



BETWEEN:

11-15

KEYVAN NOURHAGHIGHI

Plaintiff

- and -

HER MAJESTY THE QUEEN

Defendant

REASONS FOR ORDER AND ORDER

GILES, A.S.P.:

The motions before me are for:

1. A motion by the Crown pursuant to Rule 324 seeking and Order striking the Statement of Claim and three forms of alternative relief.
2. A motion by the plaintiff for an Order:
 - a) that the Plaintiff be heard orally on the Rule 324 Motion of the Crown;
 - b) that the Defendant Crown's Motion be dismissed with costs to the Plaintiff.
 - c) that the Defendant Crown be required to defend; and
 - d) if unable to defend for default judgment.

Dealing first with the Plaintiffs's Motion, part a), Rule 324(3) allows for a responding party to file an application in writing for an oral hearing, which has been done as indicated above. However, an oral hearing does not flow

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automatically from such a request. Some reasons must be shown why an oral hearing is to be preferred to the more usual written response. Here, no reasons whatsoever have been submitted as to why an oral hearing would be preferable. I will delay dealing with this part of the Plaintiff's Motion for an oral hearing for 30 days to allow the Plaintiff 15 days to serve and file reasons and evidence (if any is desired) in support of the reasons. The Crown shall then have 15 days to respond to the Plaintiff's Motion for an oral hearing.

The second part b), of the Plaintiff's Motion (seeking dismissal) will be dealt with automatically when the Defendant Crown's Motion is dealt with.

Those parts of the Plaintiff's Motion numbered c) and d) above are premature and will be dismissed without prejudice to the Plaintiff's right to move for similar relief if appropriate when the Defendant Crown's Motion has been dealt with. The Plaintiff may get some guidance from the report of *Sterritt v. Canada* (1995) 98 F.T.R. 68 and 72.

ORDER

The Plaintiff shall have 15 days to serve and file reasons and evidence if desired in support of his motion for an oral hearing. Should the Plaintiff do so, the Defendant shall have 15 days thereafter to respond.

The motions that Defendant be required to defend and for default judgment are dismissed without prejudice to the Plaintiff's right to bring similar motions at an appropriate time.

"Peter A.K.Giles"

A.S.P.

Toronto, Ontario
October 23, 1996

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

COURT NO: T-1900-96
STYLE OF CAUSE: KEYVAN NOURHAGHIGHI
- and -
HER MAJESTY THE QUEEN

CONSIDERED AT TORONTO, ONTARIO UNDER THE PROVISION OF
RULE 324.

REASONS FOR ORDER
AND ORDER BY: GILES, A.S.P.

DATED: OCTOBER 23, 1996

SOLICITORS OF RECORD:

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Solicitor for the Plaintiff

P. Christopher Parke

George Thomson
Deputy Attorney General
of Canada

For the Respondent

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