

Enforcing Court Orders

Scott v. Bilan, [2015] MBQB 39 (CanLII)

Facts:

Micheline Scott and Ryan Bilan had a daughter who was born in October 2011. They did not live together after the child was born. An order granted in December 2011 gave Ryan specific periods of access. In 2014, Ryan applied for a contempt order. He had not had access to his daughter for six months. Micheline argued that the child was having problems with transition. She contacted Child and Family Services about a bruise on the child's back after a visit with the father. Even after Child and Family Services told her they would not be investigating, she still continued to deny access.

The Decision:

The mother was found in contempt of the 2011 order. The terms of the December 2011 order were clear and unambiguous. The mother knew the terms and the terms were clearly breached. To try to begin to undo the harm of the mother denying access, the judge gave the father transitional increased access time.

Relevant Law:

Court of Queen's Bench Rules

ENFORCEMENT OF ORDER TO DO OR ABSTAIN FROM DOING ANY ACT

[60.05](#) An order requiring a person to do an act, other than the payment of money, or to abstain from doing an act, may be enforced against the person refusing or neglecting to obey the order by a contempt order under rule 60.10.

CONTEMPT ORDER

Motion for contempt order

[60.10\(1\)](#) A contempt order to enforce an order requiring a person to do an act, other than the payment of money, or to abstain from doing an act, may be obtained only on motion to a judge in the proceeding in which the order to be enforced was made.

Service

[60.10\(2\)](#) The notice of motion shall be served personally on the person against whom a contempt order is sought, and not by an alternative to personal service, unless the court orders otherwise.

Affidavit in support

[60.10\(3\)](#) An affidavit in support of a motion for a contempt order may contain

Discussion Questions:

- 1) Do you agree with the judge's decision? Why or Why not?
- 2) Why is it important to follow a court order?
- 3) Was the judge's solution appropriate, or should the judge have made one of the orders provided under 60.10(5) of the Court of Queen's Bench Rules? (see 60.05 below)

Relevant Law:

Court of Queen's Bench Rules

Sections 60.05 and 60.10

Resources:

You can read the entire case at:

You can find *The Queen's Bench Rules* at: <http://canlii.ca/t/ggmgq>

[http://](http://web2.gov.mb.ca/laws/rules/qbr1e.php)

web2.gov.mb.ca/laws/rules/qbr1e.php

statements of the deponent's information and belief only with respect to facts that are not contentious, and the source of the information and the fact of the belief shall be specified in the affidavit.

Warrant for arrest

60.10(4) A judge may issue a warrant for arrest (Form 60I) of the person against whom a contempt order is sought where the judge is of the opinion that the person's attendance at the hearing is necessary in the interest of justice and it appears that the person is not likely to attend voluntarily.

Content of order

60.10(5) In disposing of a motion under subrule (1) the judge may make such order as is just, and where a finding of contempt is made, the judge may order that the person in contempt,

- (a) be imprisoned for such period and on such terms as are just;
 - (b) be imprisoned upon failure to comply with a term of the order;
 - (c) pay a fine;
 - (d) do or refrain from doing an act;
 - (e) pay such costs as are just; and
 - (f) comply with any other order that the judge considers necessary;
- and may direct the sheriff to take possession of and hold the property of the person in contempt and to collect and hold any income from the property until the person complies with the order.