

CANADA / JUDGMENT

Desnoes & Geddes Ltd. v. Hart Breweries Ltd.

2001 FCT 696

COURT

Federal Court

DECIDED

22 June 2001

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Desnoes & Geddes Ltd. v. Hart Breweries Ltd. Court (s) Database Federal Court Decisions Date 2001-06-22 Neutral citation 2001 FCT 696 File numbers T-1656-00 Notes Digest Decision Content Date: 20010622 Docket: T-1656-00 Neutral citation: 2001 FCT 696 BETWEEN: DESNOES & GEDDES LIMITED Plaintiff -and- HART BREWERIES LIMITED Defendant REASONS FOR ORDER (Delivered orally in Toronto, Ontario on Wednesday, June 20, 2001, edited for readability) DAWSON J.

- [1] As certainly counsel before me well know, compliance with orders of our courts is the bedrock of respect for the rule of law. Failure to comply with court orders is sanctioned through contempt proceedings. Contempt proceedings are a most serious matter, reflecting the need to protect the rule of law. That is why contempt proceedings are analogous to criminal proceedings.
- [2] Two preliminary matters are now at issue as we commence this contempt proceeding. The first is Mr. Anissimoff's request to be removed as counsel of record for Hart Robinson Breweries Limited. The second is a concern which the Court raised on its own motion, as to whether Rule 467(1)(b) has been complied with due to the failure of the show cause order that gave rise to this proceeding to describe with sufficient particularity the nature of the case alleged against Mr. Hart, Mr. Robinson and Hart Robinson Breweries.
- [3] While before me Mr. Anissimoff very fairly conceded a "detailed papering of the case", as counsel made their oral submissions it appeared that dispute does exist as to whether the plaintiff asserts contempt arising out of a failure to comply with paragraph 5 of the original judgment of Mr. Justice O'Keefe which founds this contempt proceeding.
- [4] I am not prepared to proceed with a proceeding of this gravity in the face of that uncertainty. It is paramount that individuals and the corporation that face such a serious matter know with precision the case that they have to meet.

- [5] As well, Mr. Anissimoff, as an officer of the Court, has advised that he has been unable to get instructions from Hart Robinson Breweries. I am not prepared to go beyond or behind that statement of fact made by an officer of the Court. I accept his representation fully.
- [6] It follows that he should be removed as solicitor for Hart Robinson Breweries. However, Rule 125(4) requires that an Order removing counsel only becomes effective on the filing of proof of service of the Order on the party formerly represented.
- [7] It was argued before me that I might dispense with that requirement. However, I am not prepared to dispense with that requirement and to have the matter proceed with the corporation unrepresented at a contempt hearing without prior notice to the corporation of that fact.
- [8] I will, for those reasons, adjourn the hearing to September 14th, commencing at 9:30 in Toronto. As for the terms of the adjournment, the plaintiff is required and directed to deliver and to serve on counsel for Mr. Hart and Mr. Robinson a written statement of each and every particular of each and every act alleged to be in contempt of court within 14 days of today's date. The written statement is to be personally served as soon as practicable thereafter on Mr. Hart, Mr. Robinson and Hart Robinson Breweries Ltd.
- [9] Mr. Anissimoff is removed as solicitor of record for Hart Robinson Breweries to be effective the date of filing of proof of service of the order on Hart Robinson Breweries.
- [10] The costs of today's appearance are reserved to the hearing in September. "Eleanor R. Dawson" J.F.C.C. Toronto, Ontario June 22, 2001 FEDERAL COURT OF CANADA Names of Counsel and Solicitors of Record DOCKET: T-1656-00 STYLE OF CAUSE: DESNOES & GEDDES LIMITED
- and - HART BREWERIES LIMITED DATE OF HEARING: WEDNESDAY, JUNE 20, 2001 PLACE OF HEARING: TORONTO, ONTARIO REASONS FOR ORDER BY: DAWSON J. DATED: FRIDAY, JUNE 22, 2001 APPEARANCES: Mr. R. Adam Bobker For the Plaintiff Mr. Serge Anissimoff For the Defendant SOLICITORS OF RECORD: Bereskin & Parr Barristers & Solicitors Box 401, Scotia Plaza 40 King Street West Toronto, Ontario M5H 3Y2 For the Plaintiff Anissimoff & Associates 235 North Centre Road Suite 201 London, Ontario N5X 4E7 For the Defendant FEDERAL COURT OF CANADA Date: 20010622 Docket: T-1656-00 BETWEEN: DESNOES & GEDDES LIMITED Plaintiff
- and - HART BREWERIES LIMITED Defendant REASONS FOR ORDER

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