

Reasons for Judgment of the Court:

[1] Mr. John Ruiz Dempsey has brought an application under s. 9(6) of the **Court of Appeal Act**, R.S.B.C. 1996, c. 77 to vary a chambers order made 12 September 2003, dismissing his motion to remove his appeal from the inactive list.

[2] By way of background, Mr. Dempsey brought an appeal from orders made by Madam Justice Loo on 22 March 2002, dismissing three actions he had commenced in the Supreme Court of British Columbia and barring him, pursuant to s. 18 of the **Supreme Court Act**, R.S.B.C. 1996, c. 443, from bringing any further action or application without leave of the court against any of the defendants in any way relating to property on 98th Avenue in Surrey, or the various proceedings.

[3] Section 18 of the **Supreme Court Act** provides:

18. If, on application by any person, the court is satisfied that a person has habitually, persistently and without reasonable grounds, instituted vexatious legal proceedings in the Supreme Court or in the Provincial Court against the same or different persons, the court may, after hearing that person or giving him or her an opportunity to be heard, order that a legal proceeding must not, without leave of the court, be instituted by that person in any court.

[4] Mr. Dempsey filed his Notice of Appeal from Madam Justice Loo's order on 5 April 2002. He filed the Appeal Record on 10

May 2002 and his factum on 7 June 2002. Mr. Dempsey was required to file his Appeal Book by 10 June 2002 but it was not filed in time. Although he told the respondents that he intended to file a motion to extend the time to permit him to file his Appeal Book, he did not do so.

[5] By a letter dated 7 April 2003, the Deputy Registrar advised Mr. Dempsey that his appeal had been placed on the inactive list. Under s. 25(1) of the *Court of Appeal Act*, if a certificate of readiness is not filed in accordance with the rules within one year after the filing of a notice of appeal, the registrar must place the appeal on the inactive appeal list. Under s. 25(2), if a justice grants leave to proceed with the appeal, the appeal is removed from the inactive list.

[6] Mr. Dempsey brought an application under s. 25(2) to remove his appeal from the inactive list. When the motion came on for hearing before the justice in chambers, Mr. Dempsey was not present but counsel for various respondents were there. In dismissing Mr. Dempsey's application, Mr. Justice Thackray said, in part:

Mr. Dempsey is not here, but I have read the material and the dismissal of the application is based upon the material I have read. It is based upon the lack of merit.

[Underlining added.]

[7] On the application before us to review Mr. Justice Thackray's order, Mr. Dempsey has filed an affidavit deposing that he had, in fact, attended in chambers on the morning his application was to be heard but he arrived late because of traffic and parking problems, and by the time he got to the courtroom, his application had already been dismissed.

[8] Before us, Mr. Dempsey made extensive submissions as to why his application to reinstate his appeal ought to have been granted by Mr. Justice Thackray.

[9] The respondents oppose Mr. Dempsey's application. In their submission, an examination of the background of the litigation and the claims Mr. Dempsey has advanced in the various actions he has brought demonstrates that the actions were without merit and that the proceedings were vexatious.

[10] At the conclusion of the oral hearing, we adjourned the appeal so that Mr. Dempsey could provide us with a copy of Mr. Justice Bouck's reasons for judgment dismissing an earlier action (S053423) Mr. Dempsey had brought in the Supreme Court of British Columbia. We also asked that the Registrar obtain the Supreme Court file so that we could have before us both the pleadings in that action and the motions that had been before Mr. Justice Bouck. We also informed Mr. Dempsey and counsel for the respondents that once we had seen Mr. Justice

Bouck's order and the lower court file, we would decide if any further submissions were necessary.

[11] After receiving the order and after reviewing as well the pleadings and proceedings in the various actions Mr. Dempsey has brought, we concluded that it was not necessary to ask for any further submissions.

[12] Attached to these reasons is the chronology of events and proceedings in respect of the four actions. The chronology also includes reference to the arbitral proceedings under the **Residential Tenancy Act**, R.S.B.C. 1996, c. 406, which were relevant to the motion which came on before Mr. Justice Bouck.

[13] A review of the material shows that prior to the conclusion of some foreclosure proceedings, Mr. Dempsey and his wife had been the owners of residential property located at 15990 - 98th Avenue, Surrey, B.C. Nigel Peart and Sharon Peart were tenants in the property and had an option to purchase the property. The option to purchase was not taken up and the tenancy became month to month. A dispute arose between Mr. Dempsey and the Pearts concerning payment of rent. Mr. Dempsey served the Pearts with an eviction notice under the **Residential Tenancy Act**, *supra*. On 21 May 1999, he filed an application with the Residential Tenancy Office for possession of the property and made a monetary claim against

the Pearts. Various arbitral proceedings followed. An arbitrator ultimately made determinations as to the rent payable by the Pearts and the tenancy status of another person living at the property.

[14] Mr. Dempsey brought judicial review proceedings in the Supreme Court of British Columbia in respect of the arbitration decision but he has not pursued those proceedings.

[15] Mr. Dempsey also commenced an action in the Supreme Court of British Columbia under number S053423, New Westminster Registry. The defendants in that action were Nigel Peart and Sharon Peart, the Attorney General of British Columbia, the Residential Tenancy Office and the Arbitration Review Panel. The Pearts were represented by Ms. Lynda M. Casey of the law firm of Nordman, Casey and Company.

[16] In that action, in which they were defendants, the Pearts moved to have Mr. Dempsey's claim dismissed on the ground that it was within the jurisdiction of an arbitrator under the provisions of the **Residential Tenancy Act**. Section 18(1) of the Act provides that a landlord and tenant are deemed to have agreed to submit to an arbitrator any matter that comes within the sections stipulated, including s. 84, which provides:

84 (1) Subject to any applicable limitation period and to subsection (2), a landlord or tenant may commence an action or claim in debt or for damages against the other party in respect of a right or obligation under this Act or a tenancy agreement.

[17] Section 85 of the **Residential Tenancy Act** provides that, subject to s. 18(1), the Supreme Court may make an order respecting a right or obligation under this Act or a tenancy agreement. Section 18(6)(c) provides that s. 18(1) does not apply if, in the case of a monetary claim, the amount claimed is more than the monetary limit specified under the **Small Claims Act**, R.S.B.C. 1996, c. 430, excluding interest and costs. At the relevant time, the monetary limit under the **Small Claims Act** was \$10,000. The effect of s. 18(6)(c) is that where the monetary amount claimed is over \$10,000, the parties are not deemed to have agreed to submit to arbitration.

[18] The amount Mr. Dempsey claimed in action S053423 exceeded \$10,000 but there was good reason to question the foundation for the claim.

[19] Apart from the motion by the Pearts, several other motions were brought before the court in action S053423. One of the motions was to strike out a claim against "Her Majesty the Queen" as being an abuse of process. In his oral reasons

of 7 April 2000 dismissing the claim against Her Majesty the Queen, Mr. Justice Bouck said:

[2] On the 17th of January, 2000, Master Donaldson dismissed the application of the plaintiff to add Her Majesty the Queen as a defendant. Despite this order, the plaintiffs applied ex parte on the 30th of March, 2000 to substitute Her Majesty the Queen as a defendant in place of the residential tenancy office and the Arbitration Review Panel. Master Joyce granted the order.

[3] In my view, the application of the plaintiff at that time was an abuse of process and the claim against Her Majesty the Queen will be struck out.

[20] While Mr. Justice Bouck was giving his oral reasons, Mr. Dempsey injected and the following exchange took place:

[5] MR. DEMPSEY: Can I ask you a question, My Lord?

[6] THE COURT: What's the question?

[7] MR. DEMPSEY: The question is can I proceed then with the action with the Attorney General?

[8] THE COURT: You will have to consult counsel, sir. I cannot give you legal advice about your case.

[9] MR. DEMPSEY: Because nothing is stopping me from filing another Writ of Summons against the Queen.

[10] THE COURT: You do what you think you have to do, sir. I am striking out your claim against Her Majesty the Queen.

[21] In acceding to the Pearts' motion to strike out Mr. Dempsey's Statement of Claim on the ground that it fell within

the jurisdiction of the **Residential Tenancy Act**, Mr. Justice Bouck said:

[12] THE COURT: The defendants apply under Rule 18A for an order that the plaintiff's Statement of Claim be struck out because the issue is within the jurisdiction of the **Residential Tenancy Act**. I agree.

[22] Mr. Justice Bouck went on to grant the Pearts' request that their counterclaim be remitted to the Small Claims Court as the counterclaim they had brought was within that court's jurisdiction. In that regard, Bouck J. said:

[13] However, there still remains the matter of the counterclaim for the sum of three thousand six hundred and thirty-two dollars and twelve cents. The issues raised in the counterclaim seem to be a matter outside the jurisdiction of the **Residential Tenancy Act**. The defendants do not wish to make a claim for three thousand six hundred and thirty-two dollars and twelve cents in this court, due to the fact that the amount involved is within the jurisdiction of the small claims court.

[23] Mr. Dempsey brought an appeal from Mr. Justice Bouck's order but he was not timely in the filings he was required to make. On 29 September 2000, Mr. Justice Low dismissed Mr. Dempsey's application for an extension of time to file the appeal books in his appeal from the decision of Mr. Justice Bouck. Mr. Justice Low refused to extend the time because he concluded there was no merit in the appeal. In regard to the

amount Mr. Dempsey had claimed in his action against the Pearts, Mr. Justice Low said this:

[4] I have gone at some length to have Mr. Dempsey direct my attention to evidence that was before [Mr. Justice Bouck in] the court below that would possibly lead to the conclusion that monies in excess of \$10,000 were owed....

[5] Mr. Dempsey has merely directed my attention to assertions that the appellants were owed at one point \$43,000 which he now says is some \$66,000. That is substantially more than the total amount of the rent for the period of time the respondents were in possession [of the property]. He does not identify either in his rambling statement of claim or in evidence before the learned Chambers judge or in this court on this application that he was owed anything like that. The only evidence before the court then and now is that the appellants were owed substantially less than \$10,000....

[24] Based on his conclusion that Mr. Justice Bouck had not erred in holding that Mr. Dempsey's claim against the Pearts was within the jurisdiction of an arbitrator under the **Residential Tenancy Act**, Mr. Justice Low dismissed Mr. Dempsey's application for an extension of time. Mr. Dempsey's appeal against Mr Justice Bouck's order was ultimately dismissed as abandoned.

[25] Mr. Dempsey subsequently brought three other actions in the Supreme Court of British Columbia, two of which were commenced on 4 July 2001. In action number S013774, the defendants were the Pearts and their children, Richard Peart

and Raj Peart, Ms. Casey and the law firm of Nordman, Casey and Company, Royal LePage, Brent Roberts and Brent Roberts Realty. In action number S013775, the defendants were the Pearts and their children Richard Peart and Raj Peart. The third action, commenced on 23 November 2001 under number L013285, was against Ms. Casey and Nordman, Casey and Company.

[26] The defendants in the three actions brought motions to have the actions dismissed as against them. In acceding to the applications, Madam Justice Loo found that the claims in action numbers S013774 and S013775 were "reiterations" of the claims raised in action number S053423 which had been dismissed by Mr. Justice Bouck or were otherwise predicated upon proof of the claims made in that action. As to the claims made by Mr. Dempsey against Ms. Casey, Royal LePage, Roberts and Brent Roberts Realty, Madam Justice Loo held that they disclosed no cause of action and were frivolous and vexatious.

[27] Madam Justice Loo went on to make an order under s. 18 of the *Supreme Court Act* that Mr. Dempsey not be permitted to bring any other action or application against any of the defendants in any way relating to the property, or the various proceedings, without leave of the court. In making that order, Madam Justice Loo concluded that Mr. Dempsey had

persistently and without reasonable grounds instituted vexatious legal proceedings in the Supreme Court.

[28] Madam Justice Loo also ordered in all three actions that Mr. Dempsey pay the defendants their costs. In action number S013774, Ms. Casey and Nordman, Casey and Company were awarded special costs. In action numbers S013775 and L013285, Casey and Nordman, Casey and Company were granted disbursements only.

[29] Mr. Dempsey's appeal from Madam Justice Loo's order was brought within the time required but, as noted above, the appeal was later placed on the inactive list after certain steps in the appeal were not taken within the required time. Before his appeal was placed on the inactive list, Mr. Dempsey had filed a factum in which the following grounds of appeal or issues are listed:

- A. The Court Below Erred in Dismissing All Of The Plaintiff's Actions
- B. The Court Below Wilfully Ignored the Supreme Court of Canada and Established Civil Procedure
- C. The Plaintiff's Claims Are Not Res Judicata
- D. The Dismissal Is Not Supported By The Record
- E. The Dismissal Does Not Justify Special Costs, Or Any Costs Against The Plaintiff
- F. Sanction Against The Plaintiff Is Not Justified
- G. Apprehension Of Bias

[30] From his brief reasons quoted above, it is apparent that Mr. Justice Thackray, based on the material before him, was of the view that Mr. Dempsey's appeal was without merit.

However, Mr. Dempsey did not have an opportunity to make submissions because of his late arrival in chambers.

[31] As noted earlier, Mr. Dempsey made extensive submissions before us as to why his application to remove his appeal from the inactive list ought to be granted. We have considered those submissions as well as his submissions concerning the following Points in Issue set out in his application to vary Mr. Justice Thackray's order under s. 9(6) of the *Court of*

Appeal Act:

- Did the Honourable Mr. Justice Thackray properly exercise his discretion in a judicial manner in applying the principles from established legal precedents when he arbitrarily dismissed the Appellant's application?
- Did the Honourable Mr. Justice Thackray properly exercise his discretion in a judicial manner in denying the Appellant the right to be heard which further violated the Appellant's constitutional rights pursuant to the Charter?
- Did the Honourable Mr. Justice Thackray properly exercise his discretion in a judicial manner in dismissing the Appellant's application when there are related claim[s] pending before the Law Society of British Columbia against the respondents Lynda M. Casey and Nordman Casey and Company; as well as

another claim against the Pearts by way of a Petition for Judicial Review?

- Did the Honourable Mr. Justice Thackray properly exercise his discretion in a judicial manner in dismissing the Appellant's application when there is a related claim pending before the RCMP and Commission for Public Complaints against the RCMP regarding a possible criminal charge against respondent Lynda M. Casey for theft and other related charges?
- Did the Honourable Mr. Justice Thackray err in law in dismissing the Appellant's application when there is a stay of proceedings in effect?
- Did the Honourable Mr. Justice Thackray err in dismissing the Appellant's application when he does not have a full understanding of the facts of the case?

[32] The stay of proceedings referred to in the penultimate point relates to the bankruptcy of Nigel and Sharon Peart. One of the reasons Mr. Dempsey gave for his delay in proceeding with his appeal was that the Pearts had gone into bankruptcy with the result that there was a stay of proceedings against them. The Pearts went into bankruptcy on 27 March 2002, but the fact that they had done so would not have made any difference to Mr. Dempsey's appeal in relation to the other respondents against whom relief was also sought in the lower court actions.

[33] As stated earlier, Mr. Justice Thackray dismissed the application to reinstate the appeal on the ground that the appeal had no merit. To reach that conclusion, Thackray J.A. must have decided not only that the three actions brought by Mr. Dempsey were properly dismissed but also that the actions exhibited characteristics of vexatious proceedings such as those described by Henry J. in *Lang Michener Lash Johnston v. Fabian* (1987), 59 O.R. (2d) 353, 37 D.L.R. (4th) 685, 16 C.P.C. (2d) 93 (Ont. H.C.J.).

[34] For the reasons which follow, we agree with the conclusion Mr. Justice Thackray reached. We have before us in the Appeal Record the pleadings from the three actions dismissed by Madam Justice Loo, and also the pleadings from action S053423, New Westminster Registry, dismissed by Mr. Justice Bouck.

[35] The allegations contained in the statements of claim in the three actions dismissed by Madam Justice Loo may be summarized as follows:

- (a) Mr. Dempsey's property was foreclosed as a result of the Pearts and Ms. Casey not paying him what he was owed.
- (b) Ms. Casey provided legal representation to the Pearts and in some manner was alleged to have fraudulently dealt with the trust funds referred to in Bouck J.'s order.

(c) Mr. Roberts, a real estate agent and former friend of Mr. Dempsey, sold property to the Pearts without Mr. Dempsey's knowledge.

[36] An examination of the pleadings in the three actions confirms that they are a repetition of allegations found in the earlier action dismissed by Mr. Justice Bouck with the addition of claims against other parties that do not have any foundation in law.

[37] As noted earlier, Mr. Dempsey has not proceeded with his judicial review application in relation to the arbitral proceedings and his appeal of Mr. Justice Bouck's order has been dismissed as abandoned.

[38] One of the hallmarks of vexatious litigation is the repetition of the same or similar claims in respect of the same subject matter in multiple proceedings against the same defendants or those associated with them. A review of the pleadings shows that to be the case with the three actions Mr. Dempsey has brought. In our view, Mr. Justice Thackray was correct in concluding that an appeal of Madam Justice Loo's order under s. 18 of the **Supreme Court Act** was without merit.

[39] The application to vary the order of Mr. Justice Thackray dismissing Mr. Dempsey's application to remove his appeal from the inactive list is dismissed. As the effect of a dismissal

of the review application before a panel is to bring an end to any possibility of Mr. Dempsey's being able to proceed with his appeal, we also order that the appeal be dismissed.

"The Honourable Madam Justice Rowles"

"The Honourable Madam Justice Newbury"

"The Honourable Mr. Justice Hall"

CHRONOLOGY

6 December 1997	Lease/Purchase Agreement entered into between Dempsey and the Pearts which gave Pearts, tenants of the Property (98th Ave, Surrey), the option to purchase the Property at a specified price
30 November 1998	Purchase option expired, and tenancy became residential tenancy under the <i>Residential Tenancy Act (RTA)</i>
Spring 1999	The property flooded and dispute about payments arose
9 April 1999	Dempsey served an eviction notice on Pearts
19 April 1999	Application by Pearts to the Residential Tenancy Office (RTO) to set aside eviction notice dismissed by Arbitrator Coulson on merits (despite concerns about jurisdiction)
7 May 1999	Writ of summons issued by Dempsey in the first of four eventual actions, S053423
21 May 1999	Dempsey filed application with RTO for possession and monetary claim
25 May 1999	Praecipe filed by Mr. Dempsey re: Judgment in Default of Appearance Rejected: Appearance filed 26 May 1999; without Affidavit of Service, Defendants have until 4 p.m. 16 June 1999 to file Statement of Defence
26 May 1999	Appearance filed on behalf of Pearts
1 June 1999	Praecipe filed by Mr. Dempsey re: Judgment in default of Defence Default Judgment against Pearts for \$10,769.89, having filed no Statement of Defence
7 June 1999	Notice of Motion by Pearts: That Default Judgment be set aside That action be set aside (Rule 18(6)) with costs
9 June 1999	Praecipe filed by Pearts to reschedule application from 19 June 1999 to 14 June 1999
14 June 1999	Order of Lysyk J.: Setting aside Judgment in default of Defence, and that Pearts be at liberty to file a Defence Defendants' Rule 18(6) application be adjourned generally

	<p>No costs to either party</p> <p>Dispense with Mr. Dempsey's consent to form of order</p>
15 June 1999	Certificate of Pending Litigation
18 June 1999	RTO application by Dempsey for possession dismissed by Arbitrator Hart for lack of jurisdiction
22 June 1999	<p>Notice of Motion by Dempsey:</p> <p>To apply for an Order that Dempsey may apply for Judgment against Pearts on the ground of no Defence (to be heard 28 June 1999)</p>
29 June 1999	Statement of Defence filed by Pearts
2 July 1999	<p>Leave for Review Hearing of Arbitrator Coulson's decision granted;</p> <p>Decision and Order of Arbitrator suspended on the ground that the decision may have been obtained by fraud:</p> <p>(Dempsey may have withheld crucial information as to whether he had been paid part of the monies he sought in arbitration)</p>
5 July 1999	Application by Pearts for Review by Arbitration Review Panel (ARP) of Arbitrator Hart's decision declining jurisdiction
14 July 1999	<p>Order of Singh J.:</p> <p>That applications of Plaintiffs and Defendants be adjourned until matter heard and disposed of by ARP;</p> <p>That \$2000 currently held in trust by Nordman Casey & Co. continue to be held in trust; payment out of trust account may be by further Order of the RTO or of the Court</p> <p>That Pearts continue to pay rent (\$1,175.00) into the trust account until the matter is disposed of.</p>
4 August 1999	Review Hearing before Arbitration Review Panel (ARP).
10 August 1999	<p>Decision of ARP</p> <p>Arbitrators' (Coulson and Hart) decisions each set aside for different reasons, and the matters were remitted to be heard by another arbitrator</p> <p>Dempsey filed judicial review of decision of ARP which has not proceeded</p>

8 October 1999	<p>Notice of Motion by Dempsey (to be heard 13 October 1999):</p> <p>To vary Singh J.'s Order</p> <p>To enforce decisions of Arbitrators Coulson and Hart and declare subsequent decisions void</p> <p>To declare the matter to be within Supreme Court's jurisdiction and not RTO's</p> <p>For an injunction against RTO from interfering in dispute</p> <p>To strike Statement of Defence</p> <p>For Summary Judgment</p>
12 October 1999	<p>Praecipe filed by Pearts that Rule 18 application previously set for 14 June 1999 be reset for 13 October 1999</p>
28 October 1999	<p>Decision and Reasons of Arbitrator McKenzie, hearing the matters remitted by the ARP</p> <p>Found that there was rent paid by Pearts at the rate of \$1,700 per month</p> <p>Found that claim for rent is within the jurisdiction of an arbitrator under the <i>RTA</i></p> <p>Held that the matter is <i>res judicata</i> on all points as far as the RTO, which administers the arbitration process under the <i>RTA</i>, is concerned</p> <p>Claim for rent dismissed, but liberty to reapply granted</p> <p><i>Note: this summary is taken from the summary by Arbitrator Coulson in his subsequent Reasons</i></p>
5 November 1999	<p>Notice of Motion by Dempsey:</p> <p>Seeking Declaration that matter not within jurisdiction of RTO</p> <p>That all decisions of ARP are void</p> <p>Restraining RTO from further interfering</p> <p>That Plaintiffs at liberty to apply for summary trial (18A)</p> <p>Or alternatively, that matters proceed to trial without delay (Rule 39)</p> <p>Praecipe filed by Dempsey:</p> <p>That Dempsey be allowed to amend Writ of Summons and Statement of Claim:</p> <p>To add AG, RTO and ARP as Defendants</p>

10 November 1999	Order by Master Nitikman allowing Dempsey to add AG, RTO and ARP to action
17 November 1999	Praecipe filed by Dempsey that matter adjourned 14 July 1999 be rescheduled for hearing 8 December 1999
26 November 1999	Amended Writ of Summons Amended Statement of Claim
3 December 1999	Praecipe filed by consent (by Dempsey) to adjourn <i>sine die</i> both applications to be heard 8 December 1999
6 December 1999	Appearance entered in behalf of AG, RTO and ARP
8 December 1999	Notice of Motion by Dempsey: Seeking Order that monies held in trust by Nordman Casey & Co. be paid to Dempsey And Order allowing Dempsey to apply to proceed by summary trial (18A) etc.
15 December 1999	Counterclaim by Pearts: For monies spent on repairs to the property by Pearts. Notice of Motion by Pearts: Of Rule 19(24) application And to proceed by 18A And to have several paragraphs of Statement of Claim struck (to be heard 15 December 1999).
17 December 1999	Notice of Motion by Dempsey: To strike Pearts' counterclaim (to be heard 7 Jan 2000) Praecipe filed by Dempsey to add HMTQ and Arbitrators Coulson, McKenzie, and panel members Watson and Quail as Defendants Praecipe filed by Dempsey to schedule applications previously scheduled, heard and adjourned on 14 July 1999, 13 October 1999, 17 November 1999 to 7 January 2000 for summary trial under Rule 18A
31 December 1999	Praecipe filed by Dempsey seeking to add HMTQ and Arbitrators Coulson, McKenzie, and panel members Watson and Quail as Defendants Praecipe filed by Pearts to reset Rule 18A application by Plaintiff and Cross Rule 18A application by Defendants to 7 January 2000 from 15 December 1999.

10 January 2000	Notice of Motion by Dempsey to add HMTQ to action (to be heard 17 January 2000)
12 January 2000	Motions rescheduled to 7 April 2000 (by request of L. Casey for Pearts—improper service, and illness of counsel).
17 January 2000	Order of Master Donaldson Dismissing application of Dempsey to add HMTQ as a defendant pursuant to Rule 15(5)(a)(ii) that the Crown was not a necessary or proper party Dismissing Dempsey's application to have Lynda Casey (solicitor for Pearts) joined as a Defendant to the action Costs Ordered against Dempsey (Scale 3 set at \$400 plus tax payable to L. Casey)
28 January 2000	Notice of Appeal from Master Donaldson (to be heard 14 March 2000)
5 February 2000	Notice of Motion by Dempsey that pursuant to <i>Crown Proceedings Act</i> would seek to substitute HMTQ for RTO, ARP, and AG
24 February 2000	Notice of Motion for indigent status (to be heard 25 February 2000)
25 February 2000	Ex Parte Order of Master Nitikman granting Dempsey indigent status Notice of Motion (for 3 March 2000) by Dempsey to substitute HMTQ for RTO, ARO, and AG
29 February 2000	Praecipes (by Dempsey): To adjourn generally appeal set 28 Jan 2000 To add Raj and Richard Peart as Defendants
3 March 2000	Order ex parte of Master Joyce to allow <u>substitution</u> of HMTQ for the AG, RTO, and ARP
10 March 2000	Notice of Motion (for 17 March 2000) by Dempsey: That Statement of Defence be struck That proceedings of Defendants be dismissed for not providing Discovery That Summary Judgment be granted Dempsey Alternatively order further discovery including an Order that Pearts' banks release all their information

13 March 2000	<p>Order before a Master of the Court:</p> <p>That Dempsey be allowed to amend style of cause and statement of claim according to Master Joyce's Order of 3 March 2000</p>
17 March 2000	<p>Order by Master Patterson:</p> <p>Dismissing Dempsey's application re: the Defendant HMTQ with costs (fixed at \$500)</p>
20 March 2000	<p>Amended Writ of Summons. Amended Statement of Claim. (Joining HMTQ)</p>
28 March 2000	<p>Appointment set to settle the Order of Master Donaldson (17 Jan. 2000) for costs</p>
31 March 2000	<p>Notice of Motion by Dempsey: (to be heard 7 April 2000)</p> <p>That Pearts and counsel be found in contempt for refusal to make full Discovery</p> <p>To proceed as if no Statement of Defence filed</p> <p>And Summary Judgment <u>or</u> further Discovery</p> <p>Costs</p> <p>Notice of Appeal from Master Patterson's decision</p>
3 April 2000	<p>Notice of Motion by HMTQ (to be heard 7 April 2000)</p>
6 April 2000	<p>Amended notice of Motion filed by Dempsey (pertaining to issues to be heard following day)</p>
7 April 2000	<p>Order of Bouck J:</p> <p>Striking HMTQ's name from Dempsey's action as an abuse of process pursuant to s.19(24)(d) of SCA (application before Master Joyce itself was viewed by Bouck J. as abuse of process)</p> <p>Dismissing Dempsey's action under Rule 18A application by Pearts because the issue is within the jurisdiction of the RTA</p> <p>Condition of dismissal is payment of sum (\$5,525) "presently deposited in court" (Bouck J. reasons)/ "held in trust" (Bouck J.'s Order) by Pearts' counsel Lynda M. Casey to Dempsey, subject to the Pearts deducting their costs of the action at Scale 3 from the sum before it is paid out</p> <p>[Note: The costs as taxed were greater than the amount of the trust funds, and no funds were therefore paid by Ms. Casey to Dempsey - see 19 June 2000.]</p>

	<p>The Pearts' counterclaim (for \$3,632.12) raises issues outside the jurisdiction of the RTA and is therefore transferred (under s. 15 of SCA) to Surrey Provincial Court (Pearts prefer to make the claim in small claims court rather than at Supreme Court)</p>
20 April 2000	<p>Notice of Motion by Mr. Dempsey for indigent status with respect to the payment of fees set forth in Appendix C, Schedule 1 of the Rules of Court</p>
25 April 2000	<p>Certificate of Judgment issued (\$400, from Master Donaldson's Order, 17 January)</p>
3 May 2000	<p>Notice of Motion by Pearts seeking security for costs and costs</p>
4 May 2000	<p>Appearance on behalf of HMTQ entered</p>
5 May 2000	<p>In Chambers Hollinrake J.A. adjourns both motions (notice 3 May 2000 and 20 April 2000) without date</p> <p>The purpose is to obtain reasons and entered Order of Bouck J.</p> <p>For Mr. Dempsey to file current statement of assets and liabilities with respect to motion for indigent status</p> <p>And for Pearts to submit material regarding the security for costs they seek</p>
5 June 2000	<p>Appointment set to assess bill of costs of Pearts and to settle Bouck J.'s Order (set 29 May 2000)</p>
19 June 2000	<p>Bouck J.'s Order entered</p> <p>Costs of Pearts assessed at \$6300.21</p>
30 June 2000	<p>Hearing before and Decision of Arbitrator Coulson</p> <p>Application for arbitration submitted by Dempsey is dismissed as <i>res judicata</i>: Arbitrator McKenzie made findings of fact in 28 October 1999 decision that are binding on Arbitrator Coulson</p> <p>Alternatively, the application on its face is outside the monetary jurisdiction of the Arbitrator under ss. 57, 84 and 85 of the RTA</p> <p>Dempsey has leave to file a claim for rent ("as mentioned by the Court [Bouck J.] on 7 April 2000" [note, not in Reasons]), as claim for rent is not part of the claim for damages in the present application</p>

25 August 2000	<p>Notice of Motion by Dempsey:</p> <p>Application to be made for extension of time for filing appeal books</p>
29 Sept 2000	<p>In Chambers (Low J.A.):</p> <p>Mr. Dempsey submits that the claim exceeds \$10,000 and thus exceeds the jurisdiction of the officers under the <i>RTA</i> and must remain in the Supreme Court</p> <p>Counsel for the Pearts submits that there is no merit to the appeal, and also the amount owed for rent is under \$1,500</p> <p>Low J.A. refuses an extension of time for filing of appeal books</p> <p>This <u>included consideration as to whether there is an arguable appeal, and whether there is some merit.</u> The only evidence before the Court is that Dempsey is owed substantially less than \$10,000 and thus the matter is clearly within the jurisdiction of the <i>RTA</i> and the appeal has no merit</p> <p>Requirement that Dempsey approve the form of the Order is dispensed with; the Order will be directed to Low J.A.'s attention instead</p>
26 April 2001	<p>Notice sent that matter CA027093 placed on inactive appeal list</p>
4 July 2001	<p>Mr. Dempsey commences actions:</p> <p>S013774 against the Pearts, their children, their lawyer Lynda Casey, her firm Nordman Casey & Co., Royal LePage, Brent Roberts and Brent Roberts Realty</p> <p>S013775 against the Pearts and their children</p>
23 November 2001	<p>Dempsey commences action:</p> <p>L013285 against Casey and Nordman Casey & Co.</p>
14 January 2002	<p>Praecipe filed in CA027093 confirming that appeal dismissed</p>

22 March 2002	<p>Order of Loo J. pronounced:</p> <p>Dismissing all three claims S013774 and S013775 being reiterations of the claims heard before Bouck J</p> <p>That the claims against Lynda Casey, Royal LePage, Brent Roberts and Brent Roberts Realty disclose no cause of action, are frivolous and vexatious</p> <p>And further, pursuant to s. 18 of the <i>Supreme Court Act (SCA)</i> Ordering that Dempsey not bring any further similar action or application against any of the Defendants without leave of the Court</p> <p>Granting the Defendants in all three actions costs, and for Nordman Casey and Company, special costs in S013774, and disbursements only in S013775 and L013285</p> <p>Dempsey's approval of the Order was dispensed with</p>
27 March 2002	Pearts filed for bankruptcy and a Trustee was appointed
5 April 2002	Mr. Dempsey files Notice of Appeal from Loo J.'s decision
11 April 2002	<p>Appearances filed on behalf of:</p> <p>Royal LePage and Brent Roberts Richard and Raj Peart Lynda Casey and Nordman Casey and Company</p>
15 April 2002	Letter from Trustee in Bankruptcy for Pearts to the Supreme Court requesting that any funds held in court in relation to the Dempsey/Peart proceeding be forwarded to the Trustee
25 April 2002	Order of Loo J. entered
19 August 2002	Appointment filed with Court of Appeal (for 6 September 2002 re: Bill of Costs) by solicitor for Royal LePage and Brent Roberts; subsequently cancelled as having been filed in error and adjourned generally
7 April 2003	Notice that matter on inactive appeal list
10 April 2003	<p>Notice of Motion by Dempsey:</p> <p>To remove matter from inactive list and that Dempsey have 30 days to file Appeal Book (to be heard 25 April 2003): "10 April Motion"</p>
21 May 2003	Notice of Motion by L. Casey and Nordman Casey & Co. seeking security for costs of trial and appeal from Dempsey (to be heard 12 September 2003): "20 May Motion"
23 May 2003	Praecipe filed by Dempsey that 10 April Motion to be heard 30 May 2003 be adjourned <i>sine die</i> ; adjournment by consent of all parties

27 May 2003	Praecipe filed by solicitor for L. Casey and Nordman, Casey and Co. to adjourn generally the April 10 Motion to be heard 30 May 2003, by consent
30 May 2003	Praecipe April 10 Motion scheduled to be heard 12 September 2003
26 June 2003	Notice of Motion by respondents Royal LePage and Brent Roberts for security for costs (to be heard 12 September 2003)
19 July 2003	Garnishing Order after Judgment against Dempsey (S53423) (for costs owed pursuant to Master Donaldson's Order of 17 January 2000)
12 September 2003	Order of Thackray J.A. pronounced: Dismissing appellant's application to take the matter off the inactive appeal list; (upon hearing from all respondents, no one appearing for the appellant, Dempsey, and upon reading the materials filed in the matter, dismissed based upon the lack of merit) Awarding all the respondents their costs
19 September 2003	Notice of Application by Dempsey to vary the Order of a Justice
30 September 2003	Order of Thackray J.A. entered
08 October 2003	Garnishing Order after Judgment on file S53423