

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF THE RESIDENTIAL
TENANCIES ACT, S.N.W.T. 1987(1), C.28

B E T W E E N :

WAYNE SCOTT

Applicant

- and -

JAN CORRIGAN

Respondent

JUDGMENT

An ex-parte application was made to a Judge of the Territorial Court on February 27th, 1990, for an Order to allow execution to issue prior to the fifteen days provided for in Rule 39 of the Territorial Court Civil Claims Rules.

As background, the Applicant obtained an Order from the Rental Officer pursuant to the Residential Tenancies Act on January 22nd, 1990, and this Order was filed in the office of the Rental Officer on January 23rd, 1990, and served on the Respondent on February 5th, 1990. The Order of the Rental Officer was filed in the Territorial Court on February 26th, 1990.

Section 86 of the **Residential Tenancies Act** states:

- 86.(1) A landlord or tenant may file an order or a decision of a rental officer with the Clerk of the Territorial Court.
- (2) Where a landlord or tenant files an order or a decision pursuant to subsection (1), the order or decision is deemed an order or a decision of the Territorial Court.
- (3) An order or a decision filed pursuant to subsection (1) may be enforced in the same manner as a judgment of the Territorial Court.

The clear reading of this section indicates that an Order or decision of the Rental Officer once filed in the Territorial Court is then deemed to be an Order or decision of the Territorial Court and thereafter may be enforced in the same manner as a Judgment of the Territorial Court. It should be noted that the Order or decision of the Rental Officer may be filed in the Territorial Court at any time and even before the 14 day appeal period provided in Section 87(1) of the **Residential Tenancies Act**.

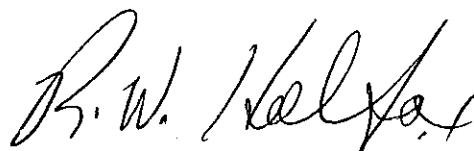
Rule 39 of the Territorial Court Civil Claims Rules provides:

39. Unless otherwise ordered execution shall not issue within 15 days after the entry of judgment but the Judge may order the amount of the judgment or any installment thereof to be paid into Court.

Therefore in the normal course, unless otherwise ordered, execution shall not issue within fifteen days from the entry of Judgment in the Territorial Court. The fifteen day period starts to run from the time of entry of the Judgment in the Territorial Court. The Applicant argues that in this specific case the fifteen day period should run from the date of filing the Order with the Rental Officer. This interpretation does not consider the fact that under Section 86 of the **Residential Tenancies Act**, the Order of the Rental Officer only becomes an Order of the Territorial Court upon that Order being filed with the Territorial Court. It would be improper and in my view outside the provisions of the statute to consider the Rental Officer's Order to be an Order of the Territorial Court prior to that Order being filed in the Territorial Court.

The Memorandum and Affidavit filed on this application does not disclose any hardship or a likelihood that the Applicant will be unable to recover on his Judgment, other than having to wait a further fifteen days before execution can issue. I see no reason in the material before me to exercise my discretion under Rule 39 to shorten the fifteen day period therein provided.

The application is therefore dismissed.

A handwritten signature in cursive script, appearing to read "R. W. Halifax".

Chief Judge Robert W. Halifax

NO: CIV 2823

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