

THE HIGH COURT**JUDICIAL REVIEW****[2015 No. 618 JR]****BETWEEN****JOHN GAYNOR****APPLICANT****AND****THE COURTS SERVICE AND THOMAS KINIRONS****RESPONDENTS****AND****NOEL SHERIDAN AND PETER QUINN****NOTICE PARTIES****EX TEMPORE JUDGMENT of Mr. Justice Richard Humphreys delivered on the 30th day of November, 2015**

1. This application arises out of a dispute that has been going on for quite some time. I have been presented with 22 orders from the High Court and Court of Appeal, dated prior to my order of the 23rd November, 2015. I do not have to enter into a consideration of these orders in detail as I am dealing only with whether Mr. Gaynor should be granted leave in accordance with his Statement of Grounds.

2. A bankruptcy summons was issued against the applicant on the 15th June, 2015 and it was served personally on him on the 18th June, 2015. Mr. Gaynor then had 14 days to file an application to set aside the summons, which, representing himself, he endeavoured to do on the 2nd July, 2015 (being the 14th day) by attempting to lodge Form 6. However, it is clear from O. 76, r. 15 that an applicant who wishes to apply to dismiss a bankruptcy summons is required to file both Form 6 and Form 7. The applicant only sought to file Form 6 and did so on the last day possible, which hampered the rectification of the matter. It was open to the applicant to apply to court to seek to extend the 14 days, but he did not do so.

3. It is accepted on behalf of the Courts Service and the Notice Parties that the only document giving information to the applicant as to the difficulty thus created was a letter of Thomas Kinirons, to Mr. Gaynor, dated 15th October, 2015. The letter outlined to Mr. Gaynor that in order for him to dismiss a bankruptcy summons, he must file a "notice of application to dismiss a bankruptcy summons" which is Form 7 of Appendix O to the Rules of the Superior Courts. The letter goes on to state that as Mr. Gaynor did not have such a notice on the day he attended, he instead brought an affidavit, it was not possible to issue his application to dismiss the bankruptcy summons.

4. While that letter may have conveyed a certain amount of information, and clearly implied that both forms were necessary, it did not expressly state, in terms that could not possibly be misunderstood by a lay litigant, that both Form 6 and Form 7 were required, nor did it advise Mr. Gaynor of the possibility of extending the 14-day time limit by making an application to the court.

5. However, since this difficulty arose, Costello J. has ruled, in the course of dealing with the bankruptcy matter, that any point Mr. Gaynor could have raised by application to set aside the summons can now be raised as a defence to the bankruptcy summons. In light of that ruling, which is accepted by the Courts Service, and of course more specifically, by the Notice Parties, no great injustice has been done to Mr. Gaynor by the failure of the Courts Service, when refusing to accept his Form 6, to make absolutely explicit that both Form 6 and Form 7 are required, or to make precisely clear to him what he could or should have done to rectify his position.

6. In those circumstances, I will refuse leave to the applicant because, firstly, the Central Office was correct in refusing to accept Form 6 alone and secondly and rather more importantly, there is no injustice to the applicant arising from the non-acceptance of his application, given Costello J.'s subsequent ruling. As such, there is no need to consider what alternative remedies might have been available, such as, for example, to adjourn the leave application to allow for an application for the extension of time to be made.