

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**LEE VALLEY TOOLS LTD.**

Plaintiff

- and -

**CANADA POST CORPORATION**

Defendant

**REPLY**

*PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992*

1. The plaintiff, Lee Valley Tools Ltd., (“Lee Valley”) admits the following allegations contained in the Statement of Defence: the first sentence in paragraph 5, 7, the first sentence of paragraph 8 (save that Lee Valley has used the services of Canada Post to ship parcels since before June, 1990), the second sentence in paragraph 8, 11, 12, 13, 14, the first sentence in paragraph 15, paragraph 18 (save that it is more correct to state that Canada Post sets the charges on the basis of the greater of the actual weight or "volumetric weight" of the parcel), the last sentence in paragraph 19, and the second sentence in paragraph 26.
2. The plaintiff denies the balance of the allegations contained in the Statement of Defence.
3. In addition to the exclusive privilege of collecting, transmitting and delivering letters alleged in paragraph 6 of the Statement of Defence, Canada Post enjoys other exclusive privileges provided to it by the Government of Canada which effectively require class members to utilize the services of Canada Post to deliver parcels within Canada.
4. The introduction of charges based upon “volumetric weight” has substantially increased charges on those parcels for which charges are based upon “volumetric weight” without any corresponding reduction in charges for the balance of parcels for which charges are based upon actual weight. To suggest that "volumetric weight" based charges were introduced to recover the cost of transportation is misleading.

5. Contrary to the allegations in paragraph 32 of the Statement of Defence, the described equipment used to “reweigh or cube items” was not duly authorized for such purpose nor was it designed and manufactured for such use . Such equipment was not duly inspected pursuant to the *Weights and Measures Act* and Canada Post took steps to preclude such equipment and its use being inspected and investigated to determine whether such equipment was accurately measuring parcels.

6. In retaining overpayments by class members Canada Post is in breach of its agreements with class members and is in breach of the provisions of the *Weights and Measures Act* which require that charges based upon measure be accurate.

7. The sufficiency in law and legality of the agreements referred to in the Defence are denied.

October 17, 2008

**BLANEY McMURTRY LLP**

Barristers and Solicitors  
1500 - 2 Queen Street East  
Toronto, ON M5C 3G5

**Roderick S.W. Winsor** (LSUC #15464Q)

Tel: (416) 593-3971  
Fax: (416) 593-5437

**Robert C. Taylor** (LSUC #17977Q)

Tel: (416) 593-2957  
Fax: (416) 593-5437

**Julia Anagnostakis**(LSUC #51215A)

Tel: (416) 593-  
Fax: (416) 593-5437

Lawyers for the Plaintiff

**TO: Torys LLP**  
Barristers and Solicitors  
Suite 3000, 79 Wellington Street West  
Box 270, TD Centre  
Toronto, ON M5K 1N2

**John B. Laskin** (LSUC # 19381B)  
Tel.: (416) 865-7317

**Sandra Perri** (LSUC # 50856Q)  
Tel.: (416) 865-8144

Fax: (416) 865-7380

Lawyers for the Defendant