

File No. MA 004-99

L. Kamerman
Mining and Lands Commissioner

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Monday, the 10th day
of May, 1999.

THE MINING ACT

IN THE MATTER OF

Mining Claims S-1197394 and 1224158, recorded in the name of Robert Gerald Komarechka, situate in the Township of Mattawan, in the Sudbury Mining Division, hereinafter referred to as the "Komarechka Mining Claims";

AND IN THE MATTER OF

An application under section 105 of the **Mining Act** for the removal of the February 6, 1998 "Memo of Agreement" notation from the abstracts of the Mining Claims involving an option agreement dated January 29, 1998, between Robert Gerald Komarechka and Bernadette Teresa Berry, hereinafter referred to as the "Berry Agreement", and a declaration that the option agreement be declared null and void.

B E T W E E N:

ROBERT GERALD KOMARECHKA
Applicant

- and -

BERNADETTE TERESA BERRY
Respondent

ORDER

WHEREAS THIS APPLICATION with material filed in support, was received by this tribunal on the 19th day of January, 1999, from the Applicant, Mr. Robert Gerald Komarechka;

AND WHEREAS this tribunal issued an Order To File documentation on the 10th day of February, 1999, requiring the Applicant to file his documentation by no later than the 19th day of March, 1999 and the Respondent to file her documentation by no later than the 19th day of April, 1999;

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AND WHEREAS this tribunal served its aforesaid Order To File documentation upon the Applicant by registered mail and upon the Respondent by registered mail, regular mail and courier;

AND WHEREAS the Order To File documentation which was served upon the Respondent by registered mail, regular mail and courier was returned unopened on the 17th day of February, 1999;

AND WHEREAS the Applicant filed his documentation further to the tribunal's Order To File on the 3rd day of March, 1999;

AND WHEREAS the Respondent did not file any documentation but did write to the tribunal on the 8th day of March, 1999 and indicated that she wished "to wash my hands of this industry completely at this time in order to preserve my life and health ...";

AND WHEREAS the Applicant informed the tribunal on the 8th day of April, 1999, that the documentation which he sent to the Respondent via Registered Mail was returned unclaimed;

AND WHEREAS the tribunal wrote to the Respondent on the 27th day of April, 1999, to inform her that if she did not contact the tribunal within ten days, being on or before the 7th day of May, 1999, that an Order granting this application would be issued;

AND WHEREAS the Respondent did not contact the tribunal concerning the tribunal's correspondence of the 27th day of April, 1999;

AND WHEREAS the tribunal, through its Registrar, Mr. Daniel Pascoe and the Applicant, Mr. Robert Gerald Komarechka, attempted to contact the Respondent on a number of occasions via correspondence, telephone and facsimile;

AND WHEREAS the Respondent has not returned any telephone calls, facsimiles or correspondence from either the Applicant or the tribunal and appears to have no intention of participating in these proceedings despite all reasonable efforts to contact her;

AND FURTHER TO the absence of any evidence from the respondent;

1. THIS TRIBUNAL ORDERS that this application be and is hereby granted and that the notation "Memo of Agreement: Komarechka Robert Gerald (153168) and Berry Bernadette Teresa (302858)" be removed from the abstracts of the Komarechka Mining Claims.

2. THIS TRIBUNAL FURTHER ORDERS that the Berry Agreement is hereby declared null and void.

3. THIS TRIBUNAL FURTHER ORDERS that this Order be filed without fee, in the Office of the Provincial Mining Recorder in Sudbury, Ontario, pursuant to subsection 129(4) of the **Mining Act**.

DATED this 10th day of May, 1999.

Original signed by

L. Kamerman
MINING AND LANDS COMMISSIONER