a further email noting his problems getting medication in December 2024, that he was able to access the medication on January 21, 2025, and that getting a needed medical letter from Dr. Syed's office was not accessible due to contradictory statements from the doctor's office. He submitted that he was willing to amend his motion to speak about his "c-ptsd" and how it causes serious delays.

[11] As a result of the above submissions, I invited the moving party to request accommodations and provide more submissions and another amended notice of motion if he wished to do so. No further submissions were received from the moving party.

[12] I gave further directions dated April 22, 2025, including another opportunity for the moving party to respond as well as permitting limited submissions from the respondents. On the medical issues, the directions stated as follows:

On the medical issues, the moving party includes a letter from Dr. Syed's office dated Jan. 15, 2025, saying that the doctor was closing his practice as of that date and providing information about how to get a new family doctor. The moving party disputes the accuracy of that letter.

The moving party has already been notified that his original notice of motion, that did give medical grounds, will be considered on this r. 2.1. However, the moving party may still deliver an amended notice of motion if he wants to do so, and may still deliver supporting medical report(s).

The above steps shall be taken within 30 days from today.

[13] There have been no more submissions from the moving party. For the purposes of this r. 2.1 process, I have considered not only the notice of motion and other materials in the moving party's record but also the original notice of motion and the moving party's submissions by email.

### ***OLRB 2021 Decision***

[14] The moving party has submitted the OLRB 2021 Decision that he wishes to challenge. The respondents were permitted to file a brief of decisions, which included the related initial OLRB decision and the reconsideration decision.

[15] As set out in the initial OLRB decision, the moving party complained that CUPE 3096 had not exercised its duty to fairly represent him in his employment with McMaster University. In response, the OLRB required that the moving party address why his application was not premature, because a grievance arbitration was ongoing. The OLRB said that it did not generally consider duty of fair representation applications until after the grievance and arbitration process had been exhausted.

[16] The OLRB gave the moving party an opportunity to make submissions in response to the notice that his complaint could be dismissed as premature. The moving party did not do so.

[17] As set out in the OLRB 2021 Decision, the complaint was dismissed because there was a grievance that was ongoing at that time. The OLRB held as follows:

A grievance arbitration is currently ongoing and being held in abeyance pending a criminal proceedings, which is common when these kinds of circumstances arise.

[18] The moving party unsuccessfully requested reconsideration. The OLRB dismissed the reconsideration and noted as follows:

If the applicant continues to believe that he was not fairly represented contrary to section 74 of the Act once the grievance process has concluded, he can file a fresh application at that time.

[19] Therefore, the OLRB 2021 Decision did not foreclose an application by the moving party, against the union, based upon the duty of fair representation.

### *Analysis*

[20] Subrule 2.1.01(1) authorizes the Court to dismiss a proceeding as frivolous or vexatious or otherwise an abuse of the process of the court. However, r. 2.1 should only be used for “the clearest of cases”: *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, at para. 8. This is such a case.

[21] As set out in s. 5(1) of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1, an application for judicial review must be commenced within thirty days of the date of the decision being challenged. An extension of time may be granted under s. 5(2), which requires that the court be satisfied that “there are apparent grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay.” The length of delay and any explanation offered for it are also relevant considerations: *Unifor and its Local 303 v Scepter Canada Inc.*, 2022 ONSC 568, at paras. 10, 11 and 18. Although the length of the delay here would give rise to a presumption of prejudice, I do not rely on it for this decision.

[22] The moving party’s grounds for his motion for an extension of time, having regard for both versions of the notice of motion and the other materials he submitted, are summarized as follows:

- (i) that the moving party was unable to file the application for judicial review within the required time period due to suffering complex-traumatic stress disorder, which prevented him from taking the correct legal action until recently;
- (ii) that the proposed application for judicial review has merit because the OLRB wrongly dismissed the moving party’s unfair labour practices complaint against CUPE and because McMaster and people working there did not investigate or

accommodate the moving party's head trauma suffered on the job in January 2019, for which McMaster retaliated against the moving party; and,

(iii) that if there is an impediment to moving forward, CSIS is involved.

[23] With respect to the reasons for delay, the moving party has submitted a "To whom it may concern" letter from Dr. Syed dated July 23, 2024, which described his medical condition as a "Major Depressive Disorder, ASD – Asperger's subtype, PTSD and Persistent Somatic Symptom Disorder (chronic pain)". Dr. Syed said these conditions started and were perpetuated several years earlier. Dr. Syed said to please afford the moving party leniency. In keeping with that request, the moving party has been given several extensions of time and has been invited to request accommodations. However, the doctor's letter does not address the moving party's ability to commence many other legal proceedings over the same time period despite his medical conditions.

[24] The moving party submitted additional documents regarding his communications from Dr. Syed's office in late 2024 and early 2025 and challenges the accuracy of those communications. They include a notice dated January 16, 2025, saying that Dr. Syed was closing his practice due to recent debilitating medical problems. The notice gave a process through which patients could obtain a "summary discharge note". The moving party has since been given another four months to obtain another medical letter either from Dr. Syed's office or someone else and none has been provided.

[25] This Court accepts that the moving party has medical challenges. As a result, he has had accommodations in this and other matters. However, the moving party has not addressed the fact that between the date when an application for judicial review of the OLRB 2021 Decision was due in July 2021, and the motion for an extension of time to bring an application in July 2024, the moving party commenced at least twelve other proceedings in the Divisional Court and proceedings in other courts. It is apparent that his medical conditions did not prevent him from commencing court proceedings.

[26] On the issues raised about CSIS, there is no basis upon which to conclude that CSIS had any role in the delay, the process leading up to the motion for an extension of time or the subsequent proceedings in this Court.

[27] Moving to the merits, to obtain the requested extension of time, there must be apparent grounds for relief for a judicial review of the OLRB 2021 Decision, which have not been shown. The moving party had an opportunity to make submissions to the OLRB at the time and did not do so. The OLRB 2021 Decision was based on prematurity. The timing was the only issue. On reconsideration, the OLRB confirmed that the moving party could pursue his complaints against the union after the grievance and arbitration process was complete. There are plainly no apparent grounds to conclude that a judicial review after the three-year delay would give rise to a useful remedy.

[28] It is apparent that the moving party believes he has been wronged by McMaster, CUPE and potentially others as well. However, the focus of this proceeding is his request for an extension of time to apply for judicial review of the OLRB 2021 Decision, which is very narrow in scope.

Several of the issues raised by the moving party, and remedies he seeks, are beyond the scope of the proposed judicial review.

[29] In these circumstances, the motion for an extension of time falls within the test under r. 2.1 as set out above. This proceeding is therefore dismissed.

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Matheson J.

**Date:** June 4, 2025