

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160127

Docket: A-458-14

Citation: 2016 FCA 29

**CORAM: PELLETIER J.A.
DE MONTIGNY J.A.
GLEASON J.A.**

BETWEEN:

MICHELLE POROTTI

Appellant

and

THE MINISTER OF NATIONAL REVENUE

Respondent

Heard at Vancouver, British Columbia, on January 26, 2016.

Judgment delivered at Vancouver, British Columbia, on January 27, 2016.

REASONS FOR JUDGMENT BY:

DE MONTIGNY J.A.

CONCURRED IN BY:

**PELLETIER J.A.
GLEASON J.A.**

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REASONS FOR JUDGMENT

DE MONTIGNY J.A.

[1] Ms. Porotti appeals a decision of the Tax Court judge upholding the Minister's decision that she was not employed in insurable and pensionable employment by Royal Ascot, but was rather engaged as an independent contractor during the period from January 1, 2012 to August 8, 2012.

[2] Despite Ms. Porotti's able arguments, I have not been convinced that the Tax Court judge erred in coming to her conclusion. She identified the correct legal test as set out by this Court in *1392644 Ontario Inc. O/A Connor Homes v. The Minister of National Revenue*, 2013 FCA 85, and made no palpable and overriding errors in applying it to the facts of this case.

[3] Having regard to the evidence and the credibility of the witnesses, the Tax Court judge could properly find that the parties' intention was that the appellant be engaged as an independent contractor, and that the usual objective factors are consistent with such a finding.

[4] As a result, I would dismiss the appeal, with costs.

"Yves de Montigny"

J.A.

"I agree
J.D. Denis Pelletier J.A."

"I agree
Mary J.L. Gleason J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-458-14

(APPEAL FROM A JUDGMENT OF THE HONOURABLE MADAM JUSTICE JUDITH M. WOODS, DATED SEPTEMBER 9, 2014, NOS. 2013-2800(CPP) AND 2013-2801(EI).)

STYLE OF CAUSE: MICHELLE POROTTI v. THE
MINISTER OF NATIONAL
REVENUE

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: JANUARY 26, 2016

REASONS FOR JUDGMENT BY: DE MONTIGNY J.A.

CONCURRED IN BY: PELLETIER J.A.
GLEASON J.A.

DATED: JANUARY 27, 2016

APPEARANCES:

Michelle Porotti FOR THE APPELLANT

Nadine Taylor-Pickering FOR THE RESPONDENT

SOLICITORS OF RECORD:

Self-represented FOR THE APPELLANT
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Ottawa, Ontario