



British Columbia

They 'failed to comply': B.C. government sued for lost wages over broken promise



Security guard wants \$782.50 after application took five weeks instead of one

[Jason Proctor](#) · CBC News · Posted: Apr 04, 2019 5:00 AM PT | Last Updated: April 4



The B.C. government is facing a small claims lawsuit for lost wages from a security guard who claims the province broke its promise to renew his licence within seven days. (Shutterstock/Ian Francis)

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Lawrence David Gilmour went online to renew his security licence on April 30, 2018 — almost a month before his old one expired.

Given that the B.C. government website where he filled in his application promised the process would take seven days, he should have been fine.

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But Gilmour's new licence didn't arrive until June 5, 2018 — nearly five weeks after he filed his application — meaning the retiree couldn't work as a security guard for at least six days.

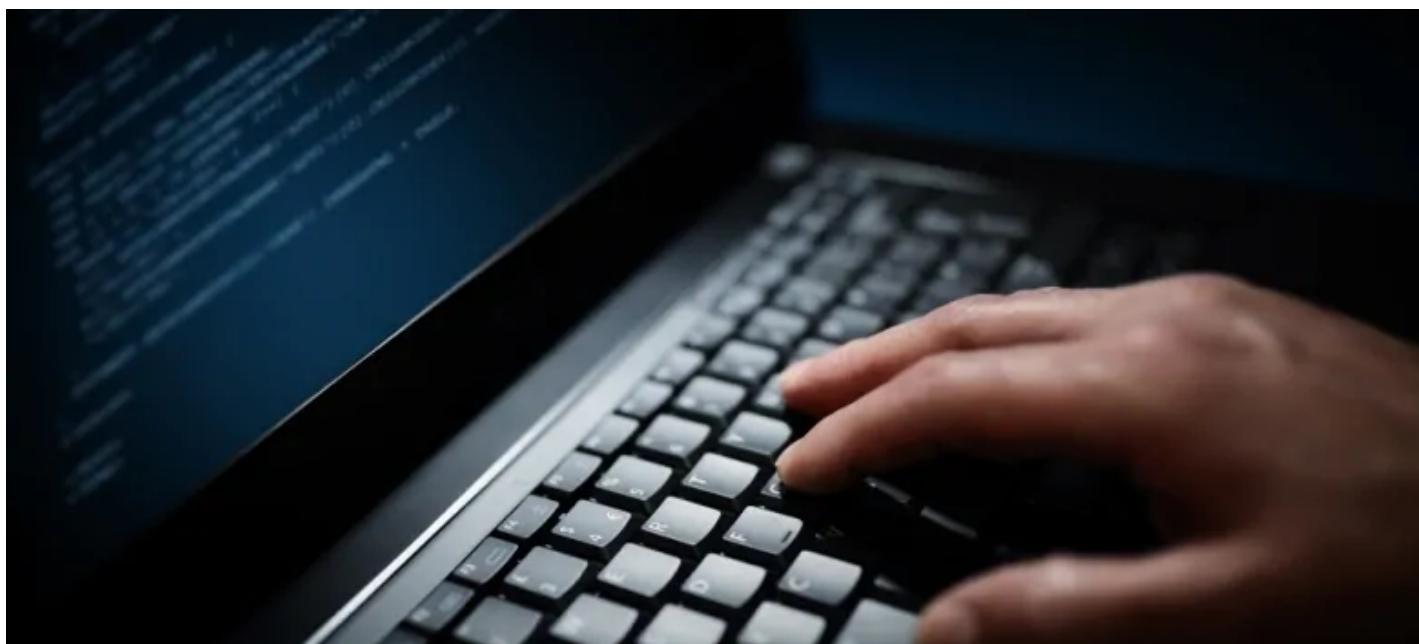
Now — in a potentially precedent setting small claims lawsuit headed to trial next month — the Victoria man is suing the province of British Columbia for lost wages.

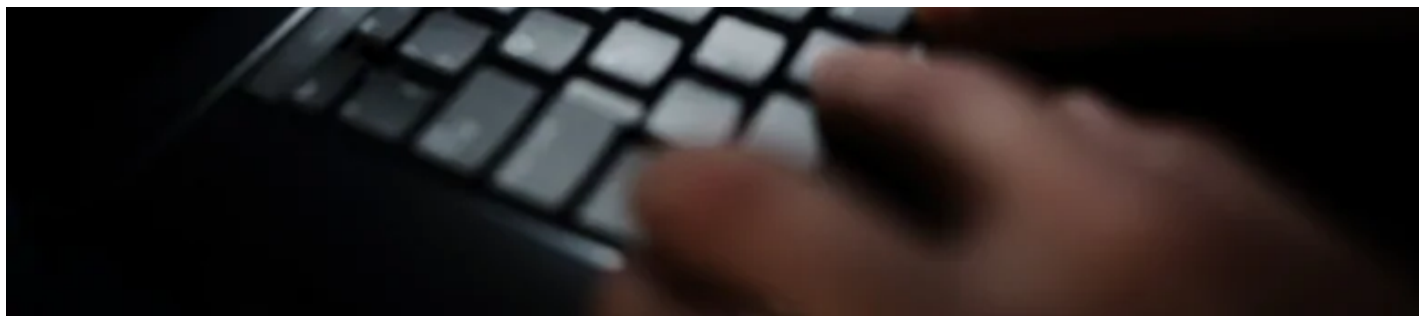
Small claim, big repercussions?

Despite the province's attempts to dismiss Gilmour's claim, a Victoria provincial court judge decided that the question of whether the province should put its money where its mouth is was a triable issue when it comes to delay.

"As a result, I order this matter proceed to trial and it proceed to trial on that question alone," Judge Lisa Mrozinski said [in an oral ruling](#).

"That is, whether the Crown could be held liable for the tort of misrepresentation that the licensing applications would take seven days to process."





Lawrence David Gilmour claims that he lost wages because the province took five weeks to process his security licence renewal as opposed to the seven days promised on a government website. (Shutterstock)

Mrozinski made the order in late January, but it was only published last month.

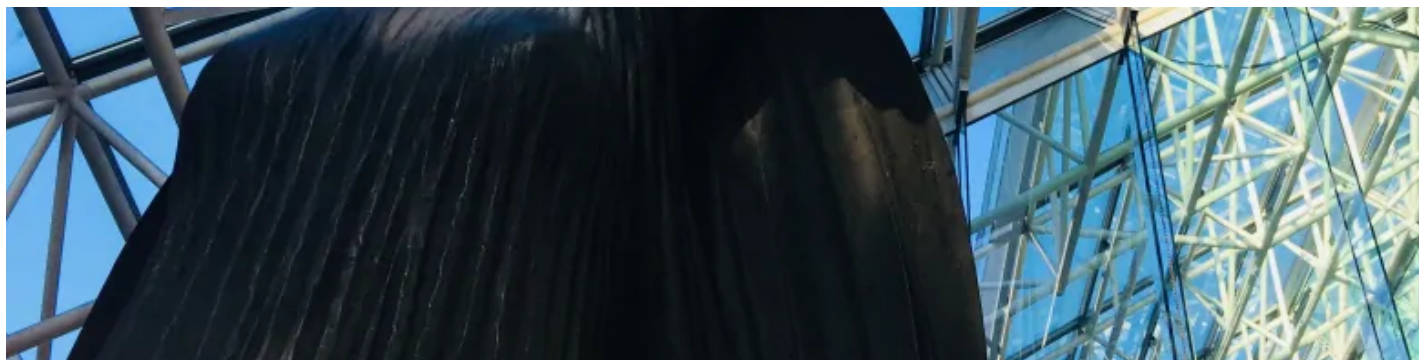
It's a small claim, but it could have big repercussions for delay-beset government agencies and public bodies that routinely fail to meet self-advertised deadlines for services.

'Government failed to comply' with own guidelines

Gilmour is suing the government for \$782.50 — 50 hours of lost wages at \$15.65 an hour during the six days when a lack of licence rendered him ineligible to work.

"The government failed to comply with their own guidelines," he wrote in his notice of claim. "Therefore they owe me the below noted amount."





The small claim trial could provide a legal precedent in cases where delay-ridden agencies make timeline promises to provide citizens with services. (David Horemans/CBC)

The province is being represented by an articling law student.

The government's written response denies any duty of care to Gilmour and claims it was under no obligation to process his renewal "within a given timeframe."

The response suggests Gilmour is the author of his own misfortune.

"If a breach of a duty of care is found, which is denied, the claimant has contributed by his own negligence to the alleged loss," the response says.

"The claimant contributed to the alleged loss by submitting an application for renewal of a security licence only 28 days prior to expiry of an existing licence."

Promises, promises

The case turns on the issue of misrepresentation.

Mrozinski found that the government had no contractual obligation to complete Gilmour's application within a given timeframe, especially given the need for scrutiny when it comes to approving security guards.

"It would be inconsistent, in my view, with the obligations to process those licences to ensure the safety and the security of the public to impose an arbitrary timeline," she said.

The judge said the courts have historically ruled that governments cannot be held liable for policy decisions. And the province argued that the seven day promise was simply an expression

of its policy when it comes to licence renewal.

But Mrozinski wasn't convinced.

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"In my view, it is not clear to me, based on all of the pleadings, why the statement is on the website. It is not self-evident to me that the statement itself is an expression of government policy," Mrozinski said.

"There is a triable issue in this case as to whether or not the statement that Mr. Gilmour purports to have relied on to his alleged detriment constitutes government policy or whether it is an operational decision."

The trial is set for May 16.

But the courts offer no promises that it will happen on that day.

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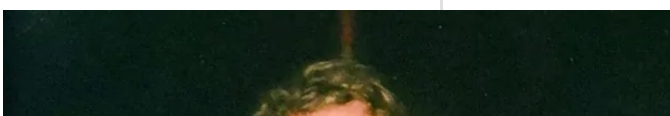
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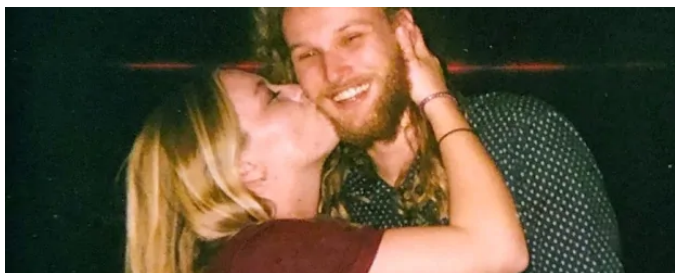
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