

Federal Court



Cour fédérale

Date: 20180126

Docket: T-134-18

Citation: 2018 FC 104

Ottawa, Ontario, January 26, 2018

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

TERRY DALE JOHNSGAARD

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON motion by the Plaintiff for interim relief in connection with his application to renew a personal production licence under the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230;

AND UPON reading the pleadings and proceedings filed, and hearing what was alleged by the Plaintiff and counsel for the Respondent, and from Mr. Harris who is the lead Plaintiff in action T-1379-17 pursuant to my Order of December 11, 2017 in that regard, and who shall deal with the issues raised in the present action that differ from his along with those raised in

Mr. Harris' action T-1379-17, and the Court having stated the following at the end of the said hearing (edited for syntax and context):

1. This is not the first time this Court has been asked for emergency relief allegedly caused by delay on the part of Health Canada in processing applications to renew what I will call personal production permits under the *Access to Cannabis for Medical Purposes Regulations*.
2. In this case the Plaintiff obtained a one year personal production permit on February 1, 2017, which would and did expire on January 19, 2018.
3. The Plaintiff says he applied for its renewal October 26, 2017, but I accept in fact that his renewed application is dated November 29, 2017, less than two months before his original permit expired.
4. That said, upon expiry of his licence he became liable to fine and imprisonment – note these are criminal sanctions – if he did not destroy product on hand. This could engage liberty interests protected by section 7 of the *Charter*.
5. As of January 24, 2018, the Plaintiff did not know if his renewal application was granted or refused, and so he came to this Court seeking emergency relief.
6. As a result of today's urgent hearing, and the Defendant's filing earlier today, we now know the Plaintiff's permit was renewed on January 22, 2018, and sent to him by regular mail.
7. That said, and as mentioned, this is not the first time such emergency relief has been sought from the Federal Court. And in addition, this is not the first time an urgent hearing has been scheduled by the Court to address alleged delay.

8. I am not satisfied that proceeding as we have today and on the other occasions, is an entirely efficient way to proceed either for the Court or the parties including the Defendant and her counsel.
9. Rights having been declared, I suggest they are best afforded through administrative procedures and should not require excessive judicial intervention.
10. The potential consequences of delay cause me to suggest that Health Canada review any existing processing timelines and mechanisms to see that they are met. In addition Health Canada might consider giving notice of expected delays. I mentioned in the hearing that a Designated Person Production Licences issued in 2012 under the former personal production licence regime, for example, stated on its face that renewal applications should be submitted “at least 8 weeks prior to” their expiry date. Perhaps it may be necessary to have a knowledgeable official or officials from Health Canada attend and explain the current situation to the Court, pending the resolution of the underlying issues.
11. In the circumstances, I am satisfied the present motion has been rendered moot as a result of the renewal of the Plaintiff’s licence.
12. I see no reason to consider the issues raised at this time notwithstanding they are moot.
13. The motion should be dismissed. I make no order as to costs.

THEREFORE THIS COURT ORDERS that the Plaintiff’s motion be and the same is hereby dismissed for mootness without costs.

“Henry S. Brown”

Judge