

NOVA SCOTIA COURT OF APPEAL

Citation: *Halifax (Regional Municipality) v. Ofume*, 2003 NSCA 79

Date: 20030722

Docket: CA 203927

Registry: Halifax

Between:

MAUREEN OFUME

Applicant/Appellant

v.

HALIFAX REGIONAL MUNICIPALITY

Respondent

Judge: Cromwell, J.A. (in Chambers)

Application Heard: July 17, 2003, in Halifax, Nova Scotia

Written Decision: July 22, 2003

Counsel: Dr. Phillip Ofume, for the applicant/appellant
Matthew Williams, for the respondent

Decision: (in Chambers)

[1] The appellant, Mrs. Ofume, applies for an extension of time to appeal an interlocutory order of Moir, J. dated April 16th, 2003. The application for an extension of time was filed on July 10, over two months late. The *Civil Procedure Rules* make it clear that interlocutory appeals are to be prosecuted with dispatch. It is clear that this has not been done in this case.

[2] The affidavit in support of the application is by Mrs. Ofume's husband who purports to represent her in these proceedings. It says, in essence, that he could not get on with this matter because he was too busy with other matters, including, but not limited to, "SARS/WHO/West Nile Virus/Mad Cow disease - operating world order interrogated" and "Israel/Palestine conflict - omission on Bush Road Map to Peace" to quote from the affidavit. Dr. Ofume, who has considerable experience with Court procedures, acknowledged that he was well aware of the 10 day time limit for filing an appeal.

[3] Generally, an applicant for an extension of time should show that there was an intention to appeal within the time and that there is a reasonable excuse for the delay. The evidence does not satisfy this test. There is no evidence that Mrs. Ofume had the intention to appeal within the 10 day time period or that she had a reasonable excuse for the delay in pursuing the proposed appeal.

[4] However, there is also a discretion, where the interests of justice require it, to grant an extension even if this test is not met. No injustice will be done if the order striking the proposed pleading stands. The interests of justice do not require the lengthy extension of time sought.

[5] The application for an extension of time is dismissed with costs to the defendant in the cause of the main action fixed at \$500.

Cromwell, J.A.