

Date: 20030317

Docket: A-232-02

Neutral citation: 2003 FCA 141

**CORAM: STRAYER J.A.  
NADON J.A.  
EVANS J.A.**

**BETWEEN:**

**ARTHUR FROM**

Appellant

- and -

**HER MAJESTY THE QUEEN and  
THE MINISTER OF JUSTICE**

Respondent

Heard at Toronto, Ontario, on Monday, March 17, 2003.

Judgment delivered from the Bench at Toronto, Ontario, on Monday, March 17, 2003.

**REASONS FOR JUDGMENT OF THE COURT BY:**

EVANS J.A.

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**CORAM: STRAYER J.A.  
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**BETWEEN:**

**ARTHUR FROOM**

Appellant

- and -

**HER MAJESTY THE QUEEN and  
THE MINISTER OF JUSTICE**

Respondent

**REASONS FOR JUDGMENT OF THE COURT**

(Delivered from the Bench at Toronto, Ontario  
on Monday, March 17, 2003.)

**EVANS J.A.**

[1] This appeal by Arthur Froom arises from a decision of a Prothonotary to set a date for the hearing of two motions brought by the respondents, the defendants in the matter. The motions are to strike the appellant's statements of claim and, in the alternative, to seek an extension of

time for filing a defence. The respondents did not seek leave of the Court to bring these motions when they requested that a date be set.

[2] We are all of the opinion that the appeal should be dismissed. Gibson J. made no error in dismissing the appeal: *Froom v. The Queen*, 2002 FCT 461.

[3] No right of appeal lies from a direction of the Court: *Pellikaan v. Canada*, 2001 FCT 1415. Counsel for Mr. Froom argued that the Prothonotary had no power to set a date for the hearing of the motion to strike. He submitted that, because they have failed to file a defence within the time prescribed by the *Federal Court Rules, 1998*, and have not obtained an extension of time, the respondents require leave to file their motion. Whether, as counsel for Mr. Froom argues, the respondents require leave to file their motion to strike is a question that can be decided when the motion is heard.

[4] For these reasons, the appeal will be dismissed with costs payable forthwith by the appellant in the amount of \$1,000.00 inclusive of disbursements.

“John M. Evans”

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J.A.

**FEDERAL COURT OF CANADA**  
**APPEAL DIVISION**  
**Names of Counsel and Solicitors of Record**

**DOCKET:** A-232-02

**STYLE OF CAUSE:** ARTHUR FROOM  
- and -  
HER MAJESTY THE QUEEN and  
THE MINISTER OF JUSTICE

Appellant  
  
Respondent

**DATE OF HEARING:** MONDAY, MARCH 17, 2003

**PLACE OF HEARING:** TORONTO, ONTARIO

**REASONS FOR JUDGMENT  
OF THE COURT BY:** EVANS J.A.

**DATED:** MONDAY, MARCH 17, 2003

DELIVERED FROM THE BENCH AT TORONTO, ONTARIO ON MARCH 17, 2003.

**APPEARANCES BY:** Mr. Lorne Waldman  
  
For the Appellant  
  
Ms. Dale Yurka  
  
For the Respondent

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For the Appellant  
  
Morris Rosenberg  
Deputy Attorney General of Canada

For the Respondent