

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** Turner-Lienaux v. Campbell, 2006 NSCA 126

**Date:** 20061116

**Docket:** CA 273588

**Registry:** Halifax

**Between:**

Karen L. Turner Lienaux

Appellant

v.

Wesley G. Campbell

Respondent

**Judge:**

The Honourable Justice Thomas Cromwell

**Application Heard:**

November 16, 2006, in Halifax, Nova Scotia, in  
Chambers

**Written Decision:**

November 20, 2006

**Held:**

Application for a stay dismissed.

**Counsel:**

Charles D. Lienaux, for the appellant  
Gavin Giles, Q.C., for the respondent  
Gregory D. Auld, appearing but not participating

Decision: (Orally)

[1] Hood, J. made an order requiring Helen Byrne to submit to oral examination in connection with Mr. Campbell's attempts to enforce a money judgment against real property apparently owned by Mrs. Lienaux. Mrs. Lienaux has appealed and applies to stay Hood, J.'s order until the appeal is determined. Mrs. Byrne has not appealed the order and counsel on her behalf has filed correspondence indicating that while he does not oppose the application, Mrs. Byrne will not be participating in the appeal.

[2] The application for the stay is dismissed. Mrs. Lienaux has established neither that she will suffer irreparable harm nor that there are special circumstances justifying a stay: see **Fulton Insurance Agency Ltd. v. Purdy** (1990), 100 N.S.R.(2d) 341 (C.A. Chambers).

[3] As to irreparable harm, Mrs. Turner-Lienaux advances only interference with Mrs. Byrne's privacy interests should the stay be denied and the appeal ultimately allowed. However, Mrs. Byrne takes no such position on appeal. Her position before Hood, J. was that she was willing to make disclosure of the relevant information and did so by way of affidavit. She claimed no privacy interest and is not appealing the order. It is not in these circumstances sensible, in my respectful view, to allow Mrs. Lienaux to rely on the privacy interests of Mrs. Byrne, which she herself is not asserting on appeal.

[4] As for special circumstances, Mrs. Lienaux again relies on the personal circumstances of Mrs. Byrne, claiming that she is not emotionally able to deal with this matter. As I mentioned, Mrs. Byrne is not appealing the order and I must, therefore, assume that she is willing to attend for examination this afternoon as ordered by Hood, J. With respect, it is simply not sensible to find special circumstances when Mrs. Byrne is not appealing the order sought to be stayed.

[5] The application for a stay is, therefore, dismissed.

[6] Having heard counsel on the question of costs, I order that the appellant pay to the respondent costs of the stay application fixed at \$1750 inclusive of disbursements payable forthwith and in any event of the cause. In my view, this stay application was misconceived.

Cromwell, J.A.