

Décision : MCRC02-00331

Numéro de référence : M02-06216-9

Date de la décision : Le 20 novembre 2002

Objet : Modification à la conformité  
d'inscription

Endroit : Montréal

Date de l'audience : Le 17 septembre 2002

Présent : Gilles Tremblay  
Commissaire

---

Personnes visées :

6-M-30034C-746-P

**COMMISSION DES TRANSPORTS DU QUÉBEC**  
Bureau 1000  
545, boul. Crémazie Est  
Montréal (Québec)  
H2M 2V1

- Agissant de sa propre initiative -

**1252488 ONTARIO INC.**  
5-211 Veronica Drive  
C/O : Theresa Mercer  
Kitchener (Ontario)  
N2A 2R8

- Intimée -

Conformément à l'article 5 de la *Loi sur la justice administrative* (L.R.Q., c. J-3), la Commission a fait parvenir à l'intimée l'avis d'intention et de convocation suivant :

"CERTIFIED

MAIL

**NOTICE OF INTENT AND SUMMONS**

(Section 5, *An Act Respecting Administrative Justice*)  
(Sections 26 through 38, *An Act Respecting Owners and Operators of Heavy Vehicles*) (S.Q. 1998, charter 40)

Reference n°: M02-06216-9

**COMMISSION DES TRANSPORTS DU**

**QUÉBEC**

Acting as principal

NIR:

And

1252488 ONTARIO INC.  
5-211 Veronica Drive  
C/O: Theresa Mercer  
Kitchener (Ontario)  
N2A 2R8

Respondent

1. The Commission des transports du Québec (hereafter called the Commission), on its own right, is notifying you of its intent to verify your compliance with the legislative and regulatory obligations, which are prescribed within the scope of the *Act Respecting Owners and Operators of Heavy Vehicles* (S.Q. 1998, chapter 40) regarding road safety and road network protection and, for this purpose, it intends specifically to examine the facts and events described in the following paragraphs.
2. According to the information held by the Commission, you are registered in the register of owners and operators of heavy vehicles (the "Registry") with a rating of satisfactory since September 29th, 2000.
3. The Commission has been informed by its administrative departments that, pursuant to judgments rendered on July 30, 2001 and October 17, 2001, you were found guilty of an offence under the *Act Respecting Owners and Operators of Heavy Vehicles*, the *Transport Act*, the *Highway Safety Code* or a legal or regulation clause falling under section 519.65 of the *Highway Safety Code* and you were sentenced to a fine of \$1196,00 along with costs, for a total of \$1196,00 and that you have not paid said sum or appealed.
4. Moreover, contrary to section 13 of the *Act Respecting Owners and Operators of Heavy Vehicles*, you have failed to inform the Commission of a change in the information provided on your Registry registration form, in this case, the unpaid amount of the fine mentioned above.
5. We would like to remind you that paragraph 1 of section 13 of this Act provides that :

"13. A person registered must, to maintain the person's

right as an owner or operator, notify the Commission within 30 days of any change in the information required under the first paragraph of section 7."

6. Moreover, section 29 (3) of the Act stipulates :

"29. The Commission shall declare partially disqualified any person who:

...

3. has failed to pay a fine imposed under this Act, the Transport Act (chapter-T-12), the Highway Safety Code (chapter C-24-2) or a legislative or regulatory provision referred to in section 519.65 of that Code in respect of which an agreement has been entered into with the Société, unless an appeal has been filed.

7. Considering the facts previously mentioned, the Commission is giving you notice of its intent to investigate the above-mentioned facts;

8. **AND TAKE NOTICE** that in the case where the aforesaid allegations could be established, the Commission, in the exercise of its powers under sections 26 through 38 of the Act *Respecting Owners and Operators of Heavy Vehicles*, and if it deems necessary, could rend a decision:

- \* declaring you totally or partially disqualified to operate heavy vehicles;
- \* modifying the rating that was assigned to you for another rating with the specification of *CONDITIONAL*;
- \* the driving or use of heavy vehicles is prohibited until the situation has been resolved.

9. In order to rule on the foregoing, you are summoned, without any further notice or delay, to appear at a public hearing which will be held at the place, date and time mentioned in the appendix included herewith.

You can also forward in writing your observations and documents to the Commission within ten (10) days of receiving this notice.

Failing to be present at said hearing, in person or by a representative, the Commission may rend a decision based on the information on file and on the observations, arguments or documents that you could have sent in support, before the date set for the hearing.

As stipulated in the second paragraph of Section 33 of the Act respecting owners and operators of heavy vehicles, you may not, effective from the date of this notice, transfer or dispose of the heavy vehicles registered in your name in Québec, without obtaining the consent of the Commission."

L'avis d'intention et de convocation, transmis par courrier recommandé, a été retourné à la Commission avec la mention « Parti sans laisser d'adresse » le 30 juillet 2002.

La Commission a donc retourné, par poste certifiée, cet avis d'intention et de convocation à une nouvelle adresse, lequel est revenu à la Commission le 21 octobre 2002 n'ayant pas été

réclamé.

Par la suite, un résumé de l'avis d'intention et de convocation a été publié dans *Le Devoir* du 2 novembre 2002.

L'intimée n'a transmis aucune observation à l'encontre de la présente procé- dure.

Après vérification de ce jour auprès du fichier du ministère de la Justice, la Commission constate que le montant des amendes impayées s'élève toujours à 1 196,00 \$.

En conséquence, la Commission donnera suite à l'avis d'intention et de convocation.

La Commission rappelle que tant et aussi longtemps que l'intimée n'aura pas acquitté les amendes qui lui ont été imposées, elle ne pourra demander une réévaluation de sa cote.

POUR CES MOTIFS, la Commission :

1. DÉCLARE partiellement inapte 1252488 ONTARIO INC.
2. MODIFIE la cote de 1252488 ONTARIO INC. pour qu'elle porte la mention « conditionnel ».
3. INTERDIT à 1252488 ONTARIO INC. de mettre en circulation et d'exploiter tout véhicule lourd à compter du 21 novembre 2002.

---

Gilles Tremblay  
Commissaire

NOTE : L'avis ci-annexé, décrivant les recours à l'encontre d'une décision de la Commission, fait partie intégrante de la présente décision.