

***METIS SETTLEMENTS ACT***  
**METIS SETTLEMENTS APPEAL TRIBUNAL**

Between:

**Ross Joseph Collins**

Appellant

-and-

**Settlement Council for Elizabeth Métis Settlement**

Respondent

And

Dennis Wells

Affected party

Concerning a Land dispute on the Elizabeth Metis Settlement

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**DECISION**

## **The Hearing**

### **Appeal heard by the following members of the Metis Settlements Appeal Tribunal:**

Lorne Dustow, Panel Chair  
Harvey Anderson, Panel Member  
John Brosseau, Panel Member

### **Parties present at the hearing:**

Ross Collins, Appellant

Norma Collins, sister of Ross Collins

Elizabeth Metis Settlement, Respondent

Represented by: Archie Collins, Chairman  
Zane Collins-Vice-Chair  
Rick Blyan-Councillor  
Sylvia Desjarlais-Councillor  
Ann Swan- Land & Membership Clerk

### **MSAT staff present:**

Harry Cunningham-Dispute Resolution Officer

### **Place and date of the Hearing:**

MSAT Office, Edmonton, Alberta  
June 08, 2006

### **Objections to the Panel:**

The Panel Chair asked if there were any objections to the composition or jurisdiction of the Panel. There were no objections.

## Background

On June 13, 1995 a request to register an interest form, Métis Settlements Land Registry (MSLR) Form MSLR01, was completed.

On April 14, 1997 Ross Collins was advised by letter from the MSLR his interest in the land was registered July 05, 1995 and his provisional Métis title (PMT) expires on June 12, 2000.

On April 17, 2000 he was advised by letter from the MSLR that his PMT interest expires on June 12, 2000.

On September 23, 1985 Ross Joseph Collins, a member of the Elizabeth Métis Settlement, applied for an allocation for land legally described as NE-35-60-01-W4M. He indicated he inherited the interest from his late father, Frank Collins. He advises his late father used the land for haying, hunting and trapping.

On November 27, 1985 he was granted a permit to enter the land by memorandum and the interest was registered under his name.

On May 23, 1995 he applied to convert his allocation to Métis title.

On June 13, 1995 a letter from the Elizabeth Métis Settlement advised him his application to convert was approved and he was granted PMT.

On June 13, 1995 he signed a Memorandum of Provisional Métis Title.

On June 12, 2000 he made an application to re-new his PMT interest. He was granted an extension to June 11, 2005. MSLR form was completed.

On July 25, 2000 he was advised by letter from the Métis Settlements Land Registry his PMT interest was renewed and would expire on June 11, 2005.

On September 29, 2003 a descriptive plan was done to sub-divide a 10.03 acre lot from the quarter to accommodate a house belonging to Norma Collins, sister of Ross Collins.

On December 15, 2003 a letter was sent to the Elizabeth Métis Settlement from Land Registry advising the sub-division plan was registered as Plan 900357, a certified copy of Metis title was attached.

On April 28, 2005 Ross Collins was advised by letter from Land Registry his PMT interest on NE-35-60-01-W4M would expire on June 11, 2005.

On August 14, 2005 Dennis Wells, a member of the Elizabeth Métis Settlement, applied for the land to be posted.

On January 16, 2006 Ross Collins was advised by letter from the Land Registry his PMT interest expired and cancelled accordingly.

On January 31, 2006 Council for Elizabeth Métis Settlement passed a resolution to post the land as available. On the same day Ross Collins applied for the land.

On February 01, 2006 a notice of available land was posted with an application deadline set for February 14, 2006.

On February 10, 2006 Dennis Wells submitted his application for the land.

On February 28, 2006 by Settlement Council Resolution the land was awarded to Dennis Wells.

On March 01, 2006 Ross Collins was advised by letter from the Elizabeth Settlement Land Clerk his application for the land was denied and Council for Elizabeth Metis Settlement awarded the parcel to another member.

On March 13, 2006 Ross Collins went to the office of the Métis Settlements Appeals Tribunal to file an appeal relating to Settlement Council's decision.

### **Jurisdiction**

The Tribunal has jurisdiction to hear this appeal according to section 189(1) (b) of the *Metis Settlements Act*, which states:

#### **Responsibilities**

##### **189(1) The Appeal Tribunal**

- (b) must hear appeals and references and perform any other function given to it or required to be performed by it under the regulations, bylaws or General Council Policies;

And section 8.1 of the Métis Settlements General Council Land Policy, which states:

#### **8.1 Right to Appeal**

- (1) Wherever this Policy requires the General Council or a settlement council to make a decision related to the granting, transfer, or termination of interests in land in the settlement area, any person affected by the decision, or lack of a decision, can appeal in writing to the Appeal Tribunal.

## Summary of Evidence

### Appellant's Testimony

Ross Collins stated he presently lives in Edmonton to obtain education through an apprenticeship. He intends to return to Elizabeth in the future. Presently there is no work for him in Elizabeth. Also the house he had is not livable and is over 25 years old.

His late father wanted him to have the land and he wants to keep the land in the family. His family used the land for haying, hunting beaver, trapping and big game hunting.

The land is fenced on two sides by occupants of bordering lands. A house was built on the land in 1997 for his brother, Myles Collins. Myles died in 1999 and the house was sold without Ross's knowledge. The land was not subdivided for Myles Collin's house until after its construction, although Ross gave verbal permission for the house to be built there.

When he converted the land he was confused about Métis title and PMT. He was told after his PMT expired; the only way he could get the land back was to have it posted.

### Norma Collins Testimony

Norma Collins stated Ross inherited the land from their father. She bought the Myles Collins house and had the land where it sits, subdivided.

She believes most people do not understand the difference between PMT and MT. She believes Ross should have received Métis title after his first PMT expired, as there was a house on it. She quoted Section 5.2(2) (e) (i) Metis Settlements Land Registry. She believes all of the transactions concerning the house are void as the transactions were not done to include the land. She expressed her opinion that full explanations of MT and PMT should have been given to Ross upon conversion and that the conversion should have been to MT not PMT in the first instance. The land was being used for cultural activities such as berry picking and a lot of people including her were picking berries on that land.

### Respondent's Evidence

#### Archie Collins Testimony

Archie Collins stated land is never sold in the Settlements; only the improvements are for sale. When the PMT expired the appellant was notified. The land was posted, applied for, and the Council gave the land to the member who can best use it.

The house on the land was built for Myles; the brothers must have had an agreement for the house to be built there.

Elizabeth Council never sold Myle's house. Individuals make deals without involving Council. Any subdivisions are the responsibility of the landowners. In this case no sub-division authority was given until after the house was built. When the second PMT expired the land was posted.

### **Zane Collins Testimony**

He believes Council followed due process to make the decision as to who gets the land. Ross did not make any improvements to the land and didn't do anything until land was given to someone else. Zane stated it is the responsibility of every settlement member to understand due process.

### **Ann Swan Testimony**

Ann indicated the subdivision request for the Myles Collins house was done by telephone on Aug 06, 2003.

### **Dennis Wells Testimony**

Dennis Wells stated he applied for the land when it was posted. He is raising horses and he wants the land as it has water he can use for his livestock. He has long range plans for trail riding business in the area. He is building picnic grounds on it. He will not harvest trees in the area as the land is not viable for logging. He states there are no berries in that quarter. Wells noted in Tab 1 of the hearing package the land was given to Ross for the purpose of ranching/farming.

The hay grounds that may have been on the land are no longer there, as it has grown in. He believes the land can only sustain 8 head of horses at the most 4-5 months. No improvements to the land were done; there are some old trails on the property that he can use.

The land is there for the benefit of the Settlement members and it will help him with his business. He raises horses on his own, with no help from anyone. He saw the land sitting there and not being used so he applied for it.

### **Findings of Fact**

Mr. Ross Collins held the land in question for approximately 10 years prior to application for conversion to a PMT in 1995. Mr. Collins held the land through the initial 5 year PMT. When the PMT was about to expire, Elizabeth Métis Settlement Council considered and approved an extension to the PMT for another 5 years. The second PMT period expired on June 11, 2005. During that time, Ross had not made any significant improvements to the land.

During the hearing it came to the Tribunal's knowledge that a house was built for Ross's brother Myles Collins in 1997. Ross agreed he had given his brother permission to build the house on the land.

Elizabeth Métis Settlement Council followed procedure for allotting land that a member had applied for. Notice of available land was posted. Two members applied, Mr. Ross Collins and Mr. Dennis Wells. Council met at an appropriate time after the applications were received to decide the matter.

### **Decision**

The Panel invokes MSA section 190(1)(k) and confirms the decision made by the Elizabeth Métis Settlement Council in granting PMT for NE-35-60-1-W4M to Dennis Wells.

### **Reasons**

Mr. Ross Collins held the land in question for approximately 10 years prior to application for conversion to a provisional Métis title (PMT) in 1995. Mr. Collins held the land through the initial 5-year PMT. When the PMT was about to expire, Elizabeth Métis Settlement Council considered and approved an extension to the PMT for another 5 years. According to the General Council Land Policy (GCLP) section 3.3, a member can only hold land under a PMT for a maximum of 10 years. Mr. Collins received notice that his second PMT was about to expire. Prior to the end of 10 years under a PMT, the occupant has the option of applying for a Certificate of Métis Title (CMT) provided improvements were made to the land. Mr. Collins chose not make improvements. Instead his PMT expired and he re-applied for the land under a PMT.

Elizabeth Métis Settlement Council followed the correct procedure for allotting land that a member had applied for. Notice of available land was posted. Two members applied, Mr. Ross Collins and Mr. Dennis Wells. Council met at an appropriate time after the applications were received and allotted the land to the member they felt would make the best use of it.

### **Order**

The Tribunal orders the Métis Settlements Land Registrar to record a PMT for the NE-35-60-1-W4M in the name of Dennis Wells effective February 28<sup>th</sup>, 2006.

Dated in the City of Edmonton in the  
Province of Alberta on the 28<sup>th</sup> day of  
July, 2006.

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Lorne Dustow, Panel Chair