

File No. MA 025-97
File No. MA 026-97

L. Kamerman)
Mining and Lands Commissioner) Monday, the 14th day
of June, 1999.

THE MINING ACT

IN THE MATTER OF

Mining Claim P-1222832, having been recorded in the name of Reginald James Charron, hereinafter referred to as the "Charron Mining Claim" and Mining Claim P-121594, staked by Frank Racicot, to have been recorded in the name of Frank Racicot, marked "refused", hereinafter referred to as the "Racicot Mining Claim", all of which are situate in the Township of Chester, in the Porcupine Mining Division;

AND IN THE MATTER OF

The appeal of Frank Racicot from the decision of the Mining Recorder for the Porcupine Mining Division, dated the 17th day of June, 1997, to not record a mining claim staked without tags, on the basis that it was not in compliance with clause 2(1)(a) of Ontario Regulation 7/96 and for an Order cancelling the Charron Mining Claim on the basis that its staking was second in priority to the Racicot staking, which forms the subject matter of File No. MA-025-97;

B E T W E E N:

FRANK RACICOT

Appellant

- and -

THE MINISTER OF NORTHERN DEVELOPMENT AND MINES

Respondent

- and -

REGINALD JAMES CHARRON

Party of the Third Part

AND IN THE MATTER OF

Mining Claim P-1215188, situate in the Township of Chester, in the Porcupine Mining Division, to have been recorded in the name of Edward J. Korba, marked "filed only", hereinafter referred to as the "Korba Mining Claim";

AND IN THE MATTER OF

A revised Application To Record Mining Claim P-1222822, situate in the Township of Chester, in the Porcupine Mining Division, staked by Jerry E. Jerome and Reginald James Charron, to be recorded in the name of Reginald James Charron should the Charron Mining Claim be cancelled, hereinafter referred to as the "Charron Restaked Mining Claim";

BETWEEN:

EDWARD J. KORBA

Applicant and Disputant

- and -

REGINALD JAMES CHARRON

Respondent

AND IN THE MATTER OF

Leave of the tribunal to Edward J. Korba, to file a dispute, pursuant to subclause 48(5)(c)(i), in the event that the appeal is dismissed and the hearing of the dispute to be transferred to the tribunal pursuant to subsection 110(2) of the **Mining Act**, through consent or alternatively order of the tribunal;

AND IN THE MATTER OF

The hearing of the dispute of Edward J. Korba against the Charron Mining Claim, should the appeal of Frank Racicot in File No. MA 025-97 be dismissed.

INTERLOCUTORY ORDER

WHEREAS this tribunal issued an Interlocutory Order dated the 17th day of July, 1997, in File No. MA 026-97 that the question of leave to appeal by Edward J. Korba would be determined after a final determination in the appeal of Frank Racicot regarding File No. MA-025-97;

AND WHEREAS section 117 of the **Mining Act** gives the tribunal the power to hear and dispose of any application not involving the final determination of the matter without notice and further provides that where such decision is made without notice, the tribunal may later reconsider such decision;

AND WHEREAS the tribunal made its decision of the 17th day of July, 1997, in File No. MA 026-97 which did not involve the final determination of the matter, such decision having been made without notice;

1. THIS TRIBUNAL ORDERS that its decision regarding the request by Edward J. Korba for leave to appeal, dated the 17th day of July, 1997, be and is hereby rescinded.

2. THIS TRIBUNAL FURTHER ORDERS that leave to file a dispute pursuant to subclause 48(5)(c)(i) be and is hereby granted to Edward J. Korba.

3. THIS TRIBUNAL FURTHER ORDERS that the matter of the Korba dispute be dealt with at first instance by the tribunal, pursuant to subsection 110(2) of the **Mining Act**.

4. THIS TRIBUNAL FURTHER ORDERS AND DIRECTS that the appeal of Frank Racicot and the dispute of Edward J. Korba be heard in common, pursuant to section 9.1 of the **Statutory Powers Procedure Act** and clauses 116(1)(a), (b) and (c) of the **Mining Act**.

AND TAKE NOTICE that filings have taken place in the matter of Tribunal File No. MA 025-97 as between the Appellant, Frank Racicot, Respondent, Ministry of Northern Development and Mines, and Party of the Third Part, Reginald James Charron, copies of which will be provided to Edward J. Korba with the issuance of this Interlocutory Order;

AND TAKE FURTHER NOTICE that this tribunal will be appointing a date for a Procedural Telephone Conference Call in consultation with all of the parties to File Nos. MA 025-97 and MA 026-97, to discuss and determine:

1. the filing of documents and timing for the dispute between Edward J. Korba and Reginald James Charron;

AND TAKE FURTHER NOTICE that the tribunal has determined that the issue of how to stake an irregular portion of land coming open for staking in unsurveyed territory, such land not being uniformly divisible into units of 16 hectares, more or less, will be one of the issues to be determined at the hearing of this appeal and dispute, and in this regard provides all parties with copies of its decision in **Moneta Porcupine Mines & Thomas A. O'Connor v. Michael Tremblay**, (unreported), February 4, 1999, File No. MA 016-98 as an illustration of the issues encountered in such situations and further advises that the Procedural Telephone Conference Call will be used to:

2. discuss and determine the necessity for further filings by all parties to this appeal and dispute, and setting of dates, should such filing be deemed necessary.

DATED this 14th day of June, 1999.

Original signed by

L. Kamerman
MINING AND LANDS COMMISSIONER