

Association des ressources intermédiaires d'hébergement du
Québec (ARIHQ) v. Santé Québec - Integrated University Health
and Social Services Center of the Centre-Sud-de-l'Île-de-Montréal

2026 QCCS 1360

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-11-066427-259
500-11-066498-250

DATE: April 22, 2026

PRESIDED OVER BY **THE** **MARTIN F. SHEEHAN, J.C.S.**
 HONORABLE

500-11-066427-259

ASSOCIATION OF RESOURCE INTERMEDIARY FOR OF
QUEBEC ("ARIHQ")
Plaintiff

v.

SANTÉ QUÉBEC – INTEGRATED UNIVERSITY HEALTH AND SOCIAL SERVICES
CENTER OF SOUTHERN MONTREAL ISLAND
Defendant

and

9342-4935 QUÉBEC INC., a corporation doing business as **CENTRE DE SANTÉ**
OSMAN

and

MICHEL A. JEANNIOT
Respondent

500-11-066498-250

9342-4935 QUÉBEC INC., a corporation doing business as **CENTRE DE SANTÉ**
OSMAN
Plaintiff

v.

SANTÉ QUÉBEC – INTEGRATED UNIVERSITY HEALTH AND SOCIAL SERVICES
CENTER OF SOUTHERN MONTREAL ISLAND

Defendant

and
ASSOCIATION OF RESOURCE INTERMEDIARY FOR IN
QUEBEC (“ARIHQ”)
and
M^E MICHEL A. JEANNIOT
Defendant

JUDGMENT ON A MOTION TO SET ASIDE AN ARBITRAL AWARD

[1] The plaintiffs, the Association des ressources intermédiaires d’hébergement du Québec (“ARIHQ” or **the “Association”**) and 9342-4935 Québec Inc., doing business as Centre de Santé Osman (“Osman”) (collectively, the “Petitioners”), seek the annulment of an arbitral award (the “Award”) rendered on August 8, 2025, by the Respondent, Maître Michel A. Jeanniot (**the “Arbitrator”**).

[2] The Award dismisses the dispute submitted to the Arbitrator on the grounds that the deadlines set forth in the dispute resolution procedure agreed upon by the parties were not met and that no justification was provided to explain this delay.

[3] The Plaintiffs contend that the Award should be set aside because:

- 3.1. the Award is contrary to public policy (Article 646, paragraph 2, and Article 648 of the Code of Civil Procedure) in that it imposes a contractual statute of limitations shorter than the three-year period provided for by law;
- 3.2. the arbitration procedure was not followed (Article 646, paragraph 3, and Article 648 of the Code of Civil Procedure) since the Award relies on non-existent legal doctrine and case law, which suggests that it was drafted using artificial intelligence¹.

[4] For the reasons set forth below, the Court finds that the Award must be set aside.

BACKGROUND

[5] Osman operates an intermediary resource (“IR”) providing adult care services to the defendant, the Centre intégré universitaire de santé et de services sociaux du Centre-Sud de l’Île-de-Montréal (“CCSMTL”) (now

¹ Initially, the Plaintiffs also argued that the Arbitrator had violated their right to be heard (*audi alteram partem*) (Art. 646, para. 1, subpara. 4, and Art. 648 of the Code of Civil Procedure), but this argument was withdrawn during the hearing.

Santé Québec², in accordance with the *Act respecting the governance of the health and social services system*³.

[6] To regulate certain aspects of the provision of services by RIs, the Minister of Health and Social Services (“MSSS”) may enter into an agreement with a “representative organization”⁴.

[7] The ARIHQ is a non-profit legal entity recognized by the MSSS as a “representative organization” within the meaning of the LGSSSS⁵.

[8] The ARIHQ may therefore negotiate and sign agreements with the MSSS on behalf of its members regarding the matters set forth in section 541 of the LGSSSS (which includes the method and scale of compensation for services, as well as the various measures and terms relating to the payment of such compensation). Once signed, these agreements are binding on the ARIHQ’s member institutions. In the absence of an agreement entered into pursuant to section 541, “the method and scale of remuneration for services and the various measures and terms and conditions relating to the payment of such remuneration shall be determined by the Minister, with the authorization of the Treasury Board and on the conditions he determines”⁶.

[9] A national agreement (**the “National Agreement”**)⁷ signed on June 7, 2018, between the MSSS and the ARIHQ sets out the methods and scale of remuneration for services provided by ARIHQ member RI institutions. This National Agreement also provides for a dispute resolution procedure.

[10] Two specific agreements⁸ between Osman and the CCSMTL were added in 2019, which incorporate the National Agreement.

1. The dispute resolution process set forth in the agreements

[11] The dispute resolution procedure is set forth in Chapters 5-3.00, 5-4.00, and 5-5.00 of the National Agreement.

[12] Amicable resolution of disputes is preferred⁹.

² As of December 1, 2024, the integrated health and social services centers have been merged into Santé Québec, in accordance with section 1492 of the *Act respecting the governance of the health and social services system*, RLRQ, c. G-1.021 (the “LGSSSS”).

³ LGSSSS, sections 536 and 538.

⁴ LGSSSS, Art. 541.

⁵ LGSSSS, Art. 542 (formerly Article 303.2 of the *Act respecting health and social services* (the “LSSSS”).

⁶ LGSSSS, § 541.

⁷ Exhibit P-1. Each of the Plaintiffs has filed exhibits whose numbering does not always correspond. For the purposes of this judgment, the Tribunal will use the numbering appearing in the ARIHQ proceedings, unless otherwise indicated.

⁸ Exhibit P-2.

⁹ National Agreement, § 5-3.01.

[13] If this consultation mechanism fails to resolve the impasse, an RI or the Association must submit any disagreement in writing to the representative designated by the institution within 90 days of the date of the event or the date on which it became known¹⁰. This deadline is “strict and may be extended only with the written consent of the institution and the Association”¹¹.

[14] The institution must respond in writing within 30 days of receiving notice of the disagreement¹².

[15] Any disagreement must be submitted to arbitration by the ARIHQ within 60 days of the institution’s decision¹³. The National Agreement specifies that the deadline for submitting the disagreement to arbitration is also mandatory¹⁴.

[16] Arbitration is conducted before a single arbitrator jointly selected by the parties from a list appended to the National Agreement¹⁵.

[17] The decision must be rendered within 90 days¹⁶. “In all cases, the arbitrator [...], decides in accordance with the provisions of [the National Agreement] and has no authority to omit, modify, or add anything thereto”¹⁷.

[18] Decisions are filed with the Employers’ Bargaining Committee for the Health and Social Services Sector, which maintains a registry of decisions rendered under the National Agreement¹⁸.

2. The Dispute

[19] In 2021, a dispute arose between Osman and the CCSMTL.

[20] On August 20, 2021, Osman submitted an initial request for retroactive payment to the CCSMTL. On August 27, 2021, the CCSMTL denied the request.

[21] A meeting took place in September 2021, but on October 28 and November 3, 2021, the CCSMTL maintained its position.

[22] Nearly three years later, on August¹, 2024, the ARIHQ issued a notice of disagreement (**the “Notice of Disagreement”**)¹⁹. The disagreement is described as follows:

¹⁰ National Agreement, § 5-4.03.

¹¹ National Agreement, § 5-4.05.

¹² National Agreement, § 5-4.08.

¹³ National Agreement, § 5-5.01.

¹⁴ National Agreement, § 5-5.02.

¹⁵ National Agreement, § 5-5.05 and Appendix 2.

¹⁶ National Agreement, § 5-5.14.

¹⁷ National Agreement, § 5-5.12.

¹⁸ National Agreement, sections 5-5.15 and 5-5.16.

¹⁹ Exhibit P-3.

The CIUSSS du Centre-Sud de l'île de Montréal and the Centre Santé Osman signed two specific agreements on August 21, 2019. The first client was admitted on July 22, 2022. During these 23 months, no compensation was paid to the facility, despite the fact that several beds had been officially declared available and client files had been submitted (August 13, 2019; September 9, 2020).

[23] The compensation for the period from August 21, 2019, to July 21, 2022, according to the terms of the National Agreement, is estimated at \$1,225,000.

[24] On August 28, 2024, the CCSMTL submitted its written response²⁰. It argued that the deadline for submitting the Notice of Disagreement had long since expired:

The dispute resolution process is governed by specific agreements, which refer to the ARIHQ National Agreement (2020–2025) (hereinafter the “Agreement”). This process provides that a dispute must first be discussed between the employee and a representative of the CIUSSS Centre-Sud-de-l'Île-de-Montréal (hereinafter the “Institution”) in an attempt to resolve it. (Art. 5-3.02 of the Agreement). If the issue is not resolved in accordance with this article, the staff member has 90 days following the date of the event or the date the staff member becomes aware of it to submit a written dispute to the Institution. (Art. 5-4.03 of the Agreement) This deadline is mandatory and may be extended only with the written consent of the Institution and the ARIHQ. (Art. 5-4.05 of the Agreement).

[...] On November 3, 2021, we sent an email to the Center stating that the Institution's position was to refuse retroactive payment, and that this position was clear and final. The negotiations—or, in other words, the consultation process—were therefore concluded.

If the Center wished to challenge the Institution's position, it had 90 days from the date of the position or from the date it became aware of it to submit its notice of disagreement. Nowhere did we extend this deadline—an extension which, we remind you, must be in writing between the Institution and the Association. The April 8 email cannot have the effect of reopening the negotiation process, which has been concluded for more than three years.

[25] The 13 September 2024, the ARIHQ is releasing its arbitration of arbitration (the “**Notice of Arbitration**”)²¹.

[26] The Arbitrator is appointed in accordance with the procedure set forth in the National Agreement²².

²⁰ Exhibit P-4.

²¹ Exhibit P-5.

²² Exhibit P-6.

[27] In response to the Notice of Arbitration, the CCSMTL moves for the preliminary dismissal of the request for arbitration (the “**Motion to Dismiss**”) on the grounds that the Notice of Disagreement was filed after the deadline²³.

[28] On July 7, 2025, the Arbitrator hears the parties on the Motion to Dismiss. The hearing lasts half a day, during which each party is heard and may present its case.

3. The Award

[29] On August 8, 2025, the Arbitrator issues the Award²⁴ granting the Motion to Dismiss. The Arbitrator notes:

[12] The National Agreement constitutes a collective agreement negotiated between institutional parties within a public administration context. Pursuant to the principle of contractual freedom, the parties may establish specific time limits for the exercise of remedies. This clause aims to ensure the expediency and stability of collective relations without undermining the fundamental rules of natural justice or access to remedies;

[13] Such a contractual provision is consistent with case law that recognizes the validity of procedural clauses negotiated between social partners, provided they comply with the principles of procedural fairness. These mechanisms effectively set guidelines for the exercise of rights, while promoting institutional efficiency and predictability—fundamental values in a system of public law and negotiated governance;

[14] Thus, a clause that strictly regulates the time limits for bringing an action, such as the one provided for in the National Agreement, cannot be deemed unreasonable or contrary to public policy, provided that it results from a balanced negotiation process between representative parties and does not have the effect of depriving a party of the effective exercise of its fundamental rights. The validity of such a clause is assessed in light of its legitimate objective—in this case, the predictability, expediency, and stability of collective relations—and its compliance with minimum procedural safeguards. It is therefore part of a contractual framework that is fully consistent with Quebec’s positive law, both in labor law and civil law;

[30] On November 5 and 6, 2025, each of the Plaintiffs filed a motion to set aside the Award. On December 11, 2025, the two proceedings were consolidated to be heard together and decided on the same evidence.

²³ Exhibit P-7.

²⁴ Exhibit P-8.

ANALYSIS

1. Legal Framework

[31] “Arbitration is a fundamental right of citizens and an expression of their contractual freedom.”²⁵

[32] An arbitral award is final and not subject to appeal²⁶. General rule: “[b]y agreeing to submit their dispute to arbitration, [the parties] have committed to respecting the arbitrator’s findings and to voluntarily enforcing the award”²⁷.

[33] The only way to challenge an arbitral award is to file a motion to set it aside²⁸. This remedy is distinct from an appeal or judicial review²⁹.

[34] A motion to set aside is governed by the same rules as those applicable to recognition.

[35] A refusal to confirm or a motion to set aside is admissible only if:

- 35.1. a party lacked the capacity to enter into the arbitration agreement, or the arbitration agreement is invalid under the law chosen by the parties;
- 35.2. the method of appointing an arbitrator or the applicable arbitration procedure was not followed;
- 35.3. the party against whom the award or measure is invoked was not duly notified of the appointment of an arbitrator or of the arbitration proceedings, or was otherwise unable to present its case;
- 35.4. the award concerns a dispute that was not covered by the arbitration agreement or fell outside its scope, or it contains a finding that goes beyond the terms of the agreement; in such a case, if that finding can be severed from the rest, only that finding shall not be confirmed;

²⁵ *Laurentienne-vie (La), Insurance Company Inc. v. Empire (L'), Life Insurance Company*, [2000] R.J.Q. 1708 (C.A.), paras. 13, 16, and 80; *Dell Computer Corp. v. Union des consommateurs*, 2007 SCC 34, para. 51.

²⁶ Pierre A. MICHAUD, “Introduction” in Patrick FERLAND, ed. et al., *LegisPratique—Guide to Arbitration*, 2nd ed., Montreal, LexisNexis, 2025, paras. 0–15.

²⁷ Patrick FERLAND, “Recognition and Annulment of Arbitral Awards” in P. FERLAND, ed. et al., *supra*, note 26, paras. 10-1.

²⁸ *Code of Civil Procedure (“C.C.P.”)*, art. 648.

²⁹ *Groupe Jonathan Benoît and Sam Ath Lok Inc. v. Perreault*, 2022 QCCA 1451, para. 32; *Endorecherche Inc. v. Endoceutics Inc.*, 2015 QCCA 1347, para. 15 (applications for leave to appeal to the Supreme Court dismissed (S.C. Can., Apr. 7, 2016) 36684 and 36685); *Coderre v. Coderre*, 2008 QCCA 888, para. 45; *Laurentienne-vie Insurance Co., Inc. v. Empire Life Insurance Co.*, *supra*, note 25, paras. 15–17; *Veolia Santé Services Montréal v. Construction Santé Montréal*, 2023 QCCS 2, para. 84 (leave to appeal denied, 2023 QCCA 283); P. FERLAND, *supra*, note 26, paras. 10–38, 10–39, and 10–53.

35.5. the subject matter of the dispute cannot be resolved by arbitration in Quebec or the award or measure is contrary to public policy³⁰.

[36] These grounds, which allow a court to refuse to recognize or to set aside an arbitral award, are exhaustive³¹.

[37] The correctness of the grounds or the lack of reasonableness of the arbitral award do not constitute grounds for setting aside. A court hearing an application for confirmation or setting aside may not review the merits of the dispute³². “The issue here is therefore not whether the grounds or the operative provisions of the disputed awards are appropriate, timely, correct, just, equitable, or reasonable [...] [i]t is solely a matter of ensuring that these awards or the process leading to them do not contain any of the defects set forth in Article 946.4 [now 646] of the Code of Civil Procedure.”³³. Even a decision “surprising, or even legally tenuous” is not subject to review³⁴.

[38] The motion to set aside must be filed within three months of receipt of the arbitral award³⁵. This time limit is mandatory.

2. Discussion

[39] The capacity to enter into the arbitration agreement or the validity of the agreement are not at issue here.

[40] Nor do the plaintiffs allege any irregularity in the procedure for appointing the arbitrator or that the award concerns a dispute that was not or could not have been covered by the arbitration agreement.

[41] Rather, they raise two arguments:

- 41.1. The award is contrary to public policy, since Article 2884 of *the Civil Code of Québec* (“**C.C.Q.**”) prohibits the contractual modification of statutes of limitations;
- 41.2. The decision does not comply with arbitration procedure, since the Arbitrator delegated part of his decision-making authority to a generative artificial intelligence (“AI”) tool.

³⁰ Art. 648 and 646 C.p.c.

³¹ *Desputeaux v. Éditions Chouette (1987) Inc.*, 2003 SCC 17, para. 67; *Purkinje Inc. v. Famic Technologie Inc.*, 2009 QCCA 549, para. 21.

³² Art. 645, para. 2, C.p.c.

³³ *Coderre v. Coderre*, supra, note 29, para. 45.

³⁴ *Endorecherche Inc. v. Endoceutics Inc.*, supra, note 29, para. 17.

³⁵ Art. 648 C.p.c.

2.1 Public Policy

[42] Certain types of disputes cannot be submitted to arbitration. This is the case for disputes “concerning the status and capacity of persons, family matters, or other issues relating to public policy”³⁶.

[43] The court may also set aside an award if it is “contrary to public policy”³⁷.

[44] Public policy may therefore be invoked in two ways:

- 44.1. First, public policy may prohibit the arbitration of certain types of disputes;
- 44.2. Public policy may also serve as the basis for setting aside an award when the content of the award is contrary to public policy.

[45] In the first case, the award may be set aside “on the grounds of the invalidity of the arbitration agreement or the non-arbitrability of the dispute”³⁸. This concept must be interpreted narrowly and limited solely to matters analogous to those listed therein³⁹. This ground is not at issue here.

[46] As for the second ground, “it applies only to an award whose incorporation into the Quebec legal system would be contrary to public policy”⁴⁰.

[47] In this regard, author Ferland (now on the Superior Court) offers the following caution:

Two reflexes, however, seem to persist among litigants: on the one hand, the idea that the Code would allow an award to be set aside as soon as it touches on a matter of public policy, or that the arbitrator was required, in rendering it, to rely on provisions relating to public policy; and, on the other hand, the idea that public policy would justify setting aside the award as soon as the arbitrator erred in his or her interpretation of a provision relating to public policy⁴¹.

[48] However, as the Supreme Court of Canada points out⁴², when conducting an analysis of compliance with public policy, the court must focus on the result rather than the reasoning:

³⁶ Art. 2639 C.C.Q.

³⁷ Art. 646 C.p.c.

³⁸ P. FERLAND, *op. cit.*, note 26, paras. 10–109.

³⁹ *Dell Computer Corp. v. Union des consommateurs*, *supra*, note 25, para. 109.

⁴⁰ P. FERLAND, *supra*, note 26, paras. 10–110.

⁴¹ *Ibid.*

⁴² *Desputeaux v. Éditions Chouette (1987) Inc.*, *supra*, note 31, paras. 54, 65, and 66.

[54] [...] The court must determine whether the decision itself, in its operative part, contravenes statutory provisions or principles pertaining to public policy. The *Code of Civil Procedure* is more concerned here with the conformity of the operative part of the decision or the solution it adopts than with the accuracy of the specific grounds justifying it. An error in interpreting a mandatory statutory provision would not justify setting aside the award for a violation of public policy, unless the result of the arbitration proves to be irreconcilable with the relevant fundamental principles of public policy. [...] Finally, when reviewing the validity of the award, the clear rule of Art. 946.2 C.p.c. [now 645 C.p.c.] must be observed, which prohibits review of the merits of the dispute. The application of the highly flexible and evolving concept of public policy must be carried out in accordance with these fundamental principles when assessing the validity of an arbitral award.

[...]

[65] The Court of Appeal stated in para. 49 that:

When an arbitrator is called upon, within the scope of his or her mandate, to apply the rules of public policy, he or she must apply them correctly, that is, in the same manner as the courts.

[66] This assertion undermines the fundamental principle of arbitral autonomy. Indeed, it necessarily leads to an examination of the merits of the dispute by the court. Furthermore, it perpetuates a conception of arbitration that treats it as a form of justice inferior to that offered by the courts.

[Emphasis added by the Court; citations omitted]

[49] “Since the court hearing a motion for recognition or setting aside of an arbitral award cannot consider the merits of the dispute, it cannot review the arbitrator’s interpretation of statutory provisions, even if they pertain to public policy. ” “The interpretation of a law, even if the outcome of the dispute depends on it, concerns the merits of the dispute.” “Only if the operative part of the award proves to be irreconcilable with the relevant fundamental principles of public policy, or leads to a “perverse result likely to disrupt the social order,” that a court may set aside an arbitral award.”⁴³

[50] “Thus, the arbitrator may interpret mandatory statutory provisions of public policy within the scope of his or her mandate. He or she may, in extreme cases, err in their interpretation. Only if the operative part of the award itself is irreconcilable with the relevant fundamental principles of public policy will recognition be denied.”⁴⁴

⁴³ *Groupe Jonathan Benoît et Sam Ath Lok Inc. v. Perreault*, supra, note 29, paras. 33 and 34.

⁴⁴ *Citec Administration Inc. v. Corporation du parc d'affaires La Rolland*, 2010 QCCS 1059, paras. 28 et seq. (application for leave to appeal dismissed, 2010 QCCA 925).

[51] Before the arbitrator, the Plaintiffs argued that the time limits set forth in the National Agreement were contrary to public policy. More specifically, they asserted that Article 2884 of the C.C.Q. prohibits the contractual modification of statutes of limitations. However, the statute of limitations for an action for breach of contract is three years⁴⁵. The Plaintiffs essentially repeat the same argument before this court.

[52] What is the legal position?

[53] Article 2884 of the C.C.Q. provides that “[n]o limitation period other than that provided by law may be agreed upon.” This article is a matter of public policy.

[54] Relying on this provision, the courts have at times set aside contractual clauses that had the effect of modifying the limitation periods provided for in the C.c.Q.⁴⁶

[55] In any event, even if the Arbitrator had erred in law on this point, his Award is not subject to review. An error of law, even regarding a provision of public policy, is not grounds for annulment. This alone is sufficient to dismiss the Plaintiffs’ argument.

[56] In any event, even if I were to accept that an error regarding the maintenance of a contractual statute of limitations were reviewable, the Arbitrator did not address a statute of limitations. It was not the contractual time limit for bringing a matter before the Arbitrator (s. 5-5.01) that was invoked by the CCSMTL, but rather the prior obligation to provide notice of disagreement (s. 5-4.03). However, the CCSMTL argues that the time limit at issue here is not a statute of limitations, but rather a forfeiture period that requires prior notice as a prerequisite for bringing a legal action.

2.1.1 Forfeiture

[57] The court x⁴⁷and legal scholars⁴⁸do indeed distinguish between the statute of limitations and the forfeiture of the right to sue. The distinction may be important,

⁴⁵ Art. 2925 C.c.Q.

⁴⁶ *Coconut Tree Holding Inc. v. CI Investments Inc.*, 2022 QCCA 147, para. 20 (motion to stay execution denied, 2022 QCCA 374); *Constructions Gagné & Fils Inc. v. Berthierville (City of)*, 2013 QCCA 2024, paras. 50 and 51; *Ceriko Asselin Lombardi Inc. v. Maçonnerie Express Inc.*, J.E. 2001-697 (C.A.), para. 15; *Villeneuve v. Pelletier*, 2010 QCCS 320, paras. 14–18; *Marchand v. Cournoyer*, 2008 QCCS 4532, paras. 68–72 (motion to dismiss the appeal denied, 2008 QCCA 2309, and appeal abandoned (C.A., April 3, 2009) 200-09-006485-087); *3107671 Canada Inc. v. Construction J. & R. Dumouchel & Fils Inc.*, J.E. 99-1397 (Q.C.), para. 43; *Re/Max Platine Inc. v. Groupe Sutton-Actuel Inc.*, 2008 QCCA 1405, para. 19.

⁴⁷ *St. Joseph’s Oratory of Mount Royal v. J.J.*, 2019 SCC 35, paras. 125 and 126 (although dissenting on another issue, Justice Gascon wrote for the majority regarding the statute of limitations); *Taillon v. Retraite Québec*, 2023 QCCA 694, paras. 29–31 (application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2024-03-14) 40888).

⁴⁸ Didier LLUELLES and Benoît MOORE, *Law of Obligations*, 3rd ed., Montreal, Les Éditions Thémis, 2018, para. 1184; Pierre-Gabriel JOBIN and Nathalie VÉZINA, *Obligations*, 7th ed., Cowansville, Éditions Yvon Blais, 2013, para. 1150; Céline GERVAIS, *The Statute of Limitations*, Cowansville, Éditions Yvon Blais, 2009, p. 3 et seq.

in particular, because a statute of limitations defense may be raised ex officio and the concept of impossibility of acting, codified in Article 2904 of the Civil Code of Quebec, applies only in matters of prescription⁴⁹.

[58] Nevertheless, it appears to be settled law that forfeiture is not presumed and must be provided for by law⁵⁰. The contractual time limit for filing a notice of disagreement is not a forfeiture period.

2.1.2 Notice Periods

[59] The C.c.Q. provides that the statutory requirement for prior notice as a prerequisite for bringing a legal action does not apply in cases of bodily injury⁵¹. Furthermore, it remains possible to require by statute the submission of prior notice as a prerequisite for a claim for property damage⁵².

[60] As for contractual notice requirements, some have been held to be valid.

[61] For example, the Court of Appeal confirmed that the requirement to provide notice of a claim to the project owner within 120 days is enforceable against a contractor⁵³.

[62] In that case, the Court of Appeal specifically rejected the contractor's argument that the contractual clause violated the public policy rule set forth in article 2884 of the C.C.Q.:

[55] Consequently, these contractual time limits cannot be equated with statutes of limitations, defined in Article 2921 of the C.C.Q. as "means of extinguishing a right through non-use or of raising a plea of inadmissibility against an action." A right of action that has not yet arisen cannot be barred by the statute of limitations; as author Julie McCann explains, "the starting point of the statute of limitations corresponds to the first moment when a party with a right to assert a claim in court can do so, either because the right has crystallized or because the party has become aware of its existence."

[56] It is therefore only once the claim has been properly filed in the required form and within the 120-day time limit that the contractor's right of action crystallizes. From that date, the general statute of limitations begins to run: the contractor will then have three years to bring the claim before the courts.

⁴⁹ *Québec (Attorney General) v. Mascouche (City of)*, 2012 QCCA 1099, paras. 89–91.

⁵⁰ Art. 2878 C.C.Q.; *Taillon v. Retraite Québec*, supra, note 47, paras. 30 and 31; Hubert REID, with the collaboration of Simon REID, *Dictionary of Quebec and Canadian Law*, 6th ed., Montreal, Wilson & Lafleur, 2023, "Forfeiture."

⁵¹ Art. 2930 C.c.Q.

⁵² *Poirier v. Municipality of Notre-Dame-de-la-Merci*, 2024 QCCA 472, para. 13; *Engler-Stringer v. City of Montreal*, 2013 QCCA 707, para. 48.

⁵³ *Construction Infrabec Inc. v. Paul Savard, Electrical Contractor Inc.*, 2012 QCCA 2304.

Case law recognizes that, in exceptional cases, the owner's conduct may constitute a waiver of the formality provided for in clause 9.10. The formalities must be complied with in order for the contractor's right of action to arise. If these formalities are not complied with, it cannot be said that the right of action has been extinguished, since it never arose in the first place⁵⁴.

[63] As a second argument, the CCSMTL contends that the Award is surprising, since, in a dispute raising the same issue, the arbitrator reached a different conclusion⁵⁵.

[64] However, even if one were to conclude that the Arbitrator erred in interpreting article 2884 of the C.C.Q. and the National Agreement, this does not necessarily entail the annulment of the Award.

[65] Since the Court of Appeal has already confirmed that compliance with a contractual claims procedure requiring notice of a claim within a certain time limit does not conflict with Article 2884 of the C.C.Q., it cannot be concluded that the Arbitrator's finding—which emphasizes compliance with a prior notice requirement preceding the right to bring an action—is a result whose incorporation into the Quebec legal system would be contrary to public policy.

[66] This argument is rejected.

2.2 Failure to Comply with Arbitration Procedure

[67] The Claimants allege that the Award should be set aside because the arbitration procedure was not followed. This ground for annulment requires focusing on “the discrepancy between [...] the arbitration procedure agreed upon by the parties in their arbitration agreement [...] and [...] the procedure that was in fact followed”⁵⁶.

[68] The Plaintiffs assert that there is strong evidence that the Award was drafted using artificial intelligence. Thus, the arbitration procedure was not followed, which constitutes a ground for annulment.

[69] The Respondent argues that the use of artificial intelligence is not a ground for annulment listed in Article 646 of the Code of Civil Procedure. Although the Respondent is correct on this point, that is not sufficient to resolve the issue.

⁵⁴ *Id.*, paras. 55 and 56; *Construction Encore Ltd. v. Centre de services scolaires des Trois-Lacs*, 2024 QCCS 3876, paras. 111 and 112.

⁵⁵ *Villa St-Patrick v. Centre intégré de santé et de services sociaux de la Montérégie-Est*, CCAC File No. S17-081101-RG, paras. 53 et seq.

⁵⁶ P. FERLAND, *supra*, note 26, para. 10-75.

[70] By recognizing the possibility of setting aside an award if “the method of appointing an arbitrator or the applicable arbitration procedure was not followed”⁵⁷, the legislature acknowledges the primacy of the parties’ joint choice in identifying a private dispute resolution method “that suits them and that they consider appropriate”⁵⁸. The recognition of the principle of party autonomy as “the cornerstone of all modern law governing contractual arbitration”⁵⁹ entails respect for the parties’ decision to submit their dispute to arbitration and for the procedure they have chosen.

[71] Thus, even if the legislature has not specified every procedural violation that might justify annulment, it must be understood that any “significant violation of the procedure agreed upon by the parties” that calls into question “the integrity of the arbitral process” may lead to such an annul on⁶⁰. Conversely, “a formal and insignificant procedural irregularity, which could not have caused any prejudice or serious injustice and could not have had the slightest effect on the substance of the award or the outcome of the dispute, will not give rise to censure”⁶¹.

[72] Once a significant violation is confirmed, the court must therefore weigh the nature of the breach in light of the arbitration proceedings at hand, determine whether the breach is such as to undermine the integrity of the proceedings, and assess the extent to which it affected the award itself e⁶².

2.2.1 Selection of the Arbitrator

[73] The arbitrator is selected by mutual agreement between the parties unless they have requested a third party to appoint one⁶³. Indeed, allowing the parties to choose their own decision-maker is a “considerable advantage over courts of general jurisdiction”⁶⁴. This choice may be made “based on the arbitrator’s areas of expertise, general experience, as well as experience in managing proceedings and administering evidence, and certainly on the arbitrator’s availability—not only to commence and hear the case within a reasonable time, if not in the short term, but also to

⁵⁷ Art. 646 C.p.c.

⁵⁸ Art. 1 C.p.c.

⁵⁹ *Groupe Dimension Multi Vétérinaire Inc. v. Vaillancourt*, 2020 QCCS 1134, para. 31 (application for leave to appeal to the Supreme Court of Canada dismissed, 2020 CanLII 76221).

⁶⁰ *Groupe Jonathan Benoît et Sam Ath Lok Inc. v. Perreault*, supra, note 29, para. 46; *Smart Systems Technologies Inc. v. Domotique Secant Inc.*, 2008 QCCA 444, para. 33.

⁶¹ Fabien GÉLINAS, “Review of a Judgment for Failure to Comply with Applicable Procedural Rules: Some Questions,” in Sylvette GUILLEMARD (ed.), *Essays in Honor of Professor Alain Prujiner*, Cowansville, Éditions Yvon Blais, 2011, pp. 143, 167, and 171; Luc CHAMBERLAND (ed.) et al., *Le grand collectif: Code of Civil Procedure: Commentaries and Annotations*, vol. 2, Montreal, Éditions Yvon Blais, 10th ed., 2025, art. 646 C.C.P.

⁶² *Rhéaume v. Société d’investissements l’Excellence Inc.*, 2010 QCCA 2269, paras. 61 and 63 (application for leave to appeal to the Supreme Court dismissed (S.C. Can., June 16, 2011) 34089).

⁶³ Art. 624, para. 1 C.p.c.

⁶⁴ P. A. MICHAUD in P. FERLAND, supra, note 26, paras. 0–10.

“to render the award within an equally reasonable and short timeframe after the commencement of deliberations”⁶⁵. “It is from this combination of professional expertise and personal integrity that the arbitrator derives his or her moral authority.”⁶⁶

[74] In the present case, the parties were required to select an arbitrator from a limited list of ten names.⁽⁶⁷⁾

2.2.2 The Importance of Writing Reasons

[75] It goes without saying that, in selecting the arbitrator who will hear their dispute, the parties are entitled to expect that it will be that arbitrator who renders the decision.

[76] It is also well established that a failure to comply with arbitration procedure within the meaning of Article 646, paragraph 3, is not limited to the proceedings related to the hearing itself, but may include a violation related to the deliberations.⁽⁶⁸⁾

[77] It is worth recalling that the Court of Appeal has already upheld the nullity of an arbitral award that lacked a statement of reasons. “In principle, when the parties agree that the award must be reasoned, it must be so.”⁶⁹ The court further notes that a party “who agrees to submit a dispute to arbitration must be able to assume that these rules will be followed. If they are not and the court turns a blind eye, [the parties] will abandon arbitration.”⁷⁰

[78] In the same decision, the Court of Appeal emphasized that “anyone entrusted with a judicial function knows full well that it is often only by attempting to provide reasons for a decision based on a first impression that one discovers that the decision is not the correct one.”⁷¹

[79] This observation echoes that of the Supreme Court of Canada in *Baker*:

[39] It has been argued that writing reasons promotes better decision-making in that it requires clear articulation of the issues and reasoning and, consequently, a more rigorous analysis. The process of drafting the reasons for a decision can in itself ensure a better decision. Reasons also allow the parties to see that the relevant considerations have been carefully examined, and they are invaluable if the decision is appealed, challenged, or subject to judicial review. Those affected are more likely to feel that they are being treated with

⁶⁵ Olivier DESPRÉS, “The Conduct of Contractual Arbitration in Quebec” in P. FERLAND, supra, note 26, paras. 7–40; *Rhéaume v. Société d’investissements l’Excellence Inc.*, supra, note 62, para. 37.

⁶⁶ *Ibid.*

⁶⁷ Exhibit P-1, Appendix 2, p. 53.

⁶⁸ *Rhéaume v. Société d’investissements l’Excellence Inc.*, supra, note 62, paras. 22, 23, 24, and 49.

⁶⁹ *Smart Systems Technologies Inc. v. Domotique Secant Inc.*, supra, note 60, para. 22.

⁷⁰ *Ibid.*, para. 27.

⁷¹ *Ibid.*, para. 28.

fairly and appropriately if reasons are provided. I agree that these are significant advantages of providing written reasons⁷².

[Quotations omitted]

[80] The provision of reasons “significantly reduces the risk of arbitrary decisions [and] strengthens public confidence in the judgment and fairness of the courts”⁷³. Furthermore, it allows the parties to understand the decision that is binding on them and to assess their options for the next steps.

[81] These considerations support a prohibition against an arbitrator delegating his or her decision-making authority.

2.2.3 The confidentiality of deliberations and the prohibition on delegating decision-making authority

[82] The arbitrator’s duty to maintain the confidentiality of deliberations⁷⁴ leads to the same conclusion.

[83] As the Court of Appeal points out:

[25] *In my opinion, the affirmative duty imposed on arbitrators pursuant to Article 945 C.C.P. [now 644 C.p.c.] requires them to refrain from communicating with third parties about the matter to be decided once it has been taken under advisement. The ultimate purpose is to ensure that the arbitral award reflects the opinion of the arbitrators alone, and not those of anyone else, whether such third parties have an interest in the outcome or not.*⁷⁵

[84] These remarks echo those of the *New York State Commission on Judicial Conduct* which ruled on the delegation of decision-making powers:

*It is fundamental to the independence, impartiality, and integrity of the judiciary for a judge to exercise the powers of office without undue or unauthorized reliance on non-judges.*⁷⁶

[85] The Supreme Court of Canada also notes:

⁷² *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, para. 39.

⁷³ *Northwestern Utilities Ltd. v. City of Edmonton*, [1979] 1 S.C.R. 684, p. 706.

⁷⁴ Art. 644 C.P.C.

⁷⁵ *Rhéaume v. Société d’investissements l’Excellence Inc.*, supra, note 62, para. 25.

⁷⁶ New York State Commission on Judicial Conduct, “Delegation of Authority,” 2019 Annual Report, pp. 22–24, cited with approval by the Canadian Judicial Council in Martin FELSK and Karen ELTIS, “Preamble: No Delegation of Judicial Decision-Making,” *Guidelines for the Use of Artificial Intelligence in Canadian Courts*, first edition, September 2024, p. 3.

[93] It is well established that a body to which the exercise of a power is conferred under its enabling statute must exercise that power itself and may not delegate it to one of its members or to a minority of them without the express or implied authorization of the statute, in accordance with the legal maxim established by case law: *delegatus non potest delegare*. However, in this case, it was precisely the legislature's intention to entrust decision-making authority to an investigative committee⁷⁷.

[Citations omitted]

[86] The primacy accorded to the parties' autonomy in the selection of the arbitrator, the importance of drafting the reasons for the decision to ensure an informed ruling, the arbitrator's duty to maintain the confidentiality of deliberations, and the imperative to preserve public confidence in the arbitration process justify that decisions be drafted by the arbitrator chosen by the parties without delegation to third parties.

[87] The rule is not intended to prohibit the use of research assistants, clerks, translation or citation assistance, or even reference to notes and authorities prepared by attorneys. The rules of natural justice do not prohibit decision-makers from consulting colleagues⁷⁸. Furthermore, the participation of third parties in the drafting process must not undermine the integrity of the process and must ensure that responsibility for the drafting remains with the decision-maker in order to avoid any interpretation that a third party has taken control of or been delegated the task of drafting the reasons⁷⁹. The maxim "*he who decides must hear*" is a corollary of the rule *audi alteram partem*, "insofar as a litigant is truly 'heard' only if he or she is heard by the one who will decide the case"⁸⁰.

2.2.4 The Specific Case of Artificial Intelligence

[88] As Judge Morin emphasized in a recent case: "Any technological measure that can help promote citizens' access to the justice system should be welcomed and regulated rather than banned and stigmatized"⁸¹.

[89] A growing number of legal professionals are using large language models (LLMs) to help them summarize documents, identify relevant documents among gigabytes of data, identify trends, transcribe audio files, correct or refine the wording of an existing text, cross-reference precedents, or conduct legal research.

⁷⁷ *Therrien (Re)*, 2001 SCC 35, para. 93.

⁷⁸ *S.I.T.B.A. v. Consolidated-Bathurst Packaging Ltd.*, [1990] 1 S.C.R. 282.

⁷⁹ *Khan v. College of Physicians & Surgeons of Ontario*, 1992 CanLII 2784 (Ont. C.A.).

⁸⁰ *Doyle v. Commission on Restrictive Trade Practices*, [1985] 1 F.C. 362 (F.C.A.), pp. 368–369, cited with approval in *S.I.T.B.A. v. Consolidated-Bathurst Packaging Ltd.*, *supra*, note 78.

⁸¹ *Specter Aviation Limited v. Laprade*, 2025 QCCS 3521, para. 46.

[90] Furthermore, the use of AI in a judicial context involves certain challenges and risks⁸²:

- 90.1. Creation of false citations or “hallucinations”: The use of artificial intelligence to draft legal opinions or notes and authorities can sometimes result in the creation of false legal citations known as “hallucinations.” These hallucinations can be extremely misleading and difficult to detect, as they often exhibit all the characteristics of genuine citations and can only be identified as false after careful scrutiny. This type of hallucination forces the other parties and the court to spend valuable time not only trying to locate something that does not exist, but also reviewing arguments that rely on such nonexistent sources.
- 90.2. Lack of Discretion and Human Values: Certain decisions rendered by the judicial system involve an element of discretion. Computer programs operate according to a programmed logic designed to produce a predetermined result. Such rigidity is incompatible with discretionary decisions⁸³. Judicial decisions must sometimes take into account community values, the subjective characteristics of the parties, and any other contextual circumstances that may be relevant. AI algorithms are generally unable to consider human values, the application of which may vary depending on the circumstances. The ever-changing nature of human values and the unprecedented situations that may arise make it difficult to know when and how these values should be incorporated.
- 90.3. AI can give rise to bias: AI operates on a statistical basis. It processes texts, images, and conversations and reproduces what appears most likely based on contextual elements. Thus, AI systems may be unintentionally programmed to exhibit biases due to the programmers’ prejudices or learn to be biased based on the data used to train them⁸⁴. These risks are exacerbated by the fact that the companies that create the algorithms hold the associated trade secrets and are unwilling to disclose the source code or even discuss the

⁸² Action Committee on the Modernization of Judicial Activities, *Demystifying Artificial Intelligence in Judicial Processes*, available online at: [<https://www.fja.gc.ca/COVID-19/Demystifying-Artificial-Intelligence-Demystifier-lintelligence-artificielle-fra.html>].

⁸³ T. SOURDIN, “Judge v. Robot? Artificial Intelligence and Judicial Decision-Making,” in *Handbook for Judicial Officers*, Judicial Commission of New South Wales, pp. 1168–1169, available online at: [https://jirs.judcom.nsw.gov.au/public/assets/benchbooks/judicial_officers/].

⁸⁴ W. GRAVETT, “*The Dark Side of Artificial Intelligence: Challenges for the Legal System*,” updated version (October 2021), in *Handbook for Judicial Officers*, Judicial Commission of New South Wales, pp. 1092–1096, available online at: [https://jirs.judcom.nsw.gov.au/public/assets/benchbooks/judicial_officers/].

how the algorithm works (this lack of transparency is sometimes referred to as the “black box” phenomenon).

- 90.4. Lack of confidentiality: Information transmitted to an AI tool is incorporated into the system’s database and may subsequently be disclosed by the system when it responds to requests from other users. Consequently, feeding sensitive confidential information into an AI tool violates a lawyer’s duty to maintain the confidentiality of their clients’ information.⁸⁵ When this process is initiated by a decision-maker, it may violate the duty to maintain the secrecy of deliberations.
- 90.5. Public trust in the justice system: Our judicial system functions only if people trust it. The use of artificial intelligence in proceedings that may subsequently be reflected in court rulings can foster cynicism toward the legal profession and the judicial system. Justice requires that decisions be perceived as fair, humane, and reasoned. If the public believes that a disembodied or opaque machine made a decision, rather than a human being, confidence in the judicial system could be undermined.

[91] Aware of these risks, the courts have not hesitated to sanction the use of artificial intelligence by parties or their attorneys to draft pleadings or briefs and legal authorities, characterizing this practice as a serious breach that undermines the integrity of the judicial process⁸⁶, even justifying an order to pay court costs or disciplinary sanctions.

[92] In one such case, Judge Myers noted that the effect of such a practice could influence judges to render decisions based on a law that does not exist:

⁸⁵ Roy D. SIMON, “Artificial Intelligence, Real Ethics,” available online at: [https://www.iadclaw.org/assets/1/7/10.5-

Simon(Roy)-_Artificial_Intelligence_Real_Ethics.pdf], p. 5.

⁸⁶ *Bourse de l’Immobilier Multilogements Inc. v. Lanthier*, 2025 QCCS 4135; *Specter Aviation Limited v. Laprade*, supra, note 81, para. 43; *Lloyd’s Register Canada Ltd. v. Choi*, 2025 FC 1233 (F.C.); *Aly Hussein v. Minister of Immigration, Refugees and Citizenship*, 2025 FC 1138 (F.C.), para. 15; *Ko v. Li*, 2025 ONSC 2965, paras. 14–17; *Pennytech Inc. v. Superior Building Group Limited*, 2025 ONLTB 52666, para. 20; *Zhang v. Chen*, 2024 BCSC 285, paras. 29 and 46; *Smith v. Farwell*, No. 2282CV01197, Mass. Super. Ct., February 12, 2024, Massachusetts Lawyers Weekly, No. 2-007-24, online: [https://masslawyersweekly.com/files/2024/02/12-007-24.pdf]; *Park v. Kim*, 91 F.4th 610 (2d Cir. 2024); *Matter of Samuel*, 206 N.Y.S.3d 888, at 891; *Mata v. Avianca, Inc.*, 678 F.Supp. 3d 443 (2023); Judith GUÉRIN and Émilie CHEVRIE, “Recent Case Law on Generative Artificial Intelligence,” *Praeventio Bulletin*, Quebec Bar Professional Liability Insurance Fund, published October 1, 2025; Gary E. MARCHANT, “AI in Robes: Courts, Judges, and Artificial Intelligence,” *Ohio Northern University Law Review*, 2024, Vol. 50: No. 3, Article 2; Simon TYRIE and Edward SLAIDING, “Risks and Pitfalls of Using AI in the Legal Profession,” *Linnear Legal*, online: [https://www.linnearlegal.co.uk/resources/risks-pitfalls-using-ai-legal-profession/].

[14] Regardless of issues concerning artificial intelligence, counsel who misrepresent the law, submit fake case precedents, or who utterly misrepresent the holdings of cases cited as precedents, violate their duties to the court.

[...]

[16] A court decision based on fake laws would constitute an egregious miscarriage of justice for the parties and would reflect very poorly on the court and the civil justice system.

[17] In determining and pronouncing the law applicable to its decisions, the court receives submissions from counsel regarding the applicable law. As discussed below, the court relies on counsel to state the law accurately and fairly. Misrepresentation of the law by a lawyer poses real risks of causing a miscarriage of justice that undermines the dignity of the court and the fairness of the civil justice system.⁸⁷

[93] The leadership of our Court, in a notice to the legal community and the public, also urged litigants and parties to exercise the utmost caution by warning of the risks associated with the inappropriate use of artificial intelligence:

Reliability: For any references to case law, statutory provisions, or commentaries in submissions to the court, it is essential that the parties rely exclusively on sources from court websites, commonly cited commercial publishers, or well-established public services.

Human Oversight: To meet the highest standards of accuracy and authenticity, AI-generated submissions must undergo rigorous human review. This verification can be conducted by cross-referencing with reliable legal databases to confirm that the references and their content stand up to scrutiny. Such an approach is consistent with the long-standing practices of legal professionals⁸⁸.

[94] Thus, while there is nothing inherently wrong with using a reliable artificial intelligence tool, current rules impose a duty on attorneys and parties to verify information to ensure the accuracy of their proceedings. An attorney who fails to conduct such verifications is shirking their responsibilities.

[95] The pitfalls for decision-makers are even greater.

⁸⁷ Ko v. Li, *supra*, note 86, paras. 14–17.

⁸⁸ Quebec Superior Court, *Notice to the Legal Community and the Public - The Integrity of Submissions to the Courts When Using Large Language Models*, October 24, 2023, available online: [https://coursuperieureduquebec.ca/fileadmin/cour-superieure/Communiqués_et_Directives/Montreal/Avis_a_la_communaute_juridique-Use_of_Artificial_Intelligence_FR.pdf].

[96] As one author points out:

[A] Judicial opinions are often thought to convey full authority or legitimacy only because (or if) their author has provided an adequate justification. Similarly, the judges who issue judicial opinions are often thought to be fulfilling their roles—that is, embodying the nature of their profession—only if they provide adequate justifications. The issue, in other words, is not whether the decision is justified at all or by anyone. The issue, at least in part, is whether the deciding court itself has provided an acceptable justification. Judicial decisions without any accompanying justification can therefore be unsettling and are usually deemed tentative or otherwise peripheral—even though such decisions could be rationalized by one of the parties or by outside commentators.⁸⁹

[97] Moreover, the Canadian Judicial Council clearly prohibits the delegation of the drafting of a judicial decision to artificial intelligence:

Judges are solely responsible for the judicial decisions they render. It must be understood, unequivocally, that no judge is authorized to delegate his or her decision-making authority—whether to a judicial assistant, an administrative assistant, or a computer program—regardless of their capabilities.⁹⁰

[98] The Defendant submitted certain decisions of the Federal Court ⁹¹in which the court dismissed applications for judicial review that alleged a violation of procedural fairness because the decision-maker had used the in-house Chinook software.

[99] However, a careful reading of the decisions reveals that the federal court dismissed the appeal because the evidence showed that the decision had been made by the officer and not by the software⁹².

[100] The press release⁹³ from Immigration, Refugees and Citizenship Canada (“IRCC”) regarding Chinook further emphasizes that:

⁸⁹ Richard RE, “*Artificial Authorship and Judicial Opinions*,” 92 *George Washington Law Review* 1558 (2024), p. 1563.

⁹⁰ Canadian Judicial Council, *Guidelines for the Use of Artificial Intelligence in Courts*, September 2024, online: https://cjc-ccm.ca/sites/default/files/documents/2024/AI%20Guidelines%20-%20FINAL%202024-09%20-%20FR_0.pdf.

⁹¹ *Pjetracaj v. Minister of Citizenship and Immigration*, 2025 FC 103 (F.C.); *Haghshenas v. Minister of Citizenship and Immigration*, 2023 FC 464 (F.C.).

⁹² *Pjetracaj v. Minister of Citizenship and Immigration*, supra, note 91, para. 36; *Haghshenas v. Minister of Citizenship and Immigration*, supra, note 91, paras. 24 and 28.

⁹³ Exhibit P-12.

- Chinook is a Microsoft Excel-based tool developed by IRCC for processing applications for temporary residence. It is designed to increase efficiency and improve customer service by mitigating the impact of system latency and bandwidth constraints, thereby improving processing times.
- Chinook presents information stored in the Global Case Management System (GCMS), IRCC's case processing system, in a more user-friendly manner, thereby increasing the productivity of GCMS users. It offers a more user-friendly overview than the multi-screen display of application information.
- Chinook is a tool designed to simplify the visual representation of client information. It does not use artificial intelligence (AI) or advanced analytics for decision-making, and no decision-making algorithms are built into it.
- Final decisions regarding applications are made by an IRCC officer, never by the Chinook tool. The tool does not assess applications or make any decisions. Departmental officers always review all information submitted by clients to ensure informed and fair decision-making. The use of Chinook does not result in a less thorough review of applications, nor does it alter the decision-making process in any way.

[Emphasis added by the
Court]

[101] Therefore, these decisions cannot be used to support the Respondent's argument.

[102] The Defendant also suggests that, in the absence of expert evidence, the Tribunal should refrain from concluding that artificial intelligence was used or that the cited authorities do not exist. However, the burden of proof in civil matters is the balance of probabilities. Furthermore, the fact that the decisions do not exist has been established as a matter of evidence, since each of the neutral references cited by the Arbitrator leads to other decisions that have no connection to the subject in support of which they were cited.

[103] Paragraph [71] of the Award states:

[71] Legal scholar Frédéric Bachan⁴ states that "courts must be careful not to confuse the statute of limitations with forfeiture. The former is a matter of public policy; the latter is based on contractual freedom";

[104] However, the article cited in support of the assertion (footnote 4: Frédéric Bachand, "Statute of Limitations and Forfeiture: Shifting Boundaries and Practical Issues," *Recent Developments in Contract Law*, Barreau du Québec, 2016) cannot be found.

[105] In paragraphs [84] and [88] through [90], the Arbitrator writes:

[84] The Court of Appeal is of the opinion that a contractual clause imposing a strict time limit for asserting a right under a contractual or administrative regime is permissible if the parties are on an equal contractual footing (e.g., collective bargaining agreements);

[...]

[88] The Court of Appeal⁵ confirms that forfeiture clauses are valid and enforceable when they are clear and reasonable. The Court recognizes the validity of a forfeiture period provided for in a collective agreement, specifying that it is not a statute of limitations within the meaning of *the Civil Code of Québec*, but rather a contractual rule, applicable if it is clear and accepted;

[89] In another decision⁶, the Superior Court emphasizes that contractual forfeiture is lawful, distinct from the statute of limitations, and must be respected when it results from a clear and negotiated contract;

[90] Our Court of Appeal⁷ also confirms the validity of a preclusion clause in a collective agreement and clarifies that such a clause is not equivalent to a statutory limitation period;

⁵ *City of Montreal v. Syndicat des cols bleus regroupés de Montréal (SCFP, Local 301)*, 2005 QCCA 591

⁶ *Groleau v. Yellow Pages Group Co.*, 2011 QCCS 5386

⁷ *Tremblay v. Commission scolaire de la Jonquière*, 2002 CanLII 24357 (QCCA)

[106] However, the decisions cited in footnotes 5 through 7 do not exist.

[107] The decision *City of Montreal v. Syndicat des cols bleus regroupés de Montréal*, 2005 QCCA 591 (footnote 5) does not exist. The case number refers to a different decision⁹⁴.

[108] The decision *Groleau and Yellow Pages Group Co.*, 2011 QCCS 5386 (footnote 6) does not exist. The numerical reference leads to a different decision⁹⁵.

[109] The decision *Tremblay v. Commission scolaire de la Jonquière*, 2002 CanLII 24357 (QCCA) does not exist. The numerical reference also refers to another decision⁹⁶.

[110] In paragraphs [102] through [106], the arbitrator states:

[102] Clause 5-4.05, although admissible as a contractual forfeiture clause, must be interpreted in light of the applicable legal framework.

⁹⁴ Exhibit P-9 in the Osman proceedings.

⁹⁵ Exhibit P-10 in the Osman proceedings.

⁹⁶ Exhibit P-11 in the Osman proceedings.

[103] The Court finds that clause 5-4.05, although restrictive, falls within a valid conceptual framework and pursues a legitimate objective. It does not violate the mandatory provisions of *the Civil Code of Québec* regarding the statute of limitations, since it constitutes a clear contractual admissibility provision, applicable in the specific context of collective bargaining in the healthcare sector. As an agreed-upon forfeiture clause, it is enforceable against the parties who have consented to it.

[104] Furthermore, this clause does not alter the civil statute of limitations but defines the internal parameters of an administrative or contractual remedy.

[105] Such clauses are common in collective bargaining agreements (e.g., deadlines for grievances, bonus claims), and the courts recognize them as valid provided they are clear, negotiated, equally applicable to both parties, and provide a reasonable time limit. In fact, an arbitration panel has recognized a contractual 30-day time limit⁸.

[106] Arbitrators and courts accept these clauses when the reasonableness and practicality of the time limit are demonstrated, which is the case here.

⁸ *CHU Ste-Justine Arbitration* (D.T.E. 2018-30).

[111] SOQUIJ confirms that the arbitral award *CHU Ste-Justine Arbitration* (D.T.E. 2018-30) does not exist⁹⁷.

[112] Decision 2018EXPT-30 – *Sonin v. Concordia University*, rendered by the Administrative Labor Tribunal on December 5, 2017, with the neutral reference 2017 QCTAT 5536⁹⁸, dismisses an employee's claim of retaliation by the employer on the grounds that the complaint was filed outside the 30-day time limit provided for in *the Labor Code*. Thus, when the Arbitrator cites the decision to support the argument that "an arbitral tribunal recognized a contractual 30-day deadline" (paragraph 105 of the Award), this is not accurate.

[113] The references mentioned above are central to the Arbitrator's reasoning. They constitute the only doctrinal or case law references used as legal support for the Award. The other case law references are included in sections of the Award that summarize the parties' positions.

[114] The preponderance of the evidence therefore leads to the conclusion that the Arbitrator's authority was delegated and that he abdicated his role of reviewing the outcome.

[115] This conclusion is inevitable because all of the doctrinal and case law references on which the Arbitrator relies are non-existent and "fictitious."

[116] For this reason, the Award must be set aside.

⁹⁷ Exhibit P-11 in the Osman proceedings. The CCSMTL, which had initially objected to the production of Exhibit P-12 on the grounds that it constituted hearsay, subsequently withdrew its objection.

⁹⁸ Exhibits P-12 and P-13 in the Osman proceedings.

[117] This conclusion does not imply that every award that cites erroneous references or uses artificial intelligence as a drafting tool should suffer the same fate. One might, for example, imagine cases where the use of artificial intelligence was minimal or involved a less significant issue.

[118] In such cases, weighing the nature of the breach in light of the arbitration proceedings at hand, determining the extent to which the integrity of the proceedings has been compromised, and assessing the impact of the breach on the award⁹⁹ could lead to a different outcome.

[119] On the other hand, when the standard of review differs—for example, in an appeal (error of law or manifest and decisive error of fact) or in judicial review (reasonableness)—the absence of error or a decision deemed reasonable could result in the decision being upheld notwithstanding a procedural breach. It is not necessary to rule on this here.

[120] In the present case, the procedural violation is significant. It is likely to affect the parties' confidence in the outcome and in the arbitration system in general. Since the non-existent decisions are central to the arbitrator's reasoning, a party may reasonably believe that a more thorough review of the decisions would have prompted the arbitrator to reconsider his position.

[121] Therefore, it is justified to conclude that the procedural violation likely had a significant impact on the outcome.

FOR THESE REASONS, THE COURT:

[122] **SETS ASIDE** the arbitral award rendered on August 8, 2025, by the respondent, Michel A. Jeannot;

[123] **ORDERS** the parties to select a new arbitrator within 60 days of this judgment;

[124] **ALL OF THE ABOVE**, with costs.

MARTIN F. SHEEHAN, J.C.S.

⁹⁹ See paragraph [72] of this judgment.

500-11-066427-259
500-11-066498-250

PAGE: 26

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