

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: May 01, 2026

CASE NO(S): OLT-25-000933

PROCEEDING COMMENCED UNDER subsection 17.3 of the *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c. 4*

Appellant:	Gold Rock Construction & Landscaping Inc.
Assessor:	Ontario One Call
Description:	Order of Administrative Penalty
Property Address:	38 St. Germain Avenue
Municipality/UT:	Kitchener/Waterloo
OLT Case No.:	Toronto/Toronto
OLT Lead Case No.:	OLT-25-000933
OLT Case Name:	Gold Rock Construction & Landscaping Inc. v. Ontario One Call

PROCEEDING COMMENCED UNDER subsection 19(1) of the *Ontario Land Tribunal Act, 2021, S.O. 2021, c. 4, Sched. 6*

Request by:	Ontario One Call
Motion for:	Dismissal Without a Hearing

Heard: April 28, 2026 by Video Hearing

APPEARANCES:

Parties

Counsel/Representative*

Gold Rock Construction & Landscaping Inc.

Not in Attendance*

Ontario One Call

Lisa Constantine

MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON APRIL 28, 2026 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] At this Motion Hearing, the Tribunal rendered an Oral Decision granting the Motion of Ontario One Call (“One Call”) to dismiss the Appeal of Gold Rock Construction & Landscaping Inc. (“Appellant” / “Gold Rock”).

[2] Given the absence of the Appellant at this electronic Hearing, the Tribunal stood down for 15 minutes in accordance with Rule 3.3 of the Tribunal’s *Rules of Practice and Procedure* (“Rules”). The Tribunal’s Case Coordinator endeavoured to contact the Appellant by telephone message and email, to no avail. Given Gold Rock’s previous occurrences of not responding and not appearing, the Case Coordinator had also sent a reminder of today’s Hearing and online connection instructions to the Parties via email at 8:13 a.m.

[3] The Tribunal ruled that this Motion Hearing will proceed based on due Notice having been given to Gold Rock.

FINDINGS ON MOTION TO DISMISS

[4] With the absence of the Appellant, and on the facts of this case, the Tribunal accepted One Call’s Motion to Dismiss for the following reasons. These summary findings are based on One Call’s Notice of Motion, written Legal Submission, and oral submissions.

[5] One Call had issued an Administrative Penalty (“Penalty”) of \$10,000 to the Appellant for “digging without locates” contrary to s. 10 of the *Ontario Underground Infrastructure Notification System Act* (“Act”). If a Penalty is imposed under s. 17.2(1) of the Act, the Penalty amount is fixed by Ontario Regulation 87/23 (“Regulation”) and must be paid “even if the appellant appeals an order [to] the appeal body” (s. 17.3(6) of

the Act). The Appellant has not paid its Penalty and the Tribunal finds for One Call that Gold Rock has contravened this requirement of the Act.

[6] The Appellant also failed to fulfill its obligatory procedural steps. Gold Rock did not attend the Tribunal's Case Management Conference ("CMC"), duly notified and held on March 5, 2026; did not file Witness Statement(s) by April 1, 2026 as directed by the Tribunal's CMC Decision; did not file a Response to this Motion; and failed to appear at this Motion Hearing.

[7] The Tribunal accepts the undisputed Affidavit of Issabella Ahadzi, an Investigator at One Call, who was responsible for investigating the complaint against Gold Rock and whether a Penalty was warranted. Significant ground disturbance occurred at 38 Germain Avenue, Toronto, utilizing motorized excavation equipment without first requesting and obtaining a locate for any underground infrastructure.

[8] Gold Rock has not disputed that ground disturbance occurred, as is evident in the photographic record. To Gold Rock's original explanation that it believed locates were not necessary given the shallow excavations, One Call issued an Educational Disposition, requiring a set of online modules called "KnowR!sk" to be completed by Gold Rock by a given date. One Call extended the due date to late 2025 at the request of Gold Rock, but the mandatory course was not completed (and remains uncompleted today). As a result, on November 13, 2025, One Call issued the Administrative Penalty Order.

[9] Of significance, One Call would not have proceeded to issue the Penalty had Gold Rock completed the course. One Call's Educational Disposition issued to Gold Rock explained:

If [Gold Rock] fails to complete the program in the required timeframe, Ontario One Call reserves the right to proceed with escalated compliance action, including but not limited to the issuance of an Administrative Penalty under Ontario Regulation 87/23.

[10] The Tribunal finds One Call's approach fair and reasonable by facilitating learning as a first response through which the contravener can avoid a Penalty.

[11] The Tribunal's Rule 1.3 directs its efforts to ensure a fair, just, expeditious, and cost-effective resolution of the proceedings. Under Rule 15.4, the Tribunal may dismiss a proceeding without a Merit Hearing for reasons including:

- b. if the party who brought the proceeding has not responded to a request by the Tribunal for further information within the time specified by the Tribunal;
- c. if the Tribunal is of the opinion that the proceeding has no reasonable prospect of success;
- d. in any circumstance listed in subsection 4.6(1) of the SPPA, including where:
 - iii. some aspect of the statutory requirements for bringing the proceeding has not been met.

[12] To the foregoing requirements, the Tribunal finds that the Appellant has: not complied with the Tribunal's directions for supportive Affidavits; not demonstrated a reasonable prospect of success; and not paid the mandatory Penalty as required when an Appeal is pursued.

[13] Ample opportunity has been granted to the Appellant for a fair Hearing on the Merits, to which the Appellant has not responded or participated. The Tribunal grants the Motion, dismisses the Appeal, and confirms the Order of Administrative Penalty.

[14] To One Call's request for nominal Costs, the Tribunal directs One Call, should it wish, to file a written Motion in accordance with Rule 23 of the Tribunal Rules.

ORDER**[15] THE TRIBUNAL ORDERS THAT:**

- the appeal of Gold Rock Construction & Landscaping Inc. is dismissed;
and

- the Ontario One Call Assessor's Order of Administrative Penalty is confirmed.

"S. Tousaw"

S. TOUSAW
VICE CHAIR

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.