

Injunction Goes Up in Smoke: Ontario Court Declines to Grant an Injunction Motion Against a Rebranded Cannabis Store

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In *Lightbox Enterprises Ltd. V. 2708227 Ontario Inc.*,¹ Lightbox was a licensor and service provider with respect to the “Dutch Love” cannabis store brand. The defendant 2708227 Ontario Inc. (270) had obtained two retail cannabis licenses from the Ontario government for locations in Timmins and Brampton, Ontario and entered into license/service agreements with Lightbox to operate these locations as Dutch Love stores. The parties had a falling out and rebranded the locations as “Roll N Rock Cannabis.” Lightbox sought an interlocutory injunction to prevent 270 and related parties from (a) continuing to operate, and (b) operating using Lightbox’s purportedly confidential operating methods for the retail sale of cannabis as well as other confidential information and license marks. In response, 270 alleged that the parties were in a franchise relationship and that it was entitled to rescind the franchise agreements and claim damages. The rescission issue was not relevant to the motion for an interlocutory injunction, and the parties agreed to proceed without reference to that issue.

The Court declined to grant the injunction to prevent 270 from operating the two locations as “Roll N Rock Cannabis.” The Court bluntly found that: “The license agreements and service agreements applicable to the two retail locations do not contain any restrictive covenants pertaining to the ownership or operation of a retail cannabis store under another brand at the same geographic locations.” The Court even noted that the injunction sought would be in direct contrast with the terms of the license agreements, which permitted termination of the agreements.

The Court further declined to grant an injunction in respect of the use of the licensed marks or operating methods by 270 in the rebranded locations. 270 produced evidence that it was no longer using the “Dutch Love” marks and that it had changed the signage and appearance of the retail stores. Lightbox further failed to provide evidence to establish that it had any proprietary interest in the so-called operating methods it claimed 270 was using.

In looking at the issue of irreparable harm, the Court held that the harm alleged by Lightbox if 270 was permitted to continue to operate was “unsupported by evidence” and “speculative.” The Court noted that the losses alleged by Lightbox could be “readily fixed with a dollar value.” Lastly, the Court noted that the balance of convenience favoured 270. In summary, the Court dismissed Lightbox’s motion.

Cassels

The case is a reminder that when bringing a motion for an interlocutory injunction, the party seeking to enjoin the other must provide sufficient evidence to ground its claim and cannot simply rely on allegations and conjecture. Furthermore, in looking at whether there is a serious issue to be tried for the purpose of the injunction test in Canada, courts will hold parties to their contractual bargain and not enjoin parties for conduct that is in fact permitted under their agreements.

¹ *Lightbox Enterprises Ltd. v. 2708227 Ontario Inc.*, 2022 ONSC 1873 (CanLII), <<https://canlii.ca/t/jnbg>>.

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