

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160302

Docket: A-255-15

Citation: 2016 FCA 70

**CORAM: DAWSON J.A.
RYER J.A.
DE MONTIGNY J.A.**

BETWEEN:

DHEERAJ KUMAR MITTAL

Appellant

and

THE MINISTER OF HEALTH

Respondent

Heard at Winnipeg, Manitoba, on March 2, 2016.
Judgment delivered from the Bench at Winnipeg, Manitoba, on March 2, 2016.

REASONS FOR JUDGMENT OF THE COURT BY:

DAWSON J.A.

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160302

Docket: A-255-15

Citation: 2016 FCA 70

**CORAM: DAWSON J.A.
RYER J.A.
DE MONTIGNY J.A.**

BETWEEN:

DHEERAJ KUMAR MITTAL

Appellant

and

THE MINISTER OF HEALTH

Respondent

REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Winnipeg, Manitoba, on March 2, 2016).

DAWSON J.A.

[1] The appellant is a dentist licensed to practice in the Province of Manitoba. In or about May 2000, he was registered as a dental service provider with the Non-Insured Health Benefits Program (Program). The Program provides health-related goods and services not covered by other federal, provincial, territorial or third-party insurance plans to registered First Nations and recognized Inuit and Innu persons.

[2] In 2006, an audit was conducted of the appellant's claims made under the Program over the previous two year period. The audit found that the appellant had made unsupported claims in the total amount of \$30,768.15. As a result of the audit findings and the appellant's ongoing billing practices, on November 5, 2008, a decision was made to terminate the appellant's status as a dental service provider under the Program. The appellant did not challenge that decision.

[3] Subsequently, the appellant has applied to be registered as a dental service provider under the Program. His most recent request was denied by letter dated October 10, 2013.

[4] For reasons cited as 2015 FC 571, a Judge of the Federal Court dismissed an application for judicial review of the October 10, 2013 decision. This is an appeal from the judgment of the Federal Court.

[5] On this appeal, the appellant re-argues the issues raised before the Federal Court. Specifically, he argues that he was denied procedural fairness in that he was not provided with notice of the case to be met, he was not provided with a meaningful opportunity to make submissions and the decision was made by a biased decision-maker. He also argues that the decision was unreasonable.

[6] Before us, the appellant concedes that the Federal Court correctly determined the content of the duty of fairness and correctly selected the reasonableness standard of review. However, he argues that the Federal Court erred in the application of those standards to the evidence.

[7] We disagree. We see no reviewable error on the part of the Federal Court. We reach this conclusion substantially for the reasons given by the Federal Court.

[8] It follows that the appeal will be dismissed with costs.

“Eleanor R. Dawson”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-255-15

STYLE OF CAUSE: DHEERAJ KUMAR MITTAL v.
THE MINISTER OF HEALTH

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: MARCH 2, 2016

REASONS FOR JUDGMENT OF THE COURT BY: DAWSON J.A.
RYER J.A.
DE MONTIGNY J.A.

DELIVERED FROM THE BENCH BY: DAWSON J.A.

APPEARANCES:

J.A. Kagan and Andrew Sain FOR THE APPELLANT

Dhara Drew FOR THE RESPONDENT

SOLICITORS OF RECORD:

Thompson Dorfman Sweatman LLP FOR THE APPELLANT
Winnipeg, Manitoba

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada