

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Osif v. Young*, 2018 NSCA 21

**Date:** 20180226

**Docket:** CA 472719

**Registry:** Halifax

**Between:**

Stani Osif

Applicant

v.

Celeste Young and Carter Young

Respondents

**Judge:** MacDonald, C.J.N.S.

**Motion Heard:** February 22, 2018, in Halifax, Nova Scotia in Chambers  
(parties via videoconference)

**Held:** Motion dismissed

**Counsel:** Dr. Stani Osif, self-represented applicant  
Elizabeth Cusack, Q.C., for the respondent

**Decision:**

[1] The applicant seeks to extend the time to file an appeal. For the following reasons, I dismiss her motion.

**BACKGROUND**

[2] In the Summer of 2016, when Celeste and Carter Young purchased 999 Shore Road, Sydney Mines at a tax sale, they could never have predicted the challenges that awaited. The defaulting taxpayer, the applicant Dr. Stani Osif, first refused to vacate the premises and when she finally did (with police intervention), her personal belongings were left behind. To further complicate matters, because Dr. Osif used the premises for her medical practice (title was in her medical corporation), medical files were also left behind. This forced the Youngs to engage the Nova Scotia College of Physicians and Surgeons, which ultimately took custody of them.

[3] In the ensuing months, the Youngs made several unsuccessful efforts to have Dr. Osif remove her belongings. Finally, they decided to store them at their own expense and sell the property.

[4] The present Court matter began in August 2017 when, representing herself, Dr. Osif, without notice to anyone, sought an injunction to prevent the Youngs from selling the property and to deal with her personal belongings which by then were subject to significant storage fees. She was told by the Court to give notice to the Youngs and the Cape Breton Regional Municipality (since it issued the impugned tax deed). The Municipality and the Youngs were eventually served and, on October 16, 2017, all the parties ended up before Justice Patrick Murray of the Supreme Court. Justice Murray rendered an oral decision that day: (a) dismissing Dr. Osif's injunction motion to stop the sale; and (b) directing a comprehensive procedure to deal with Dr. Osif's personal belongings. The aspect of Justice Murray's decision dealing with the personal belongings was reduced to an order issued on October 26, 2017. It is attached as Appendix "A" to this decision. Essentially, this order gave Dr. Osif until January 16<sup>th</sup>, 2018 to pay the storage fees and redeem her belongings or, failing that, the Youngs could sell them and apply the proceeds to the storage fees. Any surplus would go to Dr. Osif. This is the order that Dr. Osif is now trying to appeal by way of a motion to extend, filed in this Court on January 29<sup>th</sup>, 2018.

## ANALYSIS

[5] The *Nova Scotia Civil Procedure Rules* authorize me to grant the requested extension [Rule 90.37(12)]. Not surprisingly, my overarching consideration is whether it is in the interests of justice to do so, considering at least five factors, namely:

- the length of the delay
- the reason for the delay
- the presence or absence of prejudice
- the apparent strength or merit in the proposed appeal, and
- the good faith intention of the applicant to appeal within the prescribed period.

(*Farrell v. Casavant*, 2010 NSCA 71, ¶ 17)

[6] I will now address each of these factors in the context of this motion.

### *The Length of Delay*

As an interlocutory appeal, Dr. Osif had ten business days (until November 10, 2017) to file her appeal [Civil Procedure Rule 90.13(3)]. She took until the end of January (well over two months) to file in this Court. That is a significant delay, considering we attempt “just, speedy and inexpensive determination of every proceeding”. [Rule 1.01]. Before me, Dr. Osif referred to not receiving a “certified” copy of the order until much later. That holds no weight. It is clear from the record that Dr. Osif was present to hear the oral decision rendered and that the order was emailed to her within days of being issued.

### *The Reason for the Delay*

[7] Dr. Osif offered no satisfactory reason for the delay. She mentions about being under the spectre of a police investigation for the past 15 months. She also referred to having no access to a computer and no ability to send and receive emails. As well, she indicated that she was in a state of limbo when it came to legal representation. These excuses neither singularly nor cumulatively carry weight. For

example, during her submissions, Dr. Osif, in a different context, told me about emails she had exchanged during the relevant time period. Nor is this a new process for Dr. Osif, as the respondents have highlighted in their pre-motion brief. Back in 2015, she sought the very same relief from this Court. [*Osif v. The College of Physicians and Surgeons of Nova Scotia*, 2015 NSCA 46]

*The Presence or Absence of Prejudice*

The Youngs would be enormously prejudiced, should I allow this appeal to go ahead. They have been through enough it would appear.

*The Apparent Strength or Merit of the Proposed Appeal*

[8] Here are Dr. Osif's proposed grounds of appeal:

- (1) Respondents seized private content of the home and business office, multiple documentation and belongings that are property of my business and private articles of mine and my adult daughter at the property 999 Shore Road Sydney Mines Nova Scotia on August 05<sup>th</sup>, 2016 without authorizing documents. Mischief charge initiated by the respondents in accordance to Criminal Code of Canada Section 430(1)(c) based on the occurrence at the property 999 Shore Road Sydney Mines on August 05<sup>th</sup>, 2016 against me, Stani Osif, had been dismissed by the crown prosecutor in Provincial Court proceeding file number SY-16-1468 Case No. 8004866 on November 16<sup>th</sup>, 2017 for reason of no evidence.
- (2) The Undertaking document of police charge was reinforced during its duration with condition to abstain from going to 999 Shore Road Sydney Mines, keep the peach and be of good behaviour and not to be within 1000 feet of 999 Shore Road, Sydney Mines that had prevented attending belongings (chattels) in 2016 and 2017. Applications to Provincial Court to vary this condition in August 2016, November 2016 and March 2017 were not granted.
- (3) Evidence of Canada Revenue Federal Court Certificate of Registration two separate Form 46 Canada Revenue Agency Certificate of Judgement under the Land Registration Act recorded in Cape Breton County Land Registration Office both dated in 2013 have been disregarded in 2016 by the Cape Breton Regional Municipality Tax Sale Department and respondents when obtained Tax Deed of the property 999 Shoe Road Sydney Mines. The Canada Revenue Certificate Number 104228565 (three pages) and the Canada Revenue Certificate Number 104228581 (three pages) enclosed for reference with this Application.
- (4) Concern of infringements of the Canadian Charter of Rights and Freedoms taking place prior and about the date August 05<sup>th</sup>, 2016 at the property 999 Shore Road Sydney Mines with respect to clause 7, 8, 15 (1)

i. Legal Rights clause 7. Life liberty and security of person;

Days prior the date August 05, 2016 there were hired guards, reportedly by respondents, taking turns continually 24/7 to watch movement in driveway, entrances and yards to point that me and my adult daughter living in the house were unable to carry out usual daily activities, were intimidated, tried to stay out of their sight inside and were afraid to leave the house.

ii. Legal Rights clause 8. Search or seizure

On August 05<sup>th</sup>, 2016 respondents having knowledge that the house has not been vacant together with other persons seized the interior content of the house and private belongings within the house including all electronic and printed written evidence of legal documentation up to that date stored in house.

iii. Equality Rights clause 15.(1)

Equality before and under law and equal protection and benefit of law with respect to status of adult daughter on August 05<sup>th</sup>, 2016 living in house 999 Shore Road Sydney Mines, at that time and involuntary patient under Nova Scotia Mental Health Act. Being in disadvantaged mental and physical state, protection and benefits of law were not received when she was forced to leave home, essentials and belongings behind, all subject to privacy breach.

(5) Respondents were notified and aware in September 2016 of opening current file pursuant to Part XX of the Municipal Government Act (Freedom of Information and Protection of Privacy) in matter of privacy breach.

(6) Financial hardship is confirmed by the Supreme Court Cape Breton in Sydney acceptance of Waiver of Fees Application on August 03<sup>rd</sup>, 2017 at the time of submitting the original Injunction Application. Due to lasting hardship situation I am seeking to apply according Nova Scotia Civil Rules Relief from liability because of poverty 77.04(3) 'An order against paying costs may be varied when the circumstances of the party change'. Withholding private belongings since August 05<sup>th</sup>, 2016 (including winter clothing and winter footwear) for second year of winter months is changing already challenging circumstances to worse. Unavailability of documentation is causing significant delays in progress of related matters including Canada Revenue Agency review process.

[9] These proposed grounds, to the extent they are comprehensible, reveal no potential for success. For example, there was no unauthorized seizure of Dr. Osif's belongings. The reference to the criminal investigation is completely irrelevant. The references to Canada Revenue Agency documents I surmise relate to the challenged tax deed. That claim was dealt with summarily by order of Justice

Murray issued on December 22, 2017 . It has no relevance to this proposed appeal. Finally, the *Canadian Charter of Rights and Freedoms* has no bearing on this case.

*The Appellant's Good Faith Intention to Appeal Within the Prescribed Period*

[10] My review of the record before me shows no *bona fide* intention to appeal within the prescribed timeframe.

[11] In summary, there is no merit whatsoever to this motion.

**DISPOSITION**

[12] The motion to extend the time for filing the proposed notice of appeal is dismissed. The Youngs, recognizing that Dr. Osif is judgment proof, seek no costs. Therefore none are ordered.

Michael MacDonald, C.J.N.S.

Appendix "A"

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**SUPREME COURT OF NOVA SCOTIA**



*Dr. J.*

**DR. STANI OSIF**

**APPLICANT**

**AND**

**CAPE BRETON REGIONAL MUNICIPALITY**

**AND**

**CELESTE YOUNG**

**AND**

**CARTER YOUNG**

**RESPONDENTS**

**Order re: Chattels**

**Removed from 999 Shore Road Sydney Mines**

**Before the Honourable Justice Patrick Murray:**

**UPON HEARING Dr. Stani Osif on her own behalf and Elizabeth Cusack, Q.C. on behalf of Celeste Young and Carter Young, Respondents,**

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And Upon the Respondent, Cape Breton Regional Municipality being represented by Demetri Kachafanas, Esq., who indicated that his client has no interest in the matter of the chattels, removed from 999 Shore Road, Sydney Mines, Nova Scotia,

NOW UPON MOTION of Carter Young and Celeste Young, IT IS ORDERED:

1. Dr. Stani Osif shall have until January 16, 2018 to pay to Elizabeth Cusack, Q.C., in trust for the benefit of Celeste Young and Carter Young the full sum paid to MacDougall's Self Storage for the storage of the chattels removed from 999 Shore Road, Sydney Mines.
2. The sum for which the Youngs shall be reimbursed by payment in Trust shall be \$2511.60 for the period from November 1, 2016 up to and including the month of October, 2017 plus whatever storage costs are paid by Celeste or Carter Young between November 1, 2017 and January 16<sup>th</sup>, 2018 or such earlier date as Dr. Osif reimburses the Youngs and either the goods are removed from the locker by Dr. Stani Osif, or written proof is provided by Dr. Stani Osif that she has made arrangements satisfactory to MacDougall's Self Storage and counsel for Celeste Young and Carter Young to take over full payment of the MacDougall's Self Storage locker rental fees and to release Celeste Young from all liability for the on-going storage costs, whichever is applicable.
3. If and after Dr. Stani Osif fully reimburses the Youngs for all storage costs as provided in this order, she shall be provided access to the storage locker, so that she may remove all items in the locker, and she shall advise counsel for Celeste Young and Carter Young as to the date and time she intends to remove the items



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and she shall attend at that time unless she makes other arrangements satisfactory to Celeste Young and Carter Young, to be confirmed by their solicitor by email. The date for removal shall be no later than the last day of January, 2018, and not between the dates of November 8<sup>th</sup>, 2017 and November 22<sup>nd</sup>, 2017. The Youngs shall ensure that they or someone on their behalf opens the locker to facilitate Dr. Osif's removal of the contents.

4. If Dr. Stani Osif makes arrangements satisfactory to MacDougall's Self Storage and counsel for Celeste Young and Carter Young to take over the rental of the locker and release Celeste Young and Carter Young for all future liability to MacDougall's Self Storage in respect of the storage of the chattels, and provided there shall have been reimbursement of all storage costs as provided above on or before January 16, 2018, Celeste and Carter Young shall cooperate to sign all paperwork required by MacDougall's Self Storage for the transfer of the locker to Dr. Osif.
5. Should Dr. Stani Osif fail to reimburse Celeste Young for the cost of storage as provided herein on or before the 16<sup>th</sup> day of January 2018 or should she fail to remove the chattels from the storage locker prior to the last day of January 2018 without having made confirmed arrangements to assume the ongoing costs and to release Celeste Young under the contract, Celeste Young and Carter Young may remove the items from storage and sell those of them they can sell as second hand goods and may recover from the proceeds of the sale, the cost of storage unrecovered to the date of selling the chattels, recover the costs of any sale including advertising costs and removal and/or delivery costs for the items in the locker.

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6. The Youngs shall have full discretion as to the method of sale and may use internet websites, yard sales or flea markets, or other ways of selling the chattels. They may dispose of items they deem to be of no value after attempting to sell them and shall not be required to sell clothing.
7. If such sale of chattels takes place, Celeste Young and Carter Young shall not destroy or dispose of any documentation, such as bank records, tax records, or personal papers of Dr. Stani Osif or other persons if found among the chattels.
8. Such papers may be delivered "as is" to Dr. Stani Osif at 33 Birchwood Drive, Sydney Mines, Nova Scotia, B1V 3M3, at a time designated by Elizabeth Cusack, Q.C., in an email to Dr. Stani Osif, which shall give Dr. Stani Osif at least one calendar week of notice of the date and time of such delivery, or if Dr. Osif responds and proposes another time and date for delivery during day light hours, within the two weeks of the date selected by Ms. Cusack, at such date and time.
9. Celeste Young and Carter Young shall not be required to inventory the papers and documents before arranging for their delivery. They shall not be required to move the items into the residence at 33 Birchwood Drive, but may leave them outside at the entrance to the home if no one attends to receive them. They may have another person effect the delivery, rather than do it personally.
10. If Celeste and Carter Young recover more on the sale of the chattels than is necessary to reimburse them for the costs of storage, advertisement, sale and delivery of chattels, they shall give the excess proceeds to Elizabeth Cusack, Q.C. in trust and Ms. Cusack shall mail the same by postal courier to Dr. Stani Osif at 33 Birchwood Drive, Sydney Mines, Nova Scotia, B1V 3M3 or such other mailing

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address as is provided by Dr. Stani Osif and may deduct the cost of the postal courier from the funds in trust.

- 11. Dr. Stani Osif shall cash any such trust cheque within ninety days of delivery of the funds as provided above or Ms. Cusack may return the funds to Celeste Young and Carter Young, and may cancel the cheque to Dr. Osif and Dr. Osif shall have no further right to the proceeds of the chattel sale.
- 12. There shall be no court costs payable as a result of the proceedings resulting in this order.

Dated the 26 day of October, 2017

*Marlene Morrison*  
 Prothonotary

IN THE SUPREME COURT  
 OF NOVA SCOTIA  
 I hereby certify that the foregoing  
 is a true copy of the original order  
 filed herein.  
 Dated the 26 day of Oct  
 20 17 at Sydney, Nova Scotia.  
*Marlene Morrison*  
 PROTHONOTARY