

File No. MA 001-01

L. Kamerman)
Mining and Lands Commissioner)

Friday, the 14th day
of September, 2001.

THE MINING ACT

IN THE MATTER OF

Mining Claim L-1239268, situate in the Township of Dokis in, in the Larder Lake Mining Division, staked on November 30, 2000, by Yvon Michael Gagne and Jim Harold Forbes, recorded on December 8, 2000, in the name of Yvon Michael Gagne, hereinafter referred to as the "Mining Claim";

AND IN THE MATTER OF

An application under section 105 of the **Mining Act** for the transfer of ownership of the Mining Claim from the Respondent, Yvon Michael Gagne to the Applicant.

B E T W E E N:

ERIC JOSEPH MARION

Applicant

- and -

YVON MICHAEL GAGNE AND JIM HAROLD FORBES

Respondents

DIRECTION

WHEREAS the hearing of this matter was held in Kirkland Lake, Ontario, on the 22nd day of August, 2001, **THE PARTIES ARE HEREBY ADVISED AS FOLLOWS:**

1. THIS TRIBUNAL ADVISES that it heard the following evidence from Mr. Yvon Michael Gagne during the hearing:

" Of all the years those companies were the only thing they were interested in the whole township was the copper showing.

So what I did, I just staked the same ground that these companies had. I got maps - I got part of the reports of their drawing, their trenching, their sampling, the work they did against those claims, So actually there were other people there prior to myself. And I'm sure Eric Marion was aware of this because he had the files in his possession for six weeks.

On page 28 [of his submission], on November 10th I went to the Mining Recording Office to buy six Township maps. And I noticed Lucas {Dokis?} Township, that most of the ground is open. And I went to look at the file and the file was gone so I asked the girl, I said "Where's the file?" I thought maybe they misplaced them.

So she looked at the sign-out slip and she never told me who it was, but I found out later that Eric Marion had those files for six weeks.

When a person has those files for six weeks and he can't make up his mind whether he's going to go stake that copper showing or not.

Anyway, I got the files back and I looked at it and I decided the next day I think - that was a weekend - so I contacted Jim Forbes to go and help me stake the copper showings and Jimmy said "Sure." Come and stake with me - I didn't say where I was going, I just said I'm going to stake some claims and he says "Okay."

Prior to that Eric Marion got wind of it, that we were going out to stake some claims - somehow he found out where we were going so he had knowledge, two to three days prior to our staking, that we were going into Dokis Township. Eric even phoned my house two or three times about - "Are you guys going to go to stake the copper showing?" I said, "Yes, I hired Jimmy. Oh." I said, "Do you want to come in with me? Well, no I don't really want to." I said, "Do you want to go half with me to stake that property? No I don't mind, no you go ahead."

...

On the last page, 32, when the Mining Recording Office phoned Eric to bring those files back he still had six days to go stake those claims. When the Mining Recording Office phones you and tells you to bring the files back, well you know that somebody is looking at those claims. So what do you do? You bring the files back, you go home, grab your axe and you go stake them. You don't stay at home for six days and twiddling your fingers and "What am I going to do here?"

That's the main thing - that's why I went to stake it because there was a copper showing. It had nothing to do with Eric Marion's work up there. That's basically it.

2. THE TRIBUNAL FURTHER RECEIVED in evidence which was filed on page 28 of Mr. Gagne's documents (Ex. 4), the following text:

On November 20th, 2000, I went to the mining recording office in Kirkland Lake, to buy six township claim maps. Dokis township was one of these maps. I have a receipt for the purchase. I returned to the mining office on Friday November 24th to research some of the files, after viewing the plastic overlays of Dokis township. There was an area of diamond drilling I was interested in. I could not find the files. I asked the woman employee if the files had been misplaced. She checked and discovered that the relevant files were signed out on October 16th, 2000 and had not been returned. This represents a period of six weeks that the files were out. It is my understanding that they are not to be out of the office more than three days. The employee said that she would phone and would explain to client with files that another client was interested in them and request that he return them as soon as possible.

On Monday November 27th, 2000 I received a call from the mining office employee saying that the files had been returned. I went in early the next morning to look at them. The claims map indicated that the ground was open for staking.

I contacted Jim Forbes asking him to help me stake the ground. Jim and I have staked claims together for years, and to him it was just another job. He has no personal interest in that property.

3. PURSUANT TO SUBSECTION 119(1) OF THE MINING ACT, the tribunal has obtained and is advising the parties of information that it has obtained from the Resident Geologist's Office, Kirkland Lake, Ontario pertinent to this proceeding, copies of which are attached to this direction:

Attached to this Direction are Sign-Out documents for Assessment File KL-1716, relating to Dokis Township. Included are:

- a) Signing out of File KL-1716 by Eric Marion on October 16th, 2000, returned November 28th, 2000
- b) Signing out of File KL-1716 by Yvon Gagne on December 1st, 2000, returned December 4th, 2000; and
- c) Signing out of File KL-1716 by Yvon Gagne on February 20th, 2001, returned February 22nd, 2001.

4. THE TRIBUNAL NOTES certain discrepancies between the dates shown above, and in particular, notes the following:

- a) that Mr. Gagne could not have seen the relevant files any time prior to November 29th, and most likely could have viewed them on the 28th or 29th;
- b) that Mr. Gagne stated that he decided after the day he viewed the file that he would stake the Mining Claim;
- c) that Mr. Gagne thought that the day after he viewed the file was the weekend, but in fact, November 28th, 2000 was a Tuesday and the staking took place on Thursday, the 30th day of November, 2000;
- d) that the Resident Geologist has advised the tribunal that it does not keep records or logs of those viewing files within their offices;
- e) that Mr. Gagne did not sign out the relevant file until December 1st, 2000, being the day after the day the staking took place;
- f) that Mr. Gagne indicated that Mr. Marion found out some several days before the staking took place that he intended to stake and yet it does not appear that there was sufficient time to view the files, thereby casting the chronology set out into doubt.

5. THIS TRIBUNAL HEREBY DIRECTS Mr. Gagne to explain through providing further evidence in writing concerning the discrepancies listed in paragraph 4 above, and in particular requires his evidence on the following, providing a copy of his responses to the applicant, Eric Marion, no later than the 28th day of September, 2001:

- a) Did Mr. Gagne view the file in the Office of the Resident Geologist prior to December 1st, 2000?
- b) If the answer to question 5(a) above is yes, then why did Mr. Gagne not sign out the file at that time?
- c) If the answer to question 5(a) above is yes, to whom did Mr. Gagne speak in the Resident Geologist's Office and did he attend the office alone?
- d) If the answer to question 5(b) is no, on what information did Mr. Gagne base his decision to stake the Mining Claim?
- e) Any further explanation or information which Mr. Gagne wishes to provide, including but not limited to how Mr. Gagne proposes the tribunal treat the newly provided information.

6. THE TRIBUNAL FURTHER DIRECTS the applicant, Mr. Eric Marion, to respond to the information and explanation, including but not limited to how Mr. Marion is asking the tribunal to treat the information and explanation, a copy of which is to be filed with the tribunal with a copy provided to Mr. Gagne, no later than the 12th day of October, 2001.

DATED this 14th day of September, 2001.

Original signed by

L. Kamerman
MINING AND LANDS COMMISSIONER