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### COURT OF APPEAL FOR THE YUKON TERRITORY

Citation: *Bemis v. Gov't of Yukon (Dept. of Energy,  
Mines and Resources)*  
2010 YKCA 2

Date: 20100127  
Docket: YU617

Between:

**Gary Bemis**

Appellant

And

**Government of Yukon, Department of Energy Mines &  
Resources (Lands Branch), Linda Anderson,  
Yukon Municipal Board, City of Whitehorse**

Respondents

Before: The Honourable Mr. Justice K. Smith  
(In Chambers)

### Oral Reasons for Judgment

Appellant appearing In Person via  
telephone:

Counsel for the Respondent, Government  
of Yukon:

M. Winstanley, via telephone

Counsel for the Respondent, City of  
Whitehorse

L. Lavoie, via telephone

Place and Date of Hearing:

Vancouver, British Columbia  
January 27, 2010

Place and Date of Judgment:

Vancouver, British Columbia  
January 27, 2010

[1] **K. SMITH J.A.:** This is an application by Mr. Bemis, the appellant in this appeal, for an extension of time to review the registrar's assessment of his bill of costs and for a review of that bill on the basis that the registrar erred in her assessment of several items.

[2] The appeal concerned Mr. Bemis' request that the trial judge recuse himself from the trial of the action below on the basis that he had a conflict of interest. The trial judge refused to withdraw and Mr. Bemis succeeded on his appeal on that issue.

[3] Mr. Bemis prepared a bill of costs and took out an appointment to tax them on December 4, 2009, before the registrar. Counsel for the opposing parties, the Government of the Yukon and the City of Whitehorse, attended on the appointment but Mr. Bemis did not. He said he forgot about it. The registrar waited for about half an hour for Mr. Bemis to attend and efforts were made in the environs of the courthouse to see whether he was there. After waiting for some of time, the registrar proceeded to assess Mr. Bemis' bill. In doing so, she disallowed some items, she reduced some other items, and she awarded items in some cases that were in excess of the amounts that the Government of Yukon and City of Whitehorse said were appropriate.

[4] Under the relevant rule, Mr. Bemis had seven days from December 4, 2009, to apply for a review of that assessment. Mr. Bemis said he did not know there was a seven-day time limit. He did not file this application until January 20, 2010, well beyond the time limit for bringing the application.

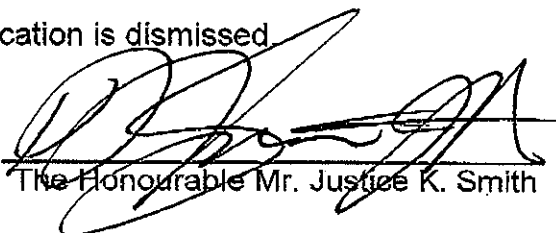
[5] The respondents oppose an extension of time on the basis that simply forgetting about the appointment and failing to attend, and not knowing about the time limit in the Rules are not sufficient reasons to support a judicial exercise of discretion to allow an extension of time.

[6] Mr. Bemis relies on the principles respecting the treatment of unrepresented persons set out by the Canadian Judicial Council, and has read extensively from

them to the effect that unrepresented parties must be given fair opportunity to present their cases and they must be treated justly and fairly and ought not to be denied relief on the basis of minor deficiencies in their cases. With respect, I do not see that any of those principles has been transgressed in either what happened before the registrar or what is occurring here today. Mr. Bemis has been given a full opportunity to present his case but he has not persuaded me that it is in the interest of justice, in these circumstances, that the extension of time to bring his review should be granted.

[7] I would therefore dismiss the application on that basis, but I wish to add that I have heard full submissions from Mr. Bemis and from counsel for both respondents on the merits of the review. I am satisfied that the registrar, in assessing costs as she did, acted fairly and justly and that she made no error either of law or of principle in the exercise of her discretion with which I would be justified in interfering.

[8] For those reasons Mr. Bemis, your application is dismissed.



The Honourable Mr. Justice K. Smith