

CM-8-88-13

G. P.
[...] Qc.

plaintiff

-vs-

HIS HONOUR JUDGE [...]

DECISION

Mrs G. P. filed a complaint before our Council, which reads as follows: On December 15, 1987, a judgment was rendered by default in her favour further to a pursuit that she had previously filed before the small claims Court. His Honour Judge X granted her the sum of 835\$ and condemned» (...) to pay her that amount of money. The judgment was motivated by His Honour Judge X.

On April 8, 1988, which is almost 4 months later, a motion in revocation was filed before Her Honour Judge Y, the latter deciding that if defendant did not show up in Court the first time, it was due to the fact that one of their employees was sick.

On June 22, 1988 Mrs P. was advised to appear in Court, which she did, being under the impression that it was only to discuss the motion in revocation.

However, on June the 22, the case was heard by Judge [...], notwithstanding the fact that Mrs P. was in Court without her witnesses and wanted to have a delay in order to have them assigned. She claims that the permission was refused and that she had to proceed. Judgment was rendered by Judge [...], dismissing her case for considerations given in writing.

In order to sustain her claim and also her complaint against Judge [...] Mrs P. showed me a document from the Court written in French and stating:

21 avril 1988 –

L'exécution du jugement rendu le 88-04-03 est suspendue jusqu'à nouvelle décision du Tribunal. Nous vous aviserons ultérieurement de la date d'audition de votre cause.

Le Greffier.

That is why she never worried about the date of the trial and that she confidently waited to be notified to appear in Court, in order to contest the motion in revocation. That was not the case though.

In my view, when Judge [...] made the decision of refusing a delay to plaintiff to have her witnesses in Court, his decision was made within his own jurisdiction; Mrs P. was induced to think that the trial date of June 22, was only to discuss the motion in revocation, because of the document sent to her by the clerk of the Court. I think she had good reasons to complain on that, but this is not within my jurisdiction to decide anything else than if a judge against whom a complaint is filed, did contravene our Code of Ethics.

As in this instance, Judge [...] never did anything against our Code of Ethics, I suggest this Council does not receive the complaint.

QUEBEC, January 16, 1989.