

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2018] NZEnvC209

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under section 315 of the Act
BETWEEN NELSON CITY COUNCIL
(ENV-2018-CHC-177)
Applicant
AND PETER GREGORE BAILEY
First Respondent
AND LOUISE EVELINE HAYES
Second Respondent

Court: Environment Judge J R Jackson
(Sitting alone under section 309 RMA)

Hearing: In Chambers at Christchurch

Date of Decision: 19 October 2018

Date of Issue: 19 October 2018

ORDERS UNDER SECTION 315(2) RMA

A: Under section 315(2) of the Resource Management Act 1991 the Environment Court consents to:

- (1) the Nelson City Council complying with Order A.1 of [2018] NZEnvC 165 by its officers, employees or contractors specifically by entering upon the property at 65 Wellington Street, Nelson and removing the chiller unit structure from the property;



- (2) the Nelson City Council selling or otherwise disposing of the chiller unit and retaining any moneys received from the sale of the chiller unit structure;
- (3) the Nelson City Council recovering any costs and expenses of complying with the order after allowing for money recovered from the sale of the chiller unit structure, as a debt due from the respondent.

B: The Nelson City Council is to:

- (1) serve Mr Bailey with this consent at least five (5) working days before it acts upon Direction [A]; and
- (2) lodge an affidavit of service promptly thereafter.

C: Under section 281 of the Resource Management Act 1991 the court extends the period for the Nelson City Council to make an application for costs under section 285 of the Act to 24 October 2018.

REASONS

Introduction

[1] On 6 September 2018 the Environment Court ordered that Peter Gregore Bailey was to¹:

- (1) remove the chiller unit structure from 65 Wellington Street, Nelson (“the property”) within **two weeks** after service of the order of the court; and
- (2) cease placing on the property any other structure or other structures which contravene the rules of the Nelson Resource Management Plan **immediately** after service of the order of the court.

[2] The orders relate to a property at 65 Wellington Street, Nelson. The legal description is Lot 2 DP 1742 (NL 64/200) and the registered proprietors are the first respondent and Ms Louise Eveline Hayes, the second respondent.



¹ [2018] NZEnvC 165.

[3] The respondents were required by Order A.1 to remove the structure within two weeks of the service of the order of the court. Service took place on 12 September 2018 and the structure was required to be removed by 28 September 2018.

[4] The affidavit by Mr N W Henderson, an Enforcement Officer of the Council², confirms that the structure had not been removed from the property at 5 October 2018.

Orders sought

[5] The Council has now applied for the following orders under section 315(2) of the RMA, allowing the Council to:

- comply with Order A.1 on behalf of the respondent by its officers, employees or contractors by entering upon the property at 65 Wellington Street, Nelson and removing the structure;
- sell or otherwise dispose of the structure and retain any moneys received from the sale of the structure;
- recover any costs and expenses of complying with the order and allowing for moneys recovered from the sale of the structure, as a debt due from the respondent.

[6] Since the respondents have taken no step at any stage and have ignored all notices to them, both before and after the issue of this proceeding, I consider it is appropriate to make the orders sought.

Costs

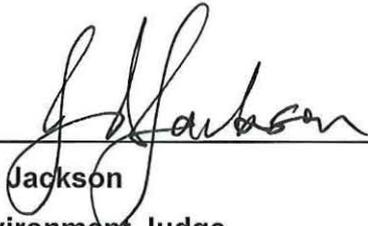
[7] The Council also seeks an extension of the timeframe to make an application for costs under section 285, to 24 October 2018 or any date that the court sees fit.

[8] The application for an extension of time to seek a costs order is granted.



² Second affidavit of N W Henderson.

[9] The Council advises it believes Ms Hayes has not resided at the property for some time. It would be appropriate in the first instance for any costs' application not to apply to her (unless the Council wants a charge on the property).



J R Jackson
Environment Judge

