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Categories: uncontested divorce; no appearance by respondent

Uncontested divorce granted in absence of wife where marriage lasted less than a year

A Circuit Court judge in a regional town granted a divorce with a three week stay where the applicant husband brought a motion for judgment in default of appearance. The applicant husband was represented by a solicitor and barrister. There was no appearance by the respondent wife after she had been called by the registrar at the call-over and again when the case was called.

The husband's barrister told the judge that the parties had been married for less than one year, there were no assets or property of the marriage, no dependent children and neither party had a pension.

The judge asked the husband's barrister to open the service of the proceedings to the Court. The barrister said that the family law civil bill had been served by registered post over a year earlier and had been returned marked "not called for". Thereafter the husband had obtained an order for substituted service allowing service of the proceedings on the wife by ordinary prepaid post. Affidavits of service for both the family law civil bill and the motion for judgment in default of appearance were opened to the Court. The husband's barrister said that there had been no contact at all from the wife in in the course of these proceedings, and he confirmed that the husband's updated affidavit of means was on the court file.

The husband was sworn in and gave his formal evidence. He identified the original marriage certificate. He confirmed that the parties had been separated for two out of the previous three years and that there was no prospect of reconciliation between them. He said he was suffering from ill health and he was due at the hospital later in the day.

Judge: "Normally I would not grant these applications in the first instance, but in this case I am satisfied that service is in order. There are no assets, no children, a short marriage and the applicant has an illness. In these circumstances I will grant decree of divorce, and mutual blocking order pursuant to section 18(10) of the Family Law Divorce Act 1995."

The judge put a three week stay on the order and he said that if the wife was opposed to the order, it gave her an opportunity to appeal it. He asked the applicant's solicitor to write again to the respondent to say the order was made with the three week stay. He thanked the husband for coming to court and wished him well.