



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DECISION AND REASONS

File No. PR-2007-085

Sandman Signature Hotel Toronto  
Airport

*Decision and reasons issued  
Wednesday, February 20, 2008*

IN THE MATTER OF a complaint under the *Canadian International Trade Tribunal Act*,  
R.S.C. 1985 (4th Supp.), c. 47

**BY**

**SANDMAN SIGNATURE HOTEL TORONTO AIRPORT**

**AGAINST**

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES**

**DECISION**

Pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal has decided not to conduct an inquiry into the complaint.

Ellen Fry  
Ellen Fry  
Presiding Member

Hélène Nadeau  
Hélène Nadeau  
Secretary

## STATEMENT OF REASONS

1. Subsection 30.11(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup> provides that, subject to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*,<sup>2</sup> a potential supplier may file a complaint with the Canadian International Trade Tribunal (the Tribunal) concerning any aspect of the procurement process that relates to a designated contract and request the Tribunal to conduct an inquiry into the complaint. Subsection 30.13(1) of the *CITT Act* provides that, subject to the *Regulations*, after the Tribunal determines that a complaint complies with subsection 30.11(2) of the *CITT Act*, it shall decide whether to conduct an inquiry into the complaint.

2. Sandman Signature Hotel Toronto Airport (Sandman) alleged that the Department of Public Works and Government Services (PWGSC) improperly deemed its bid non-compliant.

3. Subsection 6(1) of the *Regulations* provides that a complaint shall be filed with the Tribunal “. . . not later than 10 working days after the day on which the basis of the complaint became known or reasonably should have become known to the potential supplier.” Subsection 6(2) provides that a potential supplier who has made an objection to the relevant government institution, and is denied relief by that government institution, may file a complaint with the Tribunal “. . . within 10 working days after the day on which the potential supplier has actual or constructive knowledge of the denial of relief, if the objection was made within 10 working days after the day on which its basis became known or reasonably should have become known to the potential supplier.”

4. In other words, a complainant has 10 working days from the date on which it first becomes aware (or reasonably should have become aware) of its ground of complaint to either object to the government institution or file a complaint with the Tribunal. If a complainant objects to the government institution within the designated time, the complainant may file a complaint with the Tribunal within 10 working days after it has actual or constructive knowledge of the denial of relief by the government institution.

5. In a letter dated December 1, 2007, PWGSC advised Sandman that its bid was considered non-compliant because it did not provide room rates as required. According to the complaint, Sandman contacted PWGSC on January 4 and 16, 2008 to discuss the evaluation results and, on January 16, 2008, PWGSC advised Sandman that there was nothing that could be done. On February 5, 2008, Sandman filed its complaint with the Tribunal.

6. In order for a complaint to have been filed with the Tribunal in accordance with the time frame provided for in subsection 6(2) of the *Regulations*, Sandman would have needed to make an objection to PWGSC within 10 working days from the date on which it received PWGSC's letter of December 1, 2007 or became aware of its contents. The complaint indicates that Sandman did not make an objection to PWGSC until January 4, 2008, 22 working days later. The complaint does not provide the Tribunal with the specific date on which Sandman received PWGSC's letter, but the complaint does not indicate that there was any delay in receiving it. The Tribunal therefore concludes that Sandman received the letter on December 1, 2007 or shortly thereafter (i.e. considerably more than 10 working days prior to January 4, 2008). Consequently, the Tribunal is of the view that Sandman failed to make its objection to PWGSC within the prescribed time limit.

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1. R.S.C. 1985 (4th Supp.), c. 47 [*CITT Act*].

2. S.O.R./93-602 [*Regulations*].

7. In light of the foregoing, the Tribunal will not conduct an inquiry into the complaint and considers the matter closed.

### **DECISION**

8. Pursuant to subsection 30.13(1) of the *CITT Act*, the Tribunal has decided not to conduct an inquiry into the complaint.

Ellen Fry

Ellen Fry  
Presiding Member