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The *Octane* Ruling: Still Relevant Today

In a recent decision,¹ the Court of Québec reaffirmed the principle established in the *Octane*² ruling handed down by the Supreme Court in 2019. The decision came as a bombshell in municipal circles. The Supreme Court had ruled that the City of Montréal was required to pay for services rendered under the rules on restitution of prestations, even though the mandate did not comply with the standards on tendering and *Octane Stratégie's* use of a subcontractor had not been approved.

Thus, the idea that municipal procedural rules would “protect” municipalities from the application of the general principles of the *Civil Code of Québec* was proven incorrect.

In the most recent case, the City of Montréal had awarded a sidewalk cleaning contract to Excavation Anjou Inc. even though the city's Bureau de l'Inspecteur Général and the Autorité des marchés financiers had prohibited the company from entering into contracts with the city for a five-year period. The work was indeed carried out, but the city refused to pay, claiming that the contract could not be legal due to the aforementioned prohibition.

The City of Montréal attempted to distinguish this case from the *Octane* ruling in the following way:

It argued that *Octane* had acted in good faith when it did not check the tendering rules and when it believed that the city officer it was dealing with had the authority to retain its services. In the current case, an important distinction needs to be made: Excavation Anjou was aware that it was prohibited from entering into contracts with the City of Montréal as a result of decisions made by the BIG and the AMF. Excavation Anjou should have ensured that all the conditions for the award of the contract were met. It acted in bad faith in agreeing to provide its services to the city.³

However, the Court of Québec disagreed with the city's reasoning. It found that the company had acted in good faith, but had simply been confused about the applicable rules. The ruling points out the confusion that reigned within the City of Montréal administration as to whose responsibility it was to check the list of companies on the Registre des entreprises non admissibles aux contrats publics (RENA). The court did not mince words with the city, stating that “this lack of a verification system and this series of errors amounted to negligence for which Excavation Anjou should not be held responsible.”

The court applied the principles set out by the Supreme Court in the *Octane Stratégie* case and ordered the City of Montréal to pay the company \$23,385.95.

This is an interesting new case that demonstrates the application of the principles established by the Supreme Court in 2019. This ruling reiterates that cities and municipalities must exercise caution when awarding contracts, and that they cannot invoke the principles of municipal law to the field of contract management if a contract is awarded in error. It's a hard-learned lesson that is still relevant today.



¹ *Excavation Anjou inc. v Ville de Montréal*, 2025 QCCQ 2323.

² *Montréal (City) v Octane Stratégie inc.*, [2019] 4 SCR 138.

³ Paragraph 28 of the decision (courtesy translation).