

**COURT OF APPEAL FOR THE YUKON TERRITORY**

ORAL REASONS FOR JUDGMENT:

CORAM: The Honourable Chief Justice Finch  
The Honourable Mr. Justice Donald  
The Honourable Mr. Justice Low

BETWEEN:

JIM and DOROTHY COOK

APPELLANTS

AND:

LEIGH GOWER

RESPONDENT

ELVIS PRESLEY

Appearing for the Appellants

GRANT MACDONALD

Appearing for the Respondent

---

**REASONS FOR JUDGMENT**

---

[1] FINCH C.J.Y.T. (Oral): This is an application by the defendant to dismiss as abandoned an appeal from the judgment of Mr. Justice Veale pronounced 23rd November 2001. The grounds on which the application is based are that the appellants have failed to file the appeal books within the time limit under the rules.

[2] A notice of appeal was filed on 12 December 2001, within the time required. The appeal books should have been filed within 60 days thereafter. Before that time was up, the plaintiffs applied to a judge of this court in chambers for an extension of the time, and an extension for filing of appeal books was granted to March 15, 2002. The order granted the plaintiffs liberty to apply further if they were unable to file the books within the time so limited.

[3] On this application, counsel advises that no appeal books have been filed and further, that so far as the defendant knows, there is no reasonable excuse. It is said that the trial was on affidavit and that the appeal books should have been easy and inexpensive to prepare. The application is brought under Rule 17(2) of the Court of Appeal Rules to dismiss the appeal as abandoned.

[4] Mr. Presley, who is here today to speak on behalf of the appellants, says that the reason the appeal books have not been filed is that the Cooks have been unable to obtain counsel anywhere in the Yukon or in British Columbia and he asks for a further extension of time within which to file the books.

[5] I have to say that I do not think the absence of a lawyer is an adequate reason for not filing these appeal books in the circumstances of this case, but having heard the representations made on the Cook's behalf I would order that the time for filing the appeal books be extended until October 31, 2002. In granting that extension, I would direct that the appeal books must be filed within that time whether or not the appellants have been successful in finding counsel to represent them.

[6] DONALD J.A.: I agree.

[7] LOW J.A.: I agree.

[8] FINCH C.J.Y.T.: So ordered.

---

FINCH C.J.Y.T.