

Before:

Metis Settlements Appeal Tribunal
Land Panel

Between:

Clayton Trottier	Appellant
-and-	
Wayne Anderson, Land Trustee	Respondent
-and-	
Tina Shaw	Respondent
-and-	
Fishing Lake Metis Settlement	Respondent
-and-	
Metis Settlements General Council	Respondent
-and-	
Metis Settlements Land Registry	Respondent

Concerning:

Land Dispute / Estate Matter

Hearing Date:

June 16, 2016

Decision Date:

October 17, 2016

DECISION

The Hearing – parties, place and date

MSAT Panel members:

Don Cunningham, Panel Chair
Phyllis Collins, Panel Member
Joyce Parenteau, Panel Member

Parties Present at the Hearing:

Clayton Trottier, Appellant
Tina Shaw, Respondent
Kelly Anderson, Observer
Tyson Anderson, Observer
Irene Pollom, Observer/Tina's Mom
Melissa Davie, Observer/Land Clerk
Morris Aulotte, FLMS Council

MSAT Staff Present:

Harry Cunningham, Dispute Resolution Officer

Place and Date of the Hearing:

Fishing Lake Community Hall
Fishing Lake Metis Settlement, Alberta
June 16, 2016

1.0 Context

[1] Clayton Trottier (Clayton) wrote to the Metis Settlements Appeal Tribunal on December 1, 2015. Clayton said that he bought the Metis Title interest in the SW-30-057-01-4 (the land) from the late Walter Anderson before Walter died in 2009, and that the interest in question should not have been made part of Walter's estate.

[2] Rightly or wrongly, the Metis Title interest in the land was included in Walter's estate and the Land Trustee, Wayne Anderson, transferred the interest to Tina Shaw (Tina) in June 2014. According to the Metis Settlements Land Registry (MSLR) report for land, Tina is the registered holder the Metis Title interest in the land.

[3] The Appeal Tribunal cannot grant Clayton the relief he is looking for because the 30 day deadline for appealing his matter came and went in 2009 at the latest, and there is no good reason to extend the appeal deadline now.

1.1 Evidence before the Panel

Clayton Trottier

[4] Clayton said that he bought the Metis Title interest from Walter before Walter died. Clayton indicated that it was a handshake deal and that there was no Bill of Sale, cancelled cheque, or land interest transfer documents to back up his claim.

[5] Clayton says that he still wants the land in question because it is next to his home quarter and would be willing to negotiate a deal with Tina.

Tina Shaw

[6] Tina said that the Metis Title interest in the land was given to her in 2014 by the Land Trustee (Wayne Anderson) because she was Walter's oldest granddaughter and because she lived with Walter for a period of time.

[7] The MSLR Land Search Report shows that the Metis Title interest in the land was registered in Tina's name by at least January 5, 2015.¹

¹ Another Land Search Report shows that the Metis Title interest in the land was actually registered in Tina's name on December 5, 2014.

[8] Tina said that it hurts her feelings when Clayton said he wants the land “stay in the family” because it suggests that she is not part of the family.

[9] Tina’s mother, Irene Pollom, also spoke at the hearing. She said that Clayton held the land back in the 1980’s, but sold it,² telling Tina and her siblings that they were not his kids and not entitled to the land. Irene said this was not in keeping with the Metis way, which dictates that when you marry the mom, you essentially adopt her kids and that Clayton’s actions felt like a betrayal to her and Tina.

Fishing Lake Metis Settlement (FLMS) Council

[10] FLMS Council said that its practice is to look at all pertinent documents—including transfer documents, estate instructions, and other documents—when making or affirming transfers of interests in settlement lands.

[11] A number of transfer forms³ were included in the hearing package showing that the Settlement Administrator and Council reviewed and signed off on the transfer of Metis Title interest from Walter’s estate to Tina in 2014.

[12] FLMS Council could not recall seeing Walter’s Estate Instructions, dated November 30, 1992 that were filed with the MSLR, in which he specifies who is to receive his Metis Title interest in the land. Nor could FLMS Council recall seeing Walter’s Last Will and Testament dated November 27, 2008 in which he provides a new set of instructions [sic]⁴ about who should get his Metis Title interest in the land.

² See Tab 4 of the Hearing Package. *Alberta Municipal Affairs Metis Development Branch, Abandonment of Land*: “I, Clayton J Trottier, hereby relinquish all claim to the following parcel of land and the improvements thereon S1/2 30.57.1.4.” Approved and recorded August 18, 1983.

³ Including MSLR Form01, *Request to Record or Register an Interest* dated June 12, 2014; MSLR02 Form, *Land Interest Transfer* dated June 17, 2014; Dower Act Form H, *Consent of Surviving Spouse* dated November 5, 2014; MSLR 02A Form, *Notice of the Acquisition of an Interest* (s 5.3(1) MSGC Land Policy.

⁴ Section 7.5 of the MSGC Land Policy reads that “no provision of a will relating to a members interest in Metis settlement land has any effect. Rather, such interests must be dealt with through “Estate Instructions” that are filed with the MSLR.

1.2 Findings of Fact

[13] There is no Bill of Sale or any recognized transfer documents to show that Clayton bought Walter's Metis Title interest in the land before Walter died in 2009.

[14] Clayton filed his appeal in writing with the Appeal Tribunal on December 1, 2015.

1.3 How the law applies to this matter

[15] MEMBERS BE ADVISED: You can't transfer interests in settlement lands based on a handshake and nothing else!

[16] With the proclamation of the *Accord* legislation in 1990, and subsequent passage of the *Metis Settlements Land Registry Regulation* in 1991 and the *Metis Settlements General Council Land Policy* in June 1992, transferring interests requires a lot of paperwork be done and that the paperwork be reviewed and approved by the designated authorities.

[17] Moreover, even if Clayton and Walter had signed all the right notices and transfer documents, and consideration (payment) passed from Clayton to Walter, any such deal would have had to be made prior to Walter's passing in 2009 and Clayton's right of appeal would be limited under the Land Policy to 30 days⁵ after the FLMS Administrator or Council rejected it.

[18] Insofar as extending the appeal deadline goes, the Land Policy does allow the Appeal Tribunal to extend appeal deadlines in special circumstances to ensure people with real problems are heard,⁶ but, again, there is no proof before us that a deal was ever actually made between Clayton and Walter, and no evidence was given to explain the delay; suggesting to us that this is not a real problem for Clayton. *As such, Clayton does not have a right of appeal and this matter is dismissed.*

[19] However, there is some commentary that we will leave the parties with for their consideration.

⁵ See sections 8.1(1)(2) of the MSGC Land Policy.

⁶ See section 8.1(3) and footnoted 202 of the Metis Settlements Act, allowing appeal deadlines set out in section 8.1(1) to be extended.

[20] Firstly, we encourage councils to record whether they have reviewed estate instructions when considering transfers of interests in an estate. We also encourage settlement councils to ask the same question that was raised at this hearing as to whether the estate instructions were followed by the Land Trustee and, if not, why not.

[21] Secondly, all members, settlement staff and councils should be aware of Section 7.5 of the MSGC Land Policy, which reads that “no provision of a will relating to a members interest in Metis settlement land has any effect. Rather, such interests must be dealt with through “Estate Instructions” that are filed with the MSLR.

[22] Thirdly, and finally, given our mandate to preserving and enhancing Metis culture and identity, we encourage all parties to reflect on what makes us strong. Yes, land is important. Metis leaders negotiated hard for the land rights currently enjoyed by the Metis settlements. However, any land rights that were negotiated were done so in the name of family. *Our Land, Our Culture, Our Future* is not just a slogan; it’s a reminder that Settlement members are part of a larger family in every sense of the word and that when decisions are made about “*Our Land*,” they are really being made about a family—extended or otherwise—and its future. We—the Metis Settlements Appeal Tribunal—trust that every Settlement member will remember this fact and make decisions with a view to strengthening family bonds.

1.4 Decision

[23] Clayton missed the appeal deadline and does not have a right of appeal.

Dated in the City of Edmonton, in the Province
of Alberta on this 17th day of October 2016.





Don Cunningham
Panel Chair

