

Federal Court



Cour fédérale

Date: 20190924

Docket: T-1306-17

Citation: 2019 FC 1222

Toronto, Ontario, September 24, 2019

PRESENT: Madam Justice Walker

BETWEEN:

ERICA DAVIS

Applicant

and

**THE PRIME MINISTER OF CANADA
THE MINISTER OF NATIONAL REVENUE**

Respondents

JUDGMENT AND REASONS

(Delivered from the Bench at Toronto, Ontario, on September 24, 2019, and edited for syntax and grammar)

[1] The Applicant, Ms. Erica Davis, filed a Notice of Application on August 22, 2017, seeking judicial review of the wrongful actions of agents of the Canada Revenue Agency (CRA). The Applicant contests both the amounts claimed by CRA as owing by her in respect of taxes, penalties and interest for certain taxation years and the measures taken by CRA to collect those amounts, in particular the most recent Requirements to Pay issued by the Minister. The

Applicant requests that the garnishment of her wages be stayed and that CRA be ordered to disclose the basis of its garnishment actions.

[2] The matter was put down for hearing on September 3, 2019 before me. The Applicant did not attend at the outset of the hearing. The Court Attendant left the Courtroom to attempt to locate the Applicant but no one responded to his calls. The hearing was adjourned for 15 minutes to permit the Applicant additional time to arrive. Upon reconvening, the Court Attendant again left the Courtroom to locate the Applicant but received no response to his calls.

[3] I decided that the matter should not proceed in the Applicant's absence. I issued the following Order on September 3, 2019:

THIS COURT ORDERS that the hearing of this application for judicial review is set down for hearing on a peremptory basis, on Tuesday, September 24, 2019 at 1:00 p.m., failure of the Applicant to appear in person or by Counsel means that the application for judicial review may be dismissed forthwith.

[4] At the opening of the proceeding this afternoon, September 24, 2019, the Applicant was not present. Accordingly, the Court Attendant was asked to go to the lobby and call the Applicant's name to see if she was present. The Court Attendant has reported that no one responded to his calls. I directed that the Court wait 15 minutes to see if the Applicant would appear. Upon reconvening the hearing, the Applicant was not present and the Court Attendant again attempted to locate her in the lobby but received no answer to his calls.

[5] The Registry Officer has confirmed that my Order of September 3, 2019 was sent to the Applicant on September 3, 2019 by regular mail, registered mail (stamped by Canada Post on September 4, 2019) and email.

[6] The Registry Officer reached out to the Applicant by telephone on September 20, 2019 to advise her of the location of this hearing but the call was not answered and there was no active voicemail system. The Registry Officer also sent an email to the Applicant on September 20, 2019 to advise the Applicant of the time and location of today's hearing.

[7] The Registry Officer again telephoned the Applicant twice on September 23, 2019 but the calls were unanswered.

[8] Based on the above, I am satisfied the Applicant had adequate notice of today's hearing.

[9] Given the failure of the Applicant to attend, I entertained brief submissions from the Respondent.

[10] I find that the Court has no jurisdiction to entertain the Applicant's application insofar as she contests or brings a collateral attack against the validity of CRA's assessments and reassessments of the taxation years in question. I also find, on the basis of the Applicant's written submissions, the written and oral submissions of the Respondent, and my review of the record before the Court, that the Minister has acted reasonably in taking action to enforce the tax debts owing by the Applicant and by issuing the Requirements to Pay in question.

[11] The application is dismissed.

JUDGMENT in T-1306-17

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no award of costs in this matter.

"Elizabeth Walker"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1306-17

STYLE OF CAUSE: ERICA DAVIS v THE PRIME MINISTER OF CANADA
ET AL

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 24, 2019

JUDGMENT AND REASONS: WALKER J.

DATED: SEPTEMBER 24, 2019

APPEARANCES:

N/A

Michael W. Bader

FOR THE APPLICANT
(ON HER OWN BEHALF)
FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENTS