

Federal Court



Cour fédérale

Date: 20160923

Docket: T-227-13

Citation: 2016 FC 1080

Ottawa, Ontario, September 23, 2016

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

**JOANNE SCHNURR ON HER OWN BEHALF
AND AS A REPRESENTATIVE PLAINTIFF**

Plaintiff

and

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA**

Defendant

JUDGMENT

IT IS ORDERED AND ADJUDGED that:

1. Judgment is in favour of the Plaintiff;
2. The answers to the Common Questions are:
 - a) Question 1: Were the representative plaintiff and other Class Members entitled to institute this action under the terms of the 1980 Leases, despite

not having paid the increased rent before the action was instituted, in circumstances where the rent increase was set out in notices sent to them by the Sakimay First Nations [Sakimay] in late November 2009?

Answer: Yes.

- b) Question 2: If the answer to Question 1 is “No”, does the conduct of Sakimay and/or the defendant – in providing the members of the class (or their predecessors) with documents that contemplate commencing payment of the increased rent after January 1st – entitle the Class Members to relief from the strict requirements of the 1980 Leases, through relief from forfeiture or application of the doctrines of waiver or estoppel?

Answer: Inapplicable.

- c) Question 3: What is the appropriate methodology or formula under the 1980 Leases for determining the fair market rental value of each of the Class Members’ leased properties for the period from January 1, 2010 to December 31, 2014?

Answer: The methodology adopted by the Plaintiff’s appraiser.

3. The Court retains jurisdiction in this matter; and
4. There are no costs.

“Michael L. Phelan”

Judge