In the Court of Appeal of Alberta

Citation: Paddle Prairie Metis Settlement v Metis Settlements Appeal Tribunal, 2026 ABCA 362

Date: 20261112
Docket: 2603-0232AC
Registry: Edmonton

Between:

Paddle Prairie Metis Settlement

Applicant

- and -

Metis Settlements Appeal Tribunal, Metis Settlements Land Registry, Metis Settlements General Council, and Ryan Bellerose

Respondents

Reasons for Decision of
The Honourable Justice Michelle Crighton

Applications for Permission to Appeal and Stay of Order

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[1] The applicant Paddle Prairie Metis Settlement applies for permission to appeal the decision of the Metis Settlements Appeal Tribunal (the Tribunal) pursuant to section 204 of the *Metis Settlements Act*, RSA 2000 c M-14 [*Act*]: MSAT Order 507. If permission is granted, the applicant also seeks a stay pending appeal.

[2] By way of background, the Settlement Council issued a notice of available land for 22 quarter sections as allotment interests. This notice was issued pursuant to MSAT Order 443 in which the Tribunal directed the Settlement to repost the lands at issue without imposing any conditions or limitations not included in the original land posting. The Settlement Council was directed to repost within 45 days of the decision (ie June 24, 2022). This did not occur until six months after the Settlement discontinued its judicial review of MSAT Order 443.

[3] The respondent, Mr Bellerose, applied for the reposted allotment interests by filling in the required form. The form asked: "Why do you want the land and how do you intend to use it?", to which Mr Bellerose answered, "Ranch/Farm/Business". No other information was provided or requested.

[4] The Settlement Council issued a Resolution denying Mr Bellerose's application for all 22 allotment interests. It found that he had not provided the Council "with any information or evidence of his ability or commitment to use the applied-for allotment interests for the intended purpose of a farm, ranch, or business" such as a "business plan - setting out his intention to operate a ranch, farm or business". In Council's view, Mr Bellerose had a heightened responsibility to provide specific evidence or information, "particularly when he has applied for 5 entire parcels of land".

[5] Mr Bellerose appealed to the Tribunal, who found that Mr Bellerose had previously applied for an interest in the same lands to open a buffalo ranch in 2021 and included a hard copy of his business plan. It accepted that Mr Bellerose had been consistent thereafter with his expressed interest in the allotment lands, appealing the Council's denial of his 2021 application which ultimately led to the Tribunal's decision in MSAT Order 443. Mr Bellerose did not include the business plan in his 2024 application as he assumed Council had a copy of it from his previous application, and that if Council required the business plan again, they would have asked him for it. Mr Bellerose otherwise acknowledged the business plan may require an update given the passage of time.

[6] The Tribunal also found Mr Bellerose was over 18, a resident of the Settlement, did not owe any debts to the Settlement, and there "are no other prior interest holders for the applied for lands".

[7] The Tribunal ultimately found that the Settlement Council's decision denying Mr Bellerose's 2024 application was unreasonable for three reasons:

1. Settlement council treated the absence of a business plan as fatal to Mr Bellerose's application, despite the fact that it was never made clear to Mr Bellerose that a business plan was a requirement of his application.

2. Settlement council ignored other important contextual factors in its consideration of Mr Bellerose's ability and commitment to use the applied for lands for the stated purpose as a buffalo ranch:

   - Mr Bellerose previously applied for land on the settlement for the purpose of operating a buffalo farm in 2021 (see Order 443 at para 25). The five years [since] he has been attempting to acquire lands is a strong indication of his commitment to operating a buffalo ranch, and

   - Mr Bellerose indicated on his application that the purpose of his request was for a "Ranch/Farm/Business".

3. While settlement council listed the other factors from section 4.5 [of the Land Policy] in its Resolution [including the applicant's ability and commitment to use the interest for the intended purpose; the extent to which financial assistance from the Settlement will be required; the applicant's existing debt; the amount the applicant is willing to pay; whether granting an interest is consistent with the Settlement's by-laws; whether an interest can be registered in the applicant's name; and any other criteria established by the settlement by-laws], it does not appear to have given these factors any weight in its consideration. Settlement council decisions are more likely to be unreasonable where they simply list off factors for consideration without providing an analysis or explanation for how those factors are treated. By settlement council's own reasons, all of the factors under section 4.5 of the [Metis Settlements General Council] Land Policy with the exception of the first factor are either neutral or favor granting Mr Bellerose an allotment interest in the land.

[8] The Tribunal set aside the Settlement Council's decision and citing its power under s 190(1)(j) of the *Act* to "make any decisions that the settlement council could have made", determined that the appropriate remedy was to grant Mr Bellerose a 10-year interest in all of the applied-for allotments. While the Tribunal stated that its power "to step into the shoes of Settlement council" should be used "sparingly", the previous delay by the Settlement Council in complying with MSAT Order 443 to repost the lands in this matter, the overall "passage of time and the fact

that Mr Bellerose has provided a copy of his business plan to the Appeal Tribunal (the absence of which was the only reason given for denying his application by the Settlement)", meant this was an appropriate case for the Tribunal to award the lands to Mr Bellerose. It further directed the Metis Settlement Land Registry to register Mr Bellerose's interest in the allotments within 60 days of the decision.

[9] The applicant seeks permission to appeal on the following questions of law or jurisdiction:

> a. Whether the Appeal Tribunal erred in failing to articulate the correct legal test applicable to a reasonableness review?
>
> b. Whether the Appeal Tribunal erred in its interpretation of [the] Council's decision-making authority by failing to interpret this authority in the context of the objects and purposes of the *Metis Settlements Act* and the Metis Settlements General Council Land Policy?
>
> c. Whether the Appeal Tribunal erred in its interpretation of section 190(1)(j) of the *Metis Settlements Act* by failing to interpret this section in relation to the objects and purposes of the *Metis Settlements Act* and relevant Supreme Court of Canada authorities?

[10] Section 204 of the *Act* directs that an appeal from a decision of the Tribunal on a question of law or jurisdiction lies to this Court after permission to appeal has been obtained. Any question of law or jurisdiction must be one which is reasonably arguable, "could reasonably affect the result," or "be of interest or use to the [eight Metis Settlements, the Appeal Tribunal] or the public in the future": ***Noskey v Metis Settlements Appeal Tribunal***, 2022 ABCA 54 at para 5.

[11] In my view, while the first two questions are framed as questions of law, in actuality, the applicant merely challenges the Tribunal's finding that the Settlement Council's decision was unreasonable. These challenges do not raise reviewable issues or errors of law.

[12] First, the Tribunal expressly recognized that the Settlement Council's decision, including Council's interpretation of part four of the Land Policy, should be reviewed through the reasonableness lens. Further, "[p]art of advancing the interests of Metis self-governance under section 187.1 of the *Metis Settlements Act* means that the Tribunal exists as an oversight body to review the decisions of Settlements, in a way that is culturally competent and sensitive to enhancing Metis culture and identity".

[13] Second, the Tribunal found that reasonableness "is a deferential standard and reflects the important distinction between a settlement council which is best positioned to manage its own local affairs; and the Tribunal which provides oversite [sic] to ensure that settlement council

decisions are in line with the *Metis Settlements Act*, [Metis Settlements General Council] policies, and local bylaws." More specifically, it found that a reasonable decision "'must be based on reasoning that is both rational and logical' and is not a 'line-by-line treasure hunt for error' *(Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 102 [***Vavilov***])". This was a proper articulation of the test for reasonableness review. As the Tribunal found, its "role … is to consider the decision and the reasons of the Settlement for refusing to grant Mr Bellerose an interest in land and determine whether they were reasonable ... having considered the facts of the case and the law". This was a "reasons first" approach as required by ***Vavilov*** and ***Pepa v Canada (Citizenship and Immigration)***, 2025 SCC 21 at paras 46-47 [***Pepa***].

[14] Third, the Tribunal correctly recognized that while the Settlement Council exercises a broad statutory discretion over the allocation of land on settlements, that discretion "is always subject to reasonable limits". Those limits include the requirement for notice, and consideration of overall context and factors under section 4.5 and 4.6 of the Land Policy when considering an application for an allotment interest.

[15] The Tribunal's decision itself was rendered within a context that included its previous MSAT Order 443 which required the allotments at issue to be reposted after Mr Bellerose's prior successful appeal to the Tribunal. It found the Settlement Council had not complied with that Order in a timely fashion. In further determining the Settlement Council's decision was unreasonable, the Tribunal found it especially troubling that this was the second time Mr Bellerose was not advised of the requirements for his application for allotment interests. It observed that a decision of the Settlement Council "is less likely to be reasonable where settlement council has been specifically put on notice by the Appeal Tribunal about the importance of providing notice to settlement members about the requirements for land postings". This is a valid consideration and there is no error of law or jurisdiction with respect to this finding.

[16] In any event, the Tribunal found two further bases for finding the Settlement Council's decision was unreasonable. While the relevant factors (ss 4.5 and 4.6 of the Land Policy) for analyzing an application for allotment interests were listed in Council's reasons, it failed to engage with the evidence or assess those factors beyond its blanket finding that Mr Bellerose did not provide a business plan, which it otherwise did not ask for. It also did not engage with the overall context of the application before it, including the history of this matter and Mr Bellerose's multiple year attempts to apply for lands for his "buffalo ranch".

[17] The first two questions proposed by the applicant do not raise questions of law alone but offer disagreements with the Tribunal's conclusion that the Settlement Council's decision was unreasonable. While the Settlement may ultimately disagree with that finding, disagreement alone does not amount to an error of law by the Tribunal. Put another way, the proposed questions are

not reasonably arguable, “could [not] reasonably affect the result,” and are not “of interest or use to the [eight Metis Settlements, the Appeal Tribunal] or the public in the future”.

[18] Turning to the third question, the applicant argues the Tribunal erred in its interpretation of section 190(1)(j) of the *Act* by failing to interpret that section in relation to the objects and purposes of the *Act* generally, and relevant Supreme Court of Canada authorities.

[19] The crux of the applicant’s argument on this ground is that the Tribunal ought to have remitted the matter because allowing Mr Bellerose’s allotment application was not the only available outcome, relying on ***Vavilov*** and ***Pepa***.

[20] Section 189 of the *Act* establishes the Tribunal's responsibilities to hear appeals. Section 190 sets out what the Tribunal may or must do in respect of any matter before it, including: (j) make any decisions that settlement council could have made; and (o) provide any remedy that, in all the circumstances, fairness requires. Of course, what “fairness requires in all the circumstances” must be guided by the overarching legislative framework.

[21] This Court recently considered s 190(1) in ***Andrews v Cunningham***, 2026 ABCA 231 [***Andrews***]. Recognizing the Tribunal's “broad remedial powers”, the Court stated, “[t]he Tribunal is not required to define or provide a framework for assessing fairness, nor to exhaustively articulate in its decision all the relevant factors in determining whether fairness in [the] circumstances demanded a remedy”. It further stated that a decision is not required to canvass all the factors and the evidence, but need only show that the Tribunal “seized the substance of the matter”: ***Andrews*** at paras 41, 43, citing ***R v REM***, 2008 SCC 51 at para 43, [2008] 3 SCR 3; ***Edmonton (City of) v Edmonton Police Association***, 2020 ABCA 182 at para 27.

[22] I am satisfied there is a reasonably arguable question about whether by substituting its decision to grant the allotment, the Tribunal seized the substance of the matter, which is whether on the record before it, and having regard to the statutory framework including the overriding consideration in s 187.1 of the *Act,* it is “fair in all the circumstances” to grant the allotment to Mr Bellerose. I would restate the question slightly as:

> Did the Appeal Tribunal err in its interpretation of sections 190(1)(j), 190(1)(m), and 190(1)(o) of the *Act* by failing to interpret these sections in relation to the objects and purposes of the *Act* and relevant Supreme Court of Canada authorities.

[23] For all these reasons, the application for permission to appeal is granted on question 3 as I have restated it.

[24] At the end of the oral hearing and with Mr Bellerose's consent, I granted a stay pending this application. I am further satisfied that in all the circumstances the test for a stay pending appeal has been made out. A stay would defer registration of Mr Bellerose's interest in the lands. Refusing the stay would curtail the Settlement's ability to deal with the lands for 10 years. Having granted permission to appeal, the stay is also granted pending the outcome of the appeal on the stated question.

[25] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order or judgment.

Application heard on November 5, 2026

Reasons filed at Edmonton, Alberta
this 12th day of November, 2026

Crighton J.A.

Appearances:

W.L. McElhanney, KC
A. Yiu
for the Applicant

M.J. Redman
for the Respondent Metis Settlements Appeal Tribunal

K.L. Lambert
C. Meeker (student at law)
for the Respondent Metis Settlements General Council

R. Martin
for the Respondent Metis Settlements Land Registry

Respondent R. Bellerose