

SUPREME COURT OF YUKON

Citation: *S.L.H. v. A.W.H.*, 2019 YKSC 70

Date: 20191205
S.C. No.: 18-D5076
Registry: Whitehorse

BETWEEN:

S.L.H.

PLAINTIFF

AND

A.W.H.

DEFENDANT

Before Chief Justice R.S. Veale

Appearances:
Shaunagh Stikeman
A.W.H. (by telephone)

Counsel for the Plaintiff
Appearing on his own behalf

REASONS FOR JUDGMENT

[1] VEALE C.J. (Oral): An application has been filed in court on November 15, 2019, by counsel for S.L.H., the plaintiff in this matter. The application is quite extensive, and the seven items are listed in *S.L.H. v. A.W.H.*, 2019 YKSC 71. I think the most important item, in terms of the moment, is the application to have exclusive possession of the family home, which is being occupied by A.W.H. Included with that, in terms of urgency, is giving S.L.H. the sole right to control the sale and accept offers; and, indeed, dispensing with A.W.H.'s requirement to execute any documents relating to the sale of the property. Those are the items that I think are the most pressing in this matter.

[2] There are several other items. Ms. Stikeman, counsel for S.L.H., has indicated that she does not seek to proceed today with those matters, as they are not as pressing as the application for exclusive possession of the family home.

[3] A.W.H. does not have a lawyer; however, he is familiar with court procedures. He is seeking an adjournment of this application based on medical grounds. He was involved in this case with Justice Aston for a week in July 2019, so he is familiar with how courts proceed. He is on the phone now. He has provided letters from his doctor and a significant argument with respect to the merits of the application, as well as a copy of a case management conference with Justice Aston that took place on September 20, 2019.

[4] Let me deal with the two letters from the doctor. I have indicated to A.W.H. that these matters should come before this Court in sworn affidavits — it has not come in that fashion — but the first letter from his doctor dated December 3, 2019, reads:

To whom it may concern,

I am a primary care physician of [A.W.H.]. For medical reasons he is unable to attend court from December 3 until at least December 9, 2019.

[5] The second letter says:

To whom it may concern,

I am the primary care physician of [A.W.H.]. He has a permanent disability and is currently not able to work at any capacity.

[6] I think that information in the second letter has been before the Court for some time. That is not new.

[7] I think the other matter that has to be addressed is the anticipation of Justice Aston, particularly in para. 21 of his Reasons for Judgment that were filed on

August 13, 2019, that was read out in court by Ms. Stikeman. He anticipated that there would be interference by A.W.H. with the efforts to sell the property, specifically referring to the family home. Given the fact that Justice Aston anticipated there would be this kind of difficulty, it seems to me that it is appropriate to proceed with this application without adjournment because I find that the information with respect to the adjournment is scant with respect to the doctor's statements. The doctor does not disclose any of the reasons put forward by A.W.H. in his letter.

[8] To be fair, you know, A.W.H., you may have a drug issue but your doctor certainly did not indicate that in his correspondence, so I am going to proceed with the application for the first three paragraphs of the notice of application at this time. The first one is the exclusive possession application; the second is the sole right to determine whether an offer should be accepted and proceed with the sale; and the third item being dispensing with the signature of A.W.H. should a sale occur.

[9] The other matters, I am going to adjourn and I might just indicate to Ms. Stikeman that she should raise that at the end of this matter, in case I forget, and we can set a date for that down the road.

[10] That is my decision in the matter.

VEALE C.J.