

COURT OF APPEAL OF YUKON

Citation: *Wood v. Yukon (Public Service Commission)*,
2023 YKCA 6

Date: 20230615
Docket: 18-YU830

Between:

Juanita Wood

Appellant
(Petitioner)

And

**Government of Yukon,
as represented by the Public Service Commission and
Yukon Human Rights Commission Members
Chabot, Knutson, Moir and Bouvier**

Respondents
(Respondents)

Before: The Honourable Justice Skolrood
(In Chambers)

On an application to rescind an Order of the Court of Appeal of Yukon, dated
March 5, 2019 (*Wood v. Yukon (Public Service Commission)*),
2019 YKCA 4, Yukon Docket 18-YU830).

Oral Reasons for Judgment

The Appellant, appearing in person
(via videoconference):

J. Wood

Counsel for the Respondent, Government of
Yukon (via videoconference):

I.H. Fraser

Place and Date of Hearing:

Vancouver, British Columbia
June 15, 2023

Place and Date of Judgment:

Vancouver, British Columbia
June 15, 2023

Summary:

The applicant seeks to rescind the vexatious litigant order that was made against her in March 2019. Held: Application dismissed. She has not provided evidence of a proceeding she intends to initiate or continue or evidence that she has changed the behaviour that resulted in the order in the first place. It would therefore not be in the interests of justice to rescind the vexatious litigant order.

SKOLROOD J.A.:

Overview

[1] This is an application by Juanita Wood to rescind the vexatious litigant order made against her on March 5, 2019. Those reasons are indexed at 2019 YKCA 4.

Background

[2] The background to this appeal was summarized by Justice Smallwood, for the Court, in her reasons granting the Government of Yukon’s application to prohibit Ms. Wood from instituting proceedings in the Court of Appeal without leave:

[5] Ms. Wood was hired by the Government of Yukon’s Department of Highways and Public Works in February 2014 as a heavy equipment operator. On February 5, 2015, while Ms. [Wood] was still in her probationary period, the Department terminated her employment on the basis that she was unsuitable for continued employment. Following her termination, Ms. Wood commenced a number of proceedings seeking various remedies, all of which have been dismissed, struck or withdrawn.

[6] Ms. Wood first appealed her termination to the Deputy Minister of the Department of Highways and Public Works. The Deputy Minister dismissed the appeal on March 5, 2015, concluding that the employer’s concerns about Ms. Wood’s conduct and behaviour were substantiated.

[7] On March 5, 2015, Ms. Wood filed a complaint with the Yukon Workers’ Compensation Health and Safety Board, claiming that her termination was a reprisal for her raising safety concerns at work contrary to section 18(1)(a) of the *Occupational Health and Safety Act*, R.S.Y. 2002, c. 159. A safety officer reviewed Ms. Wood’s complaint and, on November 13, 2015, determined that the employer had not contravened the Act and that prosecution of the employer was not warranted.

[8] Ms. Wood appealed the decision of the safety officer to an Appeal Panel of the Yukon Workers’ Compensation Health and Safety Board. In a decision rendered February 1, 2016, the Appeal Panel declined to interfere with the safety officer’s decision not to prosecute. Ms. Wood filed a request for reconsideration of the Appeal Panel’s decision on February 5, 2016, which she later withdrew in May 2016. In June 2017, Ms. Wood sought to revive her appeal with the Yukon Workers’ Compensation Health and Safety Board.

However, in December 2017, she withdrew her application to reopen the appeal.

[9] On April 5, 2016, Ms. Wood filed a complaint with the Yukon Human Rights Commission, alleging that her employer, the Government of Yukon, had discriminated against her on the basis of her sex. She sought, among other forms of relief, reinstatement to her position with the Department of Highways and Public Works. On October 14, 2016, the Director of Human Rights discontinued the investigation into the complaint, prompting Ms. Wood to request a re-consideration of that decision. The Yukon Human Rights Commission confirmed the Director's decision on May 26, 2017.

[10] On May 27, 2016, Ms. Wood commenced an action against the Department of Highways and Public Works, seeking reinstatement as well as damages. On December 7, 2016, Gower J. struck the claim on the basis that it disclosed no reasonable cause of action, was vexatious and amounted to an abuse of process: *Wood v. Yukon (Highways and Public Works)*, 2016 YKSC 68. Ms. Wood appealed that decision to this Court and, on May 25, 2017, the appeal was quashed for being devoid of merit: *Wood v. Yukon (Highways and Public Works)*, 2017 YKCA 4.

[11] On April 27, 2017, Ms. Wood filed a petition seeking judicial review of the decision of the Department of Highways and Public Works to terminate her employment. This petition was dismissed by consent on May 11, 2018.

[12] On November 21, 2017, Ms. Wood laid a private information alleging a breach of s. 18(1)(a) of the *Occupational Health and Safety Act*. This information was withdrawn in January 2018.

[13] On January 22, 2018, Ms. Wood filed a petition seeking judicial review of the manner in which the Yukon Workers' Compensation Health and Safety Board handled her March 5, 2015 complaint. On May 3, 2018, Bielby J. struck the petition for being an abuse of process and otherwise vexatious and disclosing no reasonable claim: *Wood v. Yukon (Occupational Health and Safety Branch)*, 2018 YKSC 24.

[14] Ms. Wood's appeal of that decision was dismissed by this Court in *Wood Appeal No. 1* [2018 YKCA 16], as described above.

[15] On March 14, 2018, Ms. Wood filed a petition for judicial review of the decision of the Yukon Human Rights Commission to discontinue the investigation into her complaint. The Government of Yukon, the respondent in that matter, applied for orders declaring Ms. Wood to be a vexatious litigant and prohibiting her from instituting proceedings in the Supreme Court without leave. On July 20, 2018, Miller J. found that Ms. Wood had persistently instituted vexatious proceedings and had conducted proceedings in a vexatious manner: *Wood v. Yukon (Government of)*, 2018 YKSC 34. Justice Miller accordingly prohibited Ms. Wood from continuing with her petition and from instituting another proceeding on behalf of herself or another person in the Supreme Court except with leave of the Court.

[16] Ms. Wood's appeal of that decision was dismissed by this Court in *Wood Appeal No. 2* [2018 YKCA 15], as described above.

[17] Following the hearing of Ms. Wood's two appeals in this Court, the Government of Yukon brought an application under section 12.1 of the *Court of Appeal Act* to prohibit Ms. Wood from instituting a proceeding in the Court of Appeal on behalf of herself or another person without leave of the Court.

[3] Justice Smallwood ultimately found that the application should be granted:

[37] In determining whether Ms. [Wood] has pursued vexatious proceedings, I have taken into account the whole history of proceedings and more particularly the matters she has brought to appeal. Having done so, I am convinced that Ms. Wood's litigation history, as well as her conduct in this Court, meets the standard of having persistently instituted vexatious proceedings. This includes bringing numerous proceedings to determine an issue that had already been decided, persistently bringing unsuccessful appeals and reviews before various tribunals and courts, instituting proceedings that were bound to fail, and seeking to re-litigate the same issues in different forms in subsequent proceedings while seeking superficially different remedies.

On Appeal

[4] Ms. Wood now seeks to have the vexatious litigant order made against her rescinded, pursuant to s. 12.1(2)(a) of the *Court of Appeal Act*, R.S.Y. 2002, c. 47.

Legal Framework

[5] Section 12.1 of the *Court of Appeal Act* provides the framework for vexatious proceedings:

Vexatious proceedings

12.1 (1) If on application or its own motion, the Court of Appeal is satisfied that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may, after giving notice to the Attorney General of Yukon and giving the person the opportunity to be heard, order that except by leave of the Court of Appeal

- (a) the person must not institute a proceeding on behalf of themselves or another person; or
- (b) a proceeding previously instituted by the person must not be continued.

(2) A person in respect of whom the Court of Appeal has made an order under subsection (1) may apply to the Court of Appeal

- (a) for an order rescinding the order; or
- (b) for leave to institute or continue a proceeding

- (3) On receiving an application under subsection (2), the Court of Appeal may
 - (a) rescind the order; or
 - (b) grant leave to institute or continue a proceeding if it is satisfied that
 - (i) the proceeding is not an abuse of process, and
 - (ii) there are reasonable grounds for the proceeding.
- (4) The Attorney General of Yukon is entitled
 - (a) to receive notice of any application or motion under this section; and
 - (b) to appear at the hearing of the application or motion.
- (5) An application or motion under this section may be heard by a single judge of the Court of Appeal.

Analysis

[6] Ms. Wood submits that there are no grounds for the continuation of a vexatious litigant order. She says that she has only commenced four proceedings, one of which has yet to be determined on the merits. Further, she alleges that the decisions rendered against her in various proceedings were obtained by deceit. She notes the stigma that results from a vexatious litigant order. Ms. Wood also submits that the Attorney General is not a proper party to the application, rather it should be the Government of the Yukon.

[7] On this last procedural point, s. 12.1(4) of the *Court of Appeal Act*, as noted above, provides that the Attorney General is entitled to appear on an application under s. 12.1, including an application to rescind a vexatious litigant order. As such, there is no basis for this objection.

[8] As the Attorney General states in its memorandum, there does not appear to be any authority that sets out the criteria to be applied on a motion to rescind a vexatious litigant order.

[9] The Attorney General suggests two factors that ought reasonably to guide the Court in considering whether to rescind a s. 12.1 order:

- a) There is some current utility for the order to be rescinded. This criterion would normally be satisfied by the applicant presenting a proceeding for which leave to institute or continue was sought.
- b) There is evidence establishing that the pattern of conduct which led to the s. 12.1 order has changed. This criterion could be satisfied in part by the court evaluating the proceeding for which leave is sought and determining that it did not bear the hallmarks of a vexatious proceeding.

[10] The Attorney General submits that applying these two criteria, Ms. Wood's application should be dismissed because Ms. Wood has not offered evidence that rescission is required for her to take a step in a proceeding and the application "essentially makes yet another collateral attack on the various judgments that have been rendered against her".

[11] It is not necessary to decide whether the criteria proposed by the Attorney General should govern all applications to rescind vexatious litigant orders under s. 12.1. However, in the specific context of this application, I would agree with the Attorney General's characterization of the application. Ms. Wood continues to allege deceit on the part of the Yukon Workers' Compensation Health and Safety Board and the Government. While she submits that "[n]one of the hallmarks of a vexatious litigant are present", the fact that she continues to argue that the Board and the Government were deceitful on multiple occasions and that her appeals were unsuccessful due to the Board and the Attorney General misleading the courts are, in my view, hallmarks of a vexatious litigant. In her reply submissions, Ms. Wood makes similar allegations and, in many respects, seeks to re-litigate matters already determined.

[12] Accordingly, in my respectful view, it would not be in the interests of justice to rescind the vexatious litigant order, particularly considering that Ms. Wood has not provided evidence of a proceeding she intends to initiate or continue or evidence that she has changed the behaviour that resulted in the order in the first place.

Disposition

[13] I would therefore dismiss Ms. Wood's application to rescind the vexatious litigant order. I make no order as to costs.

"The Honourable Justice Skolrood"