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Ontario

February 15, 2008

BY FAX AND ELECTRONIC MAIL

Terrance Green
Green & Vespry Law Offices
200-190 O'Connor Street
Ottawa, ON K2P 2R3

Dear Mr. Green:

RE: Thomasson v. Ontario (Ministry of Community and Social Services) et al.
Ontario Superior Court of Justice File No. 07-CV-38779 (Ottawa)

We acknowledge your electronic mail message of February 8, 2008.

As you know, it is our position that this Application is now moot in light of the Social Benefits Tribunal's decision of November 22, 2007, which allowed your client's appeal. As the underlying dispute in this matter is now completely resolved, it is our position that this entire Application is moot and therefore should not be heard by the Superior Court of Justice.

Further to my electronic-mail message of February 4, 2008, and as set out in the letter by Director Norm Helfand to you dated February 1, 2008, the Ministry intends to abide by the Tribunal's decision and apply it in assessing your client's eligibility for benefits and deductions with respect to his 2006 and 2007 claims (which are currently under review) and any other future claims he submits (i.e., for 2008 and subsequent years, respectively), provided, of course, that his circumstances do not change. In the event that your client's circumstances should change, the Ministry obviously would have to consider them in assessing his eligibility for any future claims that are submitted. This, however, does not detract from the Ministry's intention to comply with the Tribunal's decision as it applies to your client's prevailing circumstances.

From the third paragraph of your electronic-mail message, we understand that your client wishes to have his 2006 and 2007 claims processed by the Ministry. To this end, you have indicated that your client has

submitted his 2006 farm income tax return, and will be submitting his return for 2007 when it is completed in due course. We acknowledge this, and wish to confirm that the Ministry intends to process your client's claims using this information in keeping with the Tribunal's decision. We trust that this is satisfactory.

Mr. Helfand's letter of February 1, 2008 refers to the requirement for your client to supply appropriate information to support any future claims in respect of 2008 and subsequent years. In this regard, we note the general requirement for the Director to receive appropriate documentation verifying income and expenses, to the extent that this information is available, in the course of reviewing claims going forward. Having said this, we acknowledge the Tribunal's finding that a verbal contract existed between your client and the occasional labourer, which was held to be a sufficient substitute for the written contract requirement found under the Custom Work and Subcontracting approved farm expense provision to Directive 5.7, because of the Tribunal's finding that your client's mental illness rendered him incapable of using a written contract. Notably, however, the Tribunal's decision does make reference to tax return materials prepared by your client's accountant, which were filed and relied upon in support of your client's claim for certain wages and source deductions paid for the occasional labourer's services. These materials clearly evidenced the wage payments made by your client, and were used by the Tribunal for this purpose. Accordingly, we would expect your client to continue to arrange for similar documents verifying income and expenses to be recorded and maintained for use in supporting future claims (i.e., for 2008 and any subsequent years), assuming that all things otherwise remain the same.

You will recall that our stay motion (originally returnable on September 4, 2007) and the main Application were adjourned *sine die* on consent pending the release of the Tribunal's decision on your client's appeal heard on October 24, 2007, as it was understood that the Tribunal's decision could entirely dispose of the entire matter before the Superior Court of Justice. Having carefully reviewed the Tribunal's decision of November 22, 2007, it is our position that the issues raised on the Application are now entirely moot, and should not be heard by the Superior Court. In this regard, we are prepared to consent to a dismissal of the Application on a without cost basis.

Should your client seek to pursue this Application further, we reiterate our intention to raise the mootness issue as a preliminary matter with the Court returnable February 28, 2008 (i.e., the date which you have booked with the Superior Court in Ottawa for the return of this matter). In light of our position, we do not intend to address the substantive merits of the Application at this time. Accordingly, we will not be delivering a responding record to the Application or otherwise be seeking to cross-examine your client prior to our return on February 28, 2008.

In closing, we ask that you please carefully consider the foregoing. We hope to avoid unnecessary litigation.

Yours truly,

Michael T. Doi
Counsel

cc. M. Jill Dougherty