

Date: 20080408

Docket: A-282-07

Citation: 2008 FCA 125

**CORAM : DESJARDINS J.A.
NOËL J.A.
NADON J.A.**

BETWEEN:

JANIE BÉDARD

Appellant

and

KELLOGG CANADA INC.

Respondent

Hearing held at Montréal, Quebec, on April 8, 2008.

Judgment from the bench delivered at Montréal, Quebec, on April 8, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Montréal, Quebec, on April 8, 2008)

NADON J.A.

[1] The appellant contests the decision of Gauthier J. of the Federal Court, dated May 16, 2007, dismissing her application to have the action she had commenced on June 16, 2005, certified as a class proceeding.

[2] Gauthier J. dismissed the appellant's application for certification because she was of the opinion that some of the conditions for certification set out in subsection 299.18(1) of the *Federal*

Courts Rules had not been met, namely paragraph (d), if a class action is the preferable procedure for the fair and efficient resolution of the common questions of law or fact; and paragraph (e), if the appellant would fairly and adequately represent the interests of the proposed class.

[3] We are of the opinion that the judge did not err in law or in the exercise of her discretion. Moreover, we are satisfied that, for the reasons stated by Gauthier J., a class proceeding is not the preferable procedure for the fair and efficient solution of the common questions of law or of fact raised by the action, given the facts on the record and the relief sought by the appellant.

[4] In light of our conclusion, there is no need to determine whether the judge erred in concluding that the pleadings disclosed a reasonable cause of action, even though we have serious doubts on this point.

[5] For these reasons, the appeal will be dismissed without costs.

“M. Nadon”

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-282-07

**APPEAL FROM A DECISION OF MADAM JUSTICE JOHANNE GAUTHIER OF THE
FEDERAL COURT, DATED MAY 16, 2007, DOCKET NO. T-1044-05**

STYLE OF CAUSE: JANIE BÉDARD v. KELLOGG
CANADA INC.

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: April 8, 2008

REASONS FOR JUDGMENT OF THE COURT BY: DESJARDINS J.A.
NOËL J.A.
NADON J.A.

DELIVERED FROM THE BENCH BY: NADON J.A.

APPEARANCES:

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FOR THE RESPONDENT