

ASTON'S MINING LAW CASE REVIEWS™



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Aston's Complimentary Case Review™ #14-12-02

Jurisdiction : Canada

Saskatchewan Court of Appeal

CANADIAN PROSPECTOR SUES MINING COMPANY FOR PROPRIETARY INTEREST

Can a mining company use a private prospector's information, without paying him for it, for its own benefit and development of a mining property ?; and, does such an alleged appropriation give the prospector a proprietary interest in the subsequent mine development based on his information ?

These questions were treated by a Saskatchewan Court in *Kent v. Graham Construction & Engineering Ltd.* (1985) Ltd. (1990), 84 Sask. R. 152 (C.A.). A Saskatchewan prospector (Kent) alleged he had spent a great deal of his time and effort evaluating and assessing the potential of a mineral deposit. In talks with Graham Construction & Engineering Ltd. (hereafter, Graham), Kent divulged and discussed the deposit's potential. Graham, later, opened the mineral deposit and sold the mined minerals.

Kent felt that he had a proprietary interest in the mine site , and that his valuable information had been misappropriated by Graham. He filed a lien against Graham under Sect. 40 of the Builders' Lien Act to recover compensation for his efforts that lead to the opening of the mine and sales of its mineral.

Graham sought a court's declaration that the lien was invalid. In filing a builders' lien, the applicant must have furnished **both** services and materials to recover on his claim. Kent could not support a claim of materials furnished, but only services in the form of misappropriated information, for which he had never been paid.

A Chambers Judge heard the claim and found that although the prospector might have a cause of action based on his alleged proprietary interest for his mineral deposit assessment services, and that Graham may have used that information to further its own interest, he did not have a valid claim for a builders' lien. If a remedy existed in law, Kent must pursue it another way.
