

Date Corrigendum Filed: 2025 05 14

Date: 2025 05 09

Docket: S-1-CV 2024-000 383

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

***IN THE MATTER OF NORTHWEST TERRITORIES LANDS ACT, SNWT
2014, c 13;***

BETWEEN:

**DANIELLE ROGERS on behalf of the COMMISSIONER OF THE
NORTHWEST TERRITORIES**

Applicant

-and-

AIDAN HOVEN

Respondent

Application regarding issuance of an Order under s.16(2) of the *Northwest
Territories Lands Act*

Heard at: Yellowknife N.W.T. on May 2, 2025

Written Reasons filed: May 9, 2025

**REASONS FOR DECISION OF THE
HONOURABLE JUSTICE S.M. MacPHERSON**

Corrected judgment: A corrigendum was issued on May 14, 2025;
the corrections have been made to the text and the corrigendum is
appended to this judgment.

Counsel for the Applicant: Maren Zimmer & Ryan Donnelly
The Respondent did not appear

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REASONS FOR DECISION

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OVERVIEW

[1] On February 21, 2025, I issued a summons requiring the Respondent, Aidan Hoven, to vacate, without delay, the territorial lands located at or near Latitude 61° 07'19.40" N and Longitude 122° 51'17.23" W (the "Site"), or within thirty days of being served with the summons to show cause why an order or warrant for removal from the Site should not be made. The Respondent failed to appear in Court on February 21, 2025 and, since then, has not taken any steps to show cause why a warrant or order for removal should not be made. The Commissioner now seeks an order requiring the Respondent, to vacate and cease using the Site. The Commissioner also asks that the order contain a term requiring the Respondent to

remove all items from the Site, failing which the Commissioner will be authorized to remove those items from the Site. The Commissioner also seeks a term authorizing the Royal Canadian Mounted Police to use reasonable force to remove any person from the Site. Lastly, the Commissioner asks that I include a term in the warrant authorizing substitutional service of the warrant on the Respondent. The application is made pursuant to s 16(2) of the *Northwest Territories Lands Act*, SNWT 2014, c 13 (the “Act”).

[2] Section 16(2) of the *Act* refers to the court’s authority to “make an order or issue a warrant”. For the sake of clarity, I will use the term “order” throughout, however, it has the same meaning and effect as if I were to issue a warrant.

[3] The matter was heard in Court on May 2, 2025. Despite being served in accordance with the terms of my order for substitutional service granted on February 21, 2025, and in accordance with the procedures set out in s 16(5) of the *Act*, the Respondent did not attend Court on May 2, 2025 to speak to the orders sought by the Commissioner. Nevertheless, I decided to issue brief written reasons so that the Respondent would know why I am granting the request for the order.

BACKGROUND

[4] The Commissioner has had administration and control of territorial lands in the Northwest Territories since April 1, 2014. Prior to April 1, 2014, the Government of Canada had administration and control of territorial lands. On April 1, 2014, the Government of the Northwest Territories’ department responsible for administering territorial lands was the Department of Lands (“DOL”). On April 1, 2023, the DOL merged with the Department of Environment and Natural Resources to form the Department of Environment and Climate Change (“DECC”). DECC continued to be responsible for the administration and control of territorial lands.

[5] On January 25, 2024, Danielle Rogers, a manager within the DECC, Government of the Northwest Territories (“GNWT”), observed an unauthorized use of the Site. During that inspection, an individual came out of an Atco trailer on the Site and identified himself as Aidan Hoven. He stated that he was residing on the Site and had been brought up to help run the sawmill operating on land adjacent to the Site. Ms. Rogers’s evidence is that there is no authorized tenure associated with the Site and that, in fact, the Site is located on land which is withdrawn from disposition under the *Land Withdrawal Order (Dehcho Region)*, R-048-2014 made pursuant to s 19(a) of the *Act*.

[6] On February 20, 2024, DECC received an email from Clinton Leussink, who leases land adjacent to the Site and operates a sawmill on that land. Mr. Leussink noted that the Respondent had provided his own accommodation, and that the Respondent's accommodation was not located on Mr. Leussink's leased land. Mr. Leussink also noted that the structures were temporary.

[7] Ms. Rogers conducted a further inspection on the Site on April 18, 2024. This inspection revealed the presence of a number of items on the Site including a trailer, doghouse, two car shelters, a sea can container and a shed. Ms. Rogers posted a First Posting Notice in two places on the Site which advised the occupant that DECC's records indicated that they were occupying territorial land without authorization and asking the occupant to contact DECC within 30 days.

[8] On May 25, 2024, DECC received an invoice authored by the Respondent for work clearing the land in the area. DECC replied to the Respondent and advised that they had not contracted him to provide services and that he was not authorized to occupy the land,

[9] On June 4, 2024, Ms. Rogers again attended at the Site with two RCMP officers. The RCMP officers were asked to assist as there had been prior conflict with individuals located in the Lindberg Landing area, being the general area in which the Site is located. Ms. Rogers noted that the items on the Site had not been removed and that a further sea can was present on the Site. A Second Posting Notice was posted on the Site and was also provided to an adult present on the Site.

[10] On July 10, 2024, DECC received a letter from an individual who identified himself as Aidan Hoven. He disputed the method by which he had received the First Posting Notice, saying that it was an invasion of his privacy. He also stated that he had a right to occupy the property as he and his family had nowhere else to go.

[11] On July 31, 2024, Ms. Rogers conducted another inspection of the Site and noted that items were still on the Site. She then completed a Recommendation for Removal on August 2, 2024. On September 19, 2024, the Minister of DECC authorized Ms. Rogers to apply for a summons calling upon the Respondent to vacate the property or to show cause within 30 days why a warrant for removal should not issue.

[12] These proceedings were commenced by the Commissioner on November 29, 2024. Attempts were made to personally serve Mr. Hoven in December to no avail. However, Mr. Leussink communicated with DECC on December 21, 2024, and January 5, 2025, complaining about the actions of the Commissioner in attempting

to serve legal documents and taking exception to DECC seeking to remove individuals from their homes.

[13] Mr. Hoven was personally served on January 18, 2025.

[14] A summons was issued by this Court on February 21, 2025. Additionally, an order was made authorizing service on an adult person on the Site as well as posting the Notice. The order also provided that the summons could be served substitutionally on Mr. Leussink and the Respondent by email. Mr. Leussink was ordered to be served as it appeared that he was advocating on the Respondent's behalf.

[15] On March 7, 2025, an employee of DECC left a copy of the summons with an adult woman on the Site who had advised that the Respondent was not home. The woman was holding an infant child, and the employee observed another child present. The February 21st court documents were served on that person.

[16] On April 11, 2025, counsel for the Commissioner advised Mr. Leussink and the Respondent by email of the Commissioner's intention to seek a warrant for the removal of the Respondent and his things from the Site. This prompted further correspondence from Mr. Leussink which was very critical of the Commissioner's actions, made assorted threats with respect to legal action and publicity, and provided the information that there were two children under the age of three on the Site.

[17] This matter returned to court on May 2, 2025. On that date, the Respondent did not appear although there was a person who dialed into the court proceedings but remained silent and did not identify him or herself when asked to do so. That person subsequently hung up and then shortly thereafter another call was made into the court proceedings where the individual again did not identify themselves and then hung up.

LEGAL FRAMEWORK

[18] The Act came into force on April 1, 2014, being the same day as responsibility for the management of territorial lands was transferred to the Government of the Northwest Territories. Prior to then, territorial lands were managed by the Government of Canada through federal legislation virtually identical to the territorial legislation: see *Territorial Lands Act*, RSC 1985, c T-7.

[19] Sections 16(1) and (2) of the *Act* provide as follows:

16 (1) If under this Act the right of a person to use, possess or occupy territorial lands has been forfeited, or if, in the opinion of the Minister, a person is wrongfully or without lawful authority using, possessing or occupying territorial lands, and that persons continues to use, possess or occupy or fails to deliver up possession of the lands, an officer of the Government of the Northwest Territories authorized by the Minister for that purpose may apply to a judge or a summons directed at that person calling on that person

- (a) to, without delay, vacate or abandon and cease using, possessing or occupying the lands; or
- (b) within 30 days after service of the summons on that person, to show cause why an order or warrant should not be made or issued for the removal from the lands.

(2) If a summons has been served under subsection (1) and, within 30 days after the service of the summons, the person named in the summons has not removed from, vacated or ceased using, possessing or occupying the territorial lands or has not shown cause why he or she should not do so, a judge may make an order or issue a warrant for the person's summary removal from the lands.

ANALYSIS

[20] It is not in dispute that the land in question is territorial lands under the administration and control of the Commissioner. I accept the evidence of the Commissioner that there are no records of any lease or other authorization that would support the Respondent's lawful use of the Site. Indeed, the land in question is subject to a land withdrawal order in effect until April 1, 2028 in order to facilitate the settlement of aboriginal land and resources agreements in the Northwest Territories which means that the land is not available for leasing: See *Land Withdrawal Order (Dehcho Region)*, R-048-2014, as amended.

[21] It is also not in dispute that the Respondent has been validly served with the summons granted on February 21, 2025. The summons was posted on the Site and delivered to an adult present on the Site. Additionally, it was served by email to the Respondent and Mr. Leussink.

[22] I have no current evidence as to whether the Respondent vacated the Site following service of the summons. The most recent direct evidence before the Court demonstrating the Respondent's use of the Site is contained in the affidavit of Laurie Nadia, an employee of DECC, sworn March 21, 2025. Ms. Nadia served the summons on March 7, 2025 and observed that the Site remained occupied. The Site

is remote and difficult to travel to from the nearest community of Fort Simpson. There are safety concerns with one officer going alone to the Site. Given this, it is not surprising that Ms. Nadia did not travel out to the Site after service of the summons to determine whether the Respondent had voluntarily complied with the summons. However, the Respondent had been advised before these proceedings were commenced that his use of the Site was unauthorized, and he should vacate the Site. He failed to do so voluntarily. Additionally, I also have email communications from Clinton Leussink, dated April 11 and April 15, 2025, which suggests that the Respondent is still occupying the Site and that any order respecting his removal will be resisted. Specifically, Mr. Leussink indicated in an email sent April 15, 2025 that, “I eagerly wait the issuance of this warrant because there are many people willing to stand in front of their shack and prevent any attempt to kick them out onto the streets – or worse, the bushes”. This suggests that the Site remains occupied.

[23] Given that the requirements under s 16 of the *Act* have been met, I have no difficulty granting the order for removal sought by the Commissioner.

[24] The Commissioner had suggested that the Respondent be directed to remove all items from the Site by June 2, 2025. Given that it appears that two young children reside with the Respondent and another adult on the Site, I will give the Respondent more time to vacate the Site. I direct the Respondent to vacate the site and remove all items located on the Site by no later than August 1, 2025. If the Respondent fails to remove his items from the Site, and to clean up the Site, the Commissioner will be authorized to remove any items on the Site and to clean up the Site.

[25] In the circumstances, I also believe that it is appropriate to include a term authorizing any officer appointed under the *Act* and members of the RCMP to attend the Site for the purposes of removing any persons from the Site and to use reasonable force in doing so.

[26] Lastly, the Commissioner has asked that they be permitted to serve the order substitutionally by email and that they not be required to follow the procedure set out in s 16(5) of the *Act*. That section provides that service may be made by posting the warrant on a conspicuous place on the Site and leaving it with any adult person present. They make this request because the Site is difficult to get to, particularly during break up season when ice on the river is breaking up. They point to the fact that service by email has previously been ordered. There are also safety concerns travelling alone to the Site. I recognize the validity of these concerns, however, given the interests at stake, involving the removal of a family with young children, I want to make sure that the warrant is brought to the attention of any occupant of

the Site. I order that service of the warrant occur in accordance with the procedures set out in s 16(5). Additionally, I direct that the order be served by sending a copy of it to the same email addresses as previously ordered.

[27] To give the Respondent adequate time to vacate and clean up the Site, I direct that service occur no later than June 16, 2025. If the Commissioner is unable to serve by that date, they may apply, without notice, for an order extending the date for service and for the Respondent to vacate the property.

CONCLUSION

[28] I grant the application of the Commissioner and make the following order:

- (a) Pursuant to s 16(2) of the *Act*, the Respondent, Aidan Hoven, shall immediately vacate and cease using, possessing, or occupying territorial land located at or near Latitude 61° 07'19.40" N and Longitude 122° 51'17.23" W (the Site).
- (b) Should any person, including Aidan Hoven, refuse to vacate the Site, the RCMP are authorized to use reasonable force to remove any person from the Site.
- (c) The Respondent must remove all items from the Site by August 1, 2025. These items include:
 - i. An Atco trailer, with a car shed or car shelter attached to the front door of the trailer;
 - ii. A doghouse;
 - iii. A second car shelter being used as a storage shed;
 - iv. A seacan;
 - v. A triangular shed;
 - vi. An orange seacan; and
 - vii. Any other items that have been placed on or near the Site since June 4, 2024.

- (d) Should Aidan Hoven fail to remove all items including the improvements from the Site by 5:00 p.m. on August 1, 2025, the Commissioner shall be permitted to remove those items from the Site and dispose of them by whatever means the Commissioner chooses.
- (e) No further items shall be placed on the Site.
- (f) Should Aidan Hoven fail to clean up the Site, as required by the Commissioner, the Commissioner shall, at their own discretion, perform any necessary cleanup of the Site.
- (g) The Commissioner has leave to apply to this Court for an order requiring Aidan Hoven to pay for the reasonable costs incurred by the Commissioner to remove any items, including the improvements, from the Site and carry out any required clean-up of the Site.
- (h) This order shall be served by sending it to the email addresses set out in the order of February 21, 2025.
- (i) This order shall also be served by posting a notice on the Site in a conspicuous location and, if present, by leaving it with any adult present on the Site.
- (j) Service at the Site shall occur no later than June 16, 2025.
- (k) If the Commissioner is unable to effect service by June 16, 2025, the Commissioner has leave to apply, without notice to the Respondent, to vary the date of service and correspondence date for removal of items from the Site.
- (l) Should an officer appointed under the Act, or an RCMP officer attend the Site for the purpose of removing any person from the Site or carrying out the removal of items from the Site or the clean-up of the Site, they shall carry a copy of this Order with them and present this to any individual on the Site.

“S.M. MacPherson”

S. M. MacPherson

J.S.C.

Dated at Yellowknife, NT, this
9th day of May, 2025

Counsel for the Applicant: Maren Zimmer & Ryan Donnelly
The Respondent did not appear

Corrigendum of the Reasons for Decision

of

The Honourable Justice S.M. MacPherson

1. An error occurred in Paragraph 4

Paragraph 4 reads:

[4] (...) On April 1, 2023, the DOL merged with the Department of Environment and Natural Resources to form the Department of Energy and Climate Change (“DECC”). DECC continued to be responsible for the administration and control of territorial lands.

Paragraph 4 has been corrected to read:

[4] (...) On April 1, 2023, the DOL merged with the Department of Environment and Natural Resources to form the **Department of Environment** and Climate Change (“DECC”). DECC continued to be responsible for the administration and control of territorial lands.

2. A counsel member for the applicant has been added on the first page and the signature page to now read:

Counsel for the Applicant: Maren Zimmer **& Ryan Donnelly**

3. The Citation has been amended to read:

Rogers v Hoven, 2025 NWTSC 29.cor1

(The changes to the text of the document are highlighted and underlined)

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