

CANADA
PROVINCE OF QUEBEC

QUEBEC JUDICIAL COUNSEL

CM-8-92-2

MONTREAL, THIS EIGHTEENTH DAY OF
NOVEMBER NINETEEN HUNDRED AND
NINETY-TWO

IN THE CASE OF

M. V.

Plaintiff

vs –

HIS HONOUR JUDGE [...]

Respondent

DECISION

In a letter dated April 26, 1992, and addressed to the secretary of the Quebec Judicial Counsel, Mrs V. was complaining against Judge [...] conduct, in the following manner:

I'm writing in reference to my case no: (...) heard by Judge [...]. Before the case started. I told him that I didnt speak or understand french. He said to me if I spoke just english, it was up to me to have someone there who spoke french. During the hearing, he spoke to my locataire from 15 to 20 minutes at a time in french. She was constanly speaking of me and he was taking notes of what she said. I had no way to reply to anything that she said. He never asked me to reply to anything she said. The hearing started at 9:30 a.m., to 4:15 p.m. All day, they spoke french only. I've had cases before but he is the only one who refuse to explain what was said about me, to me. So I could reply. I'm sure he knows the law, not me. I feel if he didn't want to, he should not have taken my case.

I don't think my hearing was fair because of this and I don't think I received justice.

He also said on the decision (so the best of my ability to read it). The notice to my locataire was not sufficient my notice was a register letter with the date and time as set by the Rental Bd. Before any letter was sent, she and I agree to a date and time also, with a contractor, as I had done always before as she and I agree too.

She refuse to let him do the work because she wanted to sue me for money.

Thank you.

M. V.

According to the content of her letter, plaintiff says she could not benefit of the services of a translator, so she could understand what was going on in Court that day, and concludes that the hearing was not fair. On her second point, she complains about the decision itself. She claims that Judge [...] interpretation of the facts was incorrect.

It would appear that respondant acted against the prescription of the Code of Ethics and more specifically:

Against articles 1 and 5 (Q.R.L. Chap. T-16 sec. 261)

- 1o The Judge should render justice within the framework of the law;
- 5o The Judge should be, and be seen to be, impartial and objective;

The hearing of the tapes pertaining to this case, examination of plaintiff and respondent bring us to the following conclusions.

It is a fact that except for plaintiff's testimony which was given in English, all the evidence brought before the Court was done in french. At a certain time after the hearing was commenced, plaintiff advised Judge that she did not understand french.

It is also a fact that Judge [...] replied she only had "To have someone there, who spoke french. Section 305 of the Code of Civil Procedure states:

"To facilitate the examination of a witness, the Judge may retain the services of an interpreter, whose remuneration forms part of the costs of the case."

So the hearing went on in french for the rest of the case except for plaintiff's testimony which was rendered in english.

After the case was closed, Judge [...] rendered his decision on the bench and in french. When he was asked by plaintiff what the decision was, he summarized in english for her benefit.

These are the facts on the first point.

In our opinion, the presiding Judge did not contravene to the Code of Ethics, because the Code of Civil Procedure does not bind him to retain the services of an interpreter. It is up to him to do so as the Code says: ... "The Judge may ... In this instance Judge [...] decided not to have an interpreter. So he decided within the jurisdiction he had and rendered justice within the framework of the law. Consequently the first part of Plaintiff's letter cannot be sustained by the law. The evidence does not show neither that Judge [...] was partial, at any time during the hearing.

The second point concerns the decision itself which does not satisfy Plaintiff. She claims Judge [...] opinion of the facts was incorrect.

It is not up to this Counsel to decide if the judgment deals correctly with the facts of the case, except when the Judge does not render justice within the framework of law. In this instance It seems clear that it was not the case.

Consequently this second point appears to be an appeal and must be overuled, because this Counsel has no jurisdiction on appeals. This matter belongs to the Superior Court.

Whereas all the facts referred to by Plaintiff do not bring this Counsel to the conclusion that there was any misbehaviour on the part of the Judge.

Whereas the hearing appears to have been conducted according to the rules of our Code of ethics, as there is no evidence to the contrary.

Consequently the Quebec Judicial Counsel declares Plaintiff's claim unfounded.