

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: THE ATTORNEY GENERAL OF ONTARIO v. TRINITY BIBLE CHAPEL,
JACOB REAUME, WILL SCHURMAN, DEAN WANDERS, RANDY FREY,
HARVEY FREY and DANIEL GORDON

BEFORE: The Honourable Mr. Justice P.R. Sweeny

COUNSEL: R. Ogden, J. Hunter, M. Cheung, A. Huckins for the applicant
L. Bilty, for the respondents

HEARD: 16 April 2021 by Zoom

ENDORSEMENT

[1] This matter came before me today on an urgent basis seeking an order finding the respondents in contempt of my order of January 22, 2021, an order amending my order of January 22, 2021, and an interlocutory injunction directing the Sheriff to lock the doors of the property of respondent Trinity Bible Chapel.

[2] The respondents sought an adjournment. Their counsel had only recently been served with the material and had not had a chance to file any responding material and/or cross-examine on the affidavits sworn in support of the motion. In the circumstances, it is appropriate to grant an adjournment and one will be granted.

[3] In the interim, the applicant seeks an order that the Sheriff lock the doors of the Church. This is an order which the applicant also seeks as a sanction for a finding of contempt, to ensure compliance with my order. The applicant acknowledges that this is the basis for seeking the injunction, that is, the breach of my order.

[4] The parties agree that the applicable test for an interlocutory injunction is as follows:

- i. The applicant must establish a serious issue to be tried;
- ii. The applicant must establish they will suffer irreparable harm if the relief were not granted; and
- iii. The balance of convenience favours granting the injunction.

[5] Dealing first with the serious issue to be tried, my order of January 22, 2021 at paragraph 2 reads, as follows:

THIS COURT ORDERS that the respondents, their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them,

and any and all persons with notice of this order, are restrained from directly or indirectly, by any means whatsoever, contravening Ontario Regulation 82/20, by holding gatherings of more than 10 persons in conjunction with the operations of Trinity Bible Chapel.

[6] This order was granted at the request of the applicant. The qualification of the contravention of *Ontario Regulation 82/20* “by holding gatherings of more than 10 persons in conjunction with the operations of Trinity Bible Chapel” was in the order because, at the time the order was granted, churches were limited to gatherings of no more than 10 persons. Since that order was granted, the number of persons permitted in a church has been modified. As of the time this motion was heard, churches were entitled to operate with 15% occupancy.

[7] As I understand the applicant’s assertion, it is that the respondents are in breach of the regulation and that was the intent of the order. There are more than 10 persons., in fact , there are more than 300. They assert that the order must be interpreted in the context in which it was made.

[8] The respondents argue that the order was clearly limited to the situation that obtained at the time. The terms of the order are clear. If the respondents comply with the present regulation which allows 15% occupancy, they would be in breach of the order but not in breach of the appropriate regulations. That cannot be what was intended.

[9] I have considered this issue, and in my view, the interpretation given by the respondents is reasonable. To be clear, I am making no finding with respect to the actual conduct of the respondents. That conduct may well be in breach of the present limit of 15% occupancy. However, I am not prepared, based on the evidence before me, to say that they are in contempt of the order for the purpose of granting an interim injunction. Therefore, I need not consider the other elements of the test in order to grant an injunction. Accordingly, the request for an interim injunction is denied.

[10] The matter is adjourned to May 11, 2021 at 10:00 am.

[11] With respect to the issue of costs, the respondents seek their cots of \$2500.00 for this appearance. The applicant says there should be no order as to costs. While normally costs follow the event, the evidence before me reveals that the respondents are intentionally breaching the regulations. Their conduct is a factor that I consider. I make no order as to costs.

A handwritten signature in black ink, appearing to read "Paul S. J.", written in a cursive style. The signature is positioned above a horizontal line.

Sweeny R. S. J.