

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20141208**

**Docket: A-122-14**

**Citation: 2014 FCA 287**

**CORAM: NADON J.A.  
TRUDEL J.A.  
BOIVIN J.A.**

**BETWEEN:**

**ARCELORMITTAL MINES CANADA INC.**

**Appellant**

**and**

**AK STEEL CORPORATION**

**Respondent**

Heard at Montréal, Quebec, on December 8, 2014.  
Judgment delivered from the Bench at Montréal, Quebec, on December 8, 2014.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**TRUDEL J.A.**

**Federal Court of Appeal**



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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Montréal, Quebec, on December 8, 2014).**

**TRUDEL J.A.**

[1] Arcelormittal Mines Canada Inc. (hereinafter “QCM” or the appellant) appeals a decision of Harrington J. of the Federal Court, rendered on January 31, 2014 (2014 FC 118). The Judge maintained the claim for breach of contract brought by AK Steel Corporation (hereinafter “AK Steel”) and ordered that QCM pay AK Steel \$224,321.97 with interest. He concluded that QCM had violated its contract for the sale of iron ore pellets by delivering pellets with excess moisture

levels. The pellets were loaded onto a ship, the Rt. Hon. Paul J. Martin, chartered by AK Steel from its owner, Canada Steamship Lines (hereinafter “CSL”). The cargo froze while in transit from Port-Cartier, Quebec to Toledo, Ohio and the ship was damaged by the crew’s attempts to dislodge the cargo and unload it. AK Steel paid CSL’s claim for the damage to the ship and in turn made a claim against QCM on the basis that the latter’s delivery of non-conforming cargo led to the damage. The Judge found that QCM’s breach had led to AK Steel’s loss and that QCM had no defence to its liability. QCM appeals and submits that the Judge should have dismissed the claim.

[2] We are all of the view that the appeal should be dismissed as the appellant has not shown that the Judge committed a reviewable error in coming to his conclusion. The appellant criticizes the Judge’s findings on liability, reasonable notice, and spoliation. Given that these are questions of fact or questions of mixed fact and law with no extricable question of law, the appellant must show that the Judge committed a palpable and overriding error. In our view, the appellant has failed to meet this threshold. Its submissions relate primarily to the Judge’s consideration of the evidence rather than his misapplication of any legal principles. The Judge’s findings are supported by the evidence. Accordingly, the appeal will be dismissed with costs.

"Johanne Trudel"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-122-14

**STYLE OF CAUSE:** ARCELORMITTAL MINES  
CANADA INC. v. AK STEEL  
CORPORATION

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** DECEMBER 8, 2014

**REASONS FOR JUDGMENT OF THE COURT BY:** NADON J.A.  
TRUDEL J.A.  
BOIVIN J.A.

**DELIVERED FROM THE BENCH BY:** TRUDEL J.A.

**APPEARANCES:**

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CANADA INC.

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AK STEEL CORPORATION

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