

20

No.

Supreme Court of Nova Scotia

Between: [copy standard heading]

[name]

[title in proceeding]

and

[name]

[title in proceeding]

Execution Order

Before the prothonotary,

Judgment Debtor: [name and address of judgment debtor]

On the motion of the judgment creditor [name] , the following is ordered:

Amount to be recovered

1 This execution order is issued to recover the amounts showing, or allowed for, in the attached statement of amount for execution.

Sale of land

2 The sheriff may take possession of land to be sold under the *Sale of Land Under Execution Act*.

Seizure of other property

3 The sheriff must seize, otherwise take control of, and accept as a receiver all property in which the judgment debtor has an interest, except property exempt from execution and property held by the execution debtor as trustee for another person. This includes moveables, currency, shares, bonds, debentures, other security, legacies, debts, rent, wages, and any other demand due or accruing due to the judgment debtor at any time. The sheriff may come on land, open a building, take control of a moveable not under

seizure, break a lock or other barrier, and take any other reasonable measure to effect the seizure.

The property may be seized, or otherwise taken from, the judgment debtor or any other person.

Copy of order on seizure

- 4 The sheriff must deliver a copy of this order personally to a person from whom a moveable is seized when the person is present, and by registered mail after the seizure to a person who is not present.

Inventory and limit for seizure

- 5 The sheriff must prepare an inventory of seized moveables including the sheriff's estimate of the value of each. The sheriff may not seize more moveables than the sheriff estimates are necessary to satisfy the amount for execution under all execution orders against the judgment debtor.

Attachment of moveable and debt

- 6 The sheriff who cannot conveniently seize a moveable may cause a copy of the execution order to be delivered to a person who has control of the moveable. The sheriff may deliver a copy of the order to a person who is or may become obligated to pay a debt or other liquidable obligation to and for the benefit of the judgment debtor. The judgment debtor's interest in the moveable or the obligation is attached when the order is delivered. The person is released from liability to make a payment to, or hold a moveable on behalf of, the judgment debtor only when one of the following occurs:

- the person makes the payment to the sheriff;
- the sheriff seizes the moveable, or sells a moveable without a seizure;
- the person complies with terms for payment, seizure, or sale agreed to by the sheriff or set by further order.

Injunction to hold property, freeze obligations, and require delivery or payment

- 7 A judgment debtor, a person who controls property of the judgment debtor, and a person who is obligated or becomes obligated to pay a debt or other liquidable obligation to the judgment debtor must not give up control of the property or make the payment unless one of the following applies:

- the property or obligation is exempt from this execution order;
- the sheriff, in writing, permits otherwise;
- this execution order or a further order provides otherwise.

The person must, instead, allow the property to be seized by, or make the payment to, the sheriff. A person who fails to obey these injunctions may be punished under *Nova Scotia Civil Procedure Rule 89 - Contempt*.

Sale of moveable and other kinds of property

- 8 The sheriff may sell at public auction anything that is seized and is saleable to a member of the public. The sheriff may make a motion for permission to sell an asset of the judgment debtor by private sale or by public sale other than an auction.

Collecting debt

- 9 The sheriff may demand payment of a debt, or other liquidable obligation, other than wages owed to the judgment debtor and take any step the judgment debtor could take to collect the debt, including enforce security for the debt.

Injunction for securities

- 10 A person who controls a share, bond, debenture or other security in which the judgment debtor has an interest must transfer the interest to the sheriff, or liquidate the security as the sheriff directs and pay the proceeds to the sheriff.

Payment of judgment debtor's wages

- 11 All but fifteen percent of the judgment debtor's gross wages are exempt from this execution order. Also, nothing may be paid under this order that reduces the judgment debtor's wages, net of all statutory deductions, below \$450 a week for a judgment debtor who supports a dependant or \$330 a week for any other judgment debtor.

An employer who owes wages to, or comes to owe wages to, the judgment debtor must pay the unexempt amount to the sheriff. An employer must not by reason of this execution order, terminate the employment of, demote, reduce the wages of, or otherwise penalize the judgment debtor. Also, the employer is released from liability to pay the unexempt wages only when the payment is made to the sheriff.

Wages in account of deposit-taking corporation

- 12 A deposit-taking corporation that maintains an account into which, to the knowledge of a person who is responsible for the account, the judgment debtor's wages are automatically deposited must pay from the account the amount the employer would have had to pay. Also, the corporation is released from liability only when that amount is paid to the sheriff.

The sheriff may make a calculation of the amount and the deposit-taking corporation may rely on the calculation.

Injunction for joint account

- 13 A deposit-taking corporation must not honour a demand on a joint account of which the judgment debtor is one of the joint account holders until the judgment debtor's interest is determined in accordance with *Nova Scotia Civil Procedure Rule 79.09*. A payment made contrary to this injunction does not discharge the deposit-taking corporation's liability to the judgment debtor and it may be punished as contempt.

Injunction to assist sheriff

- 14 The judgment debtor, a person who controls property of a judgment debtor, and a person who is or becomes obligated to a judgment debtor must fully answer any question of the sheriff about the judgment debtor's property and give the answers in the manner directed by the sheriff. A person who controls access to the judgment debtor's property must provide the sheriff with access. No person may obstruct the sheriff from carrying out this order.

Agent of sheriff

- 15 The sheriff may retain a person to act as the sheriff's agent in carrying out this order.

Sheriff's expenses

- 16 The sheriff may pay all reasonable expenses incurred to carry out this order, including expenses to seize, otherwise take control of, store, protect, and liquidate property of the judgment debtor. The sheriff may agree to terms with, or accept an advance from, the judgment creditor to cover an expense. The sheriff may refuse to act on this order until terms are agreed or an advance is given.

Surplus

17 The sheriff may pay money, or deliver property, to the judgment debtor that is not required to satisfy the amount for execution, unless a judge directs otherwise.

Directions

18 A sheriff who receives a copy of an execution order may make a motion for directions on the sheriff's duties under the order or any other subject related to the order, and the sheriff may be represented by counsel or act on the sheriff's own behalf.

Contempt

19 A failure to comply with this order may be punished as contempt.

Date of Judgment

20 The judgment that this execution order enforces was issued on _____, 20 .

Issued _____, 20

Prothonotary