

Federal Court



Cour fédérale

Date: 20160204

Docket: T-1750-15

Citation: 2016 FC 137

Toronto, Ontario, February 4, 2016

PRESENT: Prothonotary Roger R. Lafrenière

BETWEEN:

**HER MAJESTY THE QUEEN
IN RIGHT OF CANADA**

Plaintiff

and

ROY THOMAS THIEL

Defendant

JUDGMENT AND REASONS

LAFRENIÈRE P.

UPON *EX PARTE* MOTION in writing dated January 28, 2016 on behalf of the Plaintiff, Her Majesty the Queen in Right of Canada, pursuant to Rule 210(1) and 369 of the *Federal Courts Rules* for:

- (a) judgment against the Defendant as claimed in the Statement of Claim on the basis that the Defendant has not filed a Statement of Defence;

- (b) the Plaintiff's costs of this action; and
- (c) such further or other order as this Honourable Court may deem just;

AND UPON reading the motion record filed on behalf of the Plaintiff;

[1] On a motion for default judgment, the Court has two questions before it; first, is the defendant in default, and second, is there evidence to support the plaintiff's claim: *Chase Manhattan Corp v 3133559 Canada Inc*, 2001 FCT 895.

[2] On the first issue, the Plaintiff has established that personal service of the Statement of Claim was effected on the Defendant on October 26, 2015. There is no record of any statement of defence being filed by or on behalf of the Defendant within the time provided in Rule 204. In the circumstances, I am satisfied that the Defendant is in default.

[3] With regard to the second issue, the Plaintiff's motion is supported by the affidavits of Robert Collinson and Shelley Warner. On the basis of the deponents' evidence, I am satisfied that the amounts claimed by the Plaintiff in the Statement of Claim, as a result of five advances under the *Agricultural Marketing Programs Act*, are due and owing by the Defendant, that demand for payment was made by the Plaintiff, and that the Defendant has failed to pay the outstanding amounts and accrued interest. In the circumstances, the Plaintiff is entitled to the relief requested in the Statement of Claim and the Plaintiff's costs, as detailed in the affidavit of Shelley Warner.

THIS COURT'S JUDGMENT is that:

1. The Plaintiff recover from the Defendant the sum of \$72,729.32, together with Her costs hereby fixed at \$957.28 in lieu of taxation.

2. Interest on the above-noted sums shall accrue at the rate of 5.00 percent per annum from the date of this Judgment.

“Roger R. Lafrenière”

Prothonotary

Toronto, Ontario
February 4, 2016

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1750-15

STYLE OF CAUSE: HER MAJESTY THE QUEEN IN
RIGHT OF CANADA v
ROY THOMAS THIEL

***EX PARTE* MOTION IN WRITING CONSIDERED AT TORONTO, ONTARIO
PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES***

JUDGMENT AND REASONS: LAFRENIÈRE P.

DATED: FEBRUARY 4, 2016

WRITTEN REPRESENTATIONS BY:

Gwen MacIsaac

FOR THE PLAINTIFF

SOLICITORS OF RECORD:

William F. Pentney
Deputy Attorney General of Canada
Saskatoon, Saskatchewan

FOR THE PLAINTIFF