



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-25-00734339-00CL DATE: March 21, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: **COMARK HOLDINGS INC. et al**

BEFORE JUSTICE: **CAVANAGH**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

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For Defendant, Respondent, Responding Party, Defence:

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SUPPLEMENTARY ENDORSEMENT:

[1] In my endorsement released on March 21, 2025, I granted an adjournment of the portion of the Applicants' motion requesting declaratory relief concerning satisfaction of the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations so that counsel for HMK could seek and obtain instructions.

[2] HMK advises that it does not oppose the granting of the WEPPA declaration.

[3] Section 5(1) of the WEPPA provides that an individual is eligible to receive WEPP Payments if, among other things: (i) the individual's employment is ended for a reason prescribed by regulation; (ii) the individual is owed eligible wages by a former employer; (iii) the former employer is subject to proceedings under the CCAA; and (iv) a court determines under s. 5(5) of the WEPPA that the criteria prescribed by regulation are met. Section 3.2 of the WEPP Regulations establishes the criteria which the court must consider under s. 5(5) of the WEPPA. Pursuant to s. 3.2, the court "may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to winddown its business operations." If the court so determines, the former employees are entitled to WEPP Payments.

[4] I am satisfied that the requested declaratory relief should be granted. I accept the submissions at paras. 55-56 of the Applicants' factum.

[5] Order to issue in form of Order signed by me today.

Justice Cavanagh

Date: April 17, 2025