

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130314

Docket: A-38-13

Citation: 2013 FCA 83

Present: PELLETIER J.A.

BETWEEN:

CHIEF RICHARD HORSEMAN

Appellant

and

**HORSE LAKE FIRST NATION COUNCILLOR
ALLAN HORSEMAN,
COUNCILLOR BRIAN HORSEMAN,
COUNCILLOR MICHAEL HORSEMAN
AND COUNCILLOR EUGENE HORSEMAN**

Respondents

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on March 14, 2013.

REASONS FOR ORDER BY:

PELLETIER J.A.

Federal Court of Appeal



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REASONS FOR ORDER

PELLETIER J.A.

[1] Three of the four named respondents in the within appeal move to have the appeal struck on the basis that the matter has become moot. The basis for the claim of mootness is that the decision which is attacked in the underlying notice of application and motion for an interlocutory

injunction has now been confirmed by both the Board of Directors of the Horse Lake First Nation Industrial Relations Corporation (the IRC) and the Band Council of the Horse Lake First Nation.

[2] The difficulty is that the Board of Directors of the IRC and the Band Council are the same people. Thus the ratification of the December 3, 2012 decision of the IRC Board of Directors by the same Board of Directors on January 10, 2013 is no ratification at all. It is simply the same people affirming their prior decision. If the original decision was defective, as alleged by the appellant, the irregularity is not cured by being reaffirmed by the original authors of the irregular decision. In the same way, steps taken by the Band Council which might otherwise be construed as a ratification of the December 3, 2012 decision lose any probative value when one considers that the decision was made by the same people, acting in another capacity.

[3] In my view, the claim of mootness has not been made out. The motion is therefore dismissed with costs to the appellant.

“J.D. Denis Pelletier”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-38-13

STYLE OF CAUSE:

CHIEF RICHARD HORSEMAN and
HORSE LAKE FIRST NATION
COUNCILLOR ALLAN
HORSEMAN, COUNCILLOR
BRIAN HORSEMAN,
COUNCILLOR MICHAEL
HORSEMAN AND COUNCILLOR
EUGENE HORSEMAN

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY:

PELLETIER J.A.

DATED:

March 14, 2013

WRITTEN REPRESENTATIONS BY:

Priscilla Kennedy

FOR THE APPELLANT

Graham McLennan

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE APPELLANT

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FOR THE RESPONDENT