

**Mining and Lands Tribunal**  
Tribunal des Mines et des Terres



**ISSUE DATE:** May 16, 2018

**CASE NO.:**

MA 003-17

**PROCEEDING COMMENCED UNDER** section 68 of the *Mining Act*, R.S.O. 1990, c. M.14, as amended

**Applicant(s):** Bernard James Bryan, Jeffrey Allan Bryan and John Robert Little  
**Respondent(s):** Estate of Edwin Lloyd Speelman and Frederick William Chubb  
**Subject:** Application to vest the Mining Claim interests of Edwin Lloyd Speelman, deceased and Frederick William Chubb, in the Applicants  
**Mining Claims:** P-1094717 to 1094724, both inclusive and 1191435, situate in the Township of Chester, Porcupine Mining Division  
**MLT Case No.:** MA 003-17  
**MLT Case Name:** Bryan v. Speelman (Estate)  
**Heard:** In writing

**ORDER OF THE TRIBUNAL DELIVERED BY JERRY V. DEMARCO**

**REASONS**

**Background**

[1] Edwin Lloyd Speelman (MNDM Client #196301), listed as the recorded holder of a 20% interest in Mining Claims P-1094717 to 1094724, both inclusive and 1191435, situate in the Township of Chester, in the Porcupine Mining Division (“Mining Claims”) died on May 8, 2015. Mr. Speelman resided in Mississauga, Ontario but in 1995, relocated to Evergreen, Montana.

[2] Frederick William Chubb (MNDM Client #118178), listed as the recorded holder of a 15% interest in the same Mining Claims referred to above is missing and is presumed by the applicants, staff at the Provincial Recording Office, Ministry of Northern Development and Mines and members of his extended family, to be deceased. Mr. Chubb's last known address was in New Lowell, Ontario. All efforts of the applicants, Mr. Chubb's extended family and the Tribunal to locate Mr. Chubb have been unsuccessful.

[3] An application under s. 68 of the *Mining Act* for a vesting order of the interests of both Messrs. Speelman and Chubb in the Mining Claims, with supporting documentation, was received from Bernard James Bryan, Jeffrey Allan Bryan and John Robert Little, by the Office of the Mining and Lands Commissioner (now the Mining and Lands Tribunal) on July 24, 2017 and May 1, 2018.

## Relevant Legislation

### *Mining Act*

**68** Where two or more persons are the holders of an unpatented mining claim, they shall contribute proportionately to their respective interests, or as they otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year's rental of a lease, and, in case of default by any holder, the Tribunal, upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as it considers just.

**121** The Tribunal shall give a decision upon the real merits and substantial justice of the case.

## Analysis

[4] All documentation required by the Tribunal was filed on July 24, 2017, May 1, 2018 and May 8, 2018. In support of the application, the applicants set out in Affidavits, dated July 13, 2017 for Bernard Bryan and Jeffrey Bryan and July 18, 2017 for John Little, that they own 22.5%, 22.5% and 20% of the Mining Claims, respectively and that Mr. Speelman owns 20% of the Mining Claims and further, that their affidavits were made for the purpose of applying under section 68 for an order vesting Mr. Speelman's interest in them (being 35% in each of Bernard and Jeffrey Bryan and 30% in John Robert Little, respectively). Mr. Bryan also filed a second affidavit, dated May 1, 2018,

with the knowledge of the other applicants, requesting that each applicant also receive 5% of Mr. Chubb's 15% ownership.

[5] Ms. Penny Leatzow, counsel, for the Estate of Edwin Lloyd Speelman, practices in Kalispell, Montana. Ms. Leatzow informed the Tribunal that Mr. Speelman died intestate, that he had never married and that he had no children. Ms. Leatzow also confirmed in an email on May 8, 2018, that she had no objection to the granting of this application by the Tribunal.

[6] The Tribunal notes that Bernard Bryan undertook extensive best efforts to locate Mr. Chubb over a period of years and that he has been missing since at least 1995.

[7] Abstracts for the Mining Claims which form the subject matter of this application, dated April 25, 2018, set out that Edwin Lloyd Speelman is deceased. The abstracts also confirm numerous transactions outlining the performance and filing of prescribed assessment work by the applicants from 1995 to the date of this application. Further, Mr. Bernard Bryan confirmed in his affidavits that both Mr. Speelman and Mr. Chubb had not performed any work on the Mining Claims from 1995 onwards, nor had they paid for any of their proportionate share of assessment work as co-holders.

[8] Mr. Speelman has been deceased for a period of more than one year. After this period of time, the legislative freeze imposed by section 74 lapses and other sections of the *Mining Act* become operational.

[9] Mr. Chubb's whereabouts is unknown. Furthermore, it cannot be confirmed whether he is alive or deceased. In addition to the efforts of the applicants to locate Mr. Chubb, Tribunal staff contacted both his sister-in-law (who was married to his late brother) and his niece in Spruce Grove, Alberta, who could confirm only that Mr. Chubb never married, had no children, had been missing for many years and was presumed deceased. Staff from the Ministry of Northern Development and Mines informed the Tribunal that they believe that Mr. Chubb is deceased, although no documentation could be provided by any of the aforementioned sources to substantiate this claim.

[10] This matter is a case in which two of the co-owners of the Mining Claims, whether they are deceased or not, have been in default of their obligation to pay and/or to perform their proportionate share of assessment work, within the meaning of section 68 of the *Mining Act*.

[11] The Tribunal has determined that it will make its decision on the real merits and substantial justice of this application, pursuant to section 121 of the *Mining Act*. The Tribunal finds that the application will be granted and that it will vest the interest of Edwin Lloyd Speelman, deceased and Frederick William Chubb in the applicants.

[12] The Tribunal notes that the applicants are not seeking an extension of time in which to perform and file prescribed assessment work on the Mining Claims, that they have kept the Mining Claims in good standing and that the due dates for the Mining Claims are in 2021 and beyond.

[13] The Tribunal notes that after the issuance of this Order, the ownership of the Mining Claims will be as follows: Bernard James Bryan (34.5%), Jeffrey Allan Bryan (34.5%) and John Robert Little (31.0%).

## **ORDER**

[14] The Tribunal directs that the interest of Edwin Lloyd Speelman, deceased, in the Mining Claims, be and is hereby vested in the applicants, being Bernard James Bryan (7%), Jeffrey Allan Bryan (7%) and John Robert Little (6%), respectively, corresponding to 35%, 35% and 30% of Mr. Speelman's 20% ownership, respectively, pursuant to s. 68 of the *Mining Act*.

[15] The Tribunal further directs that the interest of Frederick William Chubb in the Mining Claims, be and is hereby vested in the applicants, being Bernard James Bryan (5%), Jeffrey Allan Bryan (5%) and John Robert Little (5%), respectively, corresponding to 33.33% each of Mr. Chubb's 15% ownership, pursuant to s. 68 of the *Mining Act*.

[16] The Tribunal further directs that no costs shall be payable by any party to this application.

[17] The Tribunal further directs that, pursuant to section 129(4) of the *Mining Act*, a copy of this Order shall be forwarded to the Provincial Mining Recorder who is hereby directed to amend the records in the Provincial Recording Office as necessary and in accordance with section 129(4).

*“Jerry V. DeMarco”*

JERRY V. DEMARCO  
EXECUTIVE CHAIR

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**Mining and Lands Tribunal**

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