

2018

Claim No. SCT 224003

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Citation: *Benoit v. Benoit*, 2018 NSSM 98

BETWEEN:

WARREN M. BENOIT and FINTON BENOIT

Claimants

- and -

ROLAND P. BENOIT

Defendant

DECISION and ORDER



WHEREAS:

- (1) by Order dated November 9, 2005, Roland P. Benoit was required to cut and deliver to Finton Benoit six cords of mixed wood, on an annual basis and as specified in paragraph 3 of that Order of November 9, 2005;
- (2) for 2018, Roland Benoit has not and does not wish to comply with paragraph 3 of the Order dated November 9, 2005;
- (3) as a result of not so complying, Finton Benoit's right of entry onto Roland Benoit's lands as provided for in the Agreement dated August 30, 1997, is reactivated;
- (4) the parties hereto have agreed that the Order dated November 9, 2005, is revised and amended by this Order in the following terms

NOW THEREFORE, it is hereby ordered as follows:

1. Finton and Irene Benoit shall be permitted to utilize the woodlot on the farm owned by Roland Benoit and Melissa Benoit, for their personal use.
2. For clarity, the parties agree that Finton Benoit may have a designated agent exercise the rights referred to in the previous paragraph. Those designates may include any of Warren Benoit, Jordan Benoit, Maurice Benoit, Dylan Benoit, Travis Benoit, Justin Benoit, or Fraser Benoit.
3. For further clarity and to avoid any misunderstanding, the parties agree that, and specifically Roland Benoit and Melissa Benoit, agree that any Protection of Property

notices which have been issued to any of the parties referred in the previous paragraph are and shall be withdrawn in writing. This shall occur prior to the entering of the order herein, and copies shall be filed with the court file.

4. It is understood that Finton Benoit or his designates may use a farm tractor or dump truck to exercise the rights referred to in paragraph 2 above.
5. It is further understood that reasonable access shall be provided by Roland Benoit and Melissa Benoit to enable the rights referred to in paragraph 2 to be exercised.
6. It is further agreed that Rolin Benoit and Melissa Benoit, acting reasonably, may direct Finton Benoit and or his designates as to which areas of the property shall be accessed.
7. The rights herein shall be exercised on an annual basis between September 1st and December 31st of each year commencing with the calendar year 2018.

DATED at Halifax, Nova Scotia, this 22nd day of October, 2018.



MICHAEL J. O'HARA
ADJUDICATOR