

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160426

Docket: A-441-15

Citation: 2016 FCA 128

**CORAM: DAWSON J.A.
STRATAS J.A.
NEAR J.A.**

BETWEEN:

GARY FORD

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on April 26, 2016.
Judgment delivered from the Bench at Toronto, Ontario, on April 26, 2016.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

Federal Court of Appeal



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BETWEEN:

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on April 26, 2016).

STRATAS J.A.

[1] Mr. Ford appeals from the judgment dated September 10, 2015 of the Federal Court (*per* St-Louis J.): 2015 FC 1057. The Federal Court dismissed Mr. Ford's application for judicial review of the decision of the Minister of National Revenue not to give him taxpayer relief under subsection 152(4.2) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.).

[2] Mr. Ford applied to the Minister for relief under subsection 152(4.2) in 2010. In his application, Mr. Ford alleged that he was a resident of the United States until June 2001 and not liable for Canadian tax in the 2000 taxation year. He also alleged that he was entitled to claim rental expenses for the taxation years 2000, 2001 and 2002.

[3] Much of the evidence relevant to these allegations had already been sought by the Minister from Mr. Ford several years earlier during an audit. But Mr. Ford had never supplied enough evidence to satisfy the Minister.

[4] In support of his application for relief under subsection 152(4.2), Mr. Ford offered some evidence to support his allegations. But the Minister, in a second-level decision—the decision under review in this case—described the evidence as “minimal” and found it to be insufficient to establish a claim for relief. The Minister also concluded on the evidence before her that Mr. Ford’s application for relief under subsection 152(4.2) was an objection or appeal aimed at bypassing the regular process under the Act for challenging assessments.

[5] In dismissing Mr. Ford’s application for judicial review, the Federal Court found the Minister’s fact-based, discretionary decision to be reasonable, *i.e.*, acceptable and defensible on the applicable law and the evidence before the Minister. The Federal Court also rejected Mr. Ford’s submission that the Minister improperly fettered her discretion by regarding Information Circular IC07-1, a non-binding guideline, as binding.

[6] On appeal, Mr. Ford has not persuaded us that there is any ground to interfere with the reasoning of the Federal Court or the result it reached.

[7] Therefore, we will dismiss the appeal with costs.

“David Stratas”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-441-15

APPEAL FROM A JUDGMENT OF THE HONOURABLE MADAM JUSTICE ST-LOUIS OF THE FEDERAL COURT DATED SEPTEMBER 10, 2015 IN DOCKET NO. T-2628-14.

STYLE OF CAUSE: GARY FORD v. THE ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: APRIL 26, 2016

REASONS FOR JUDGMENT OF THE COURT BY: DAWSON J.A.
STRATAS J.A.
NEAR J.A.

DELIVERED FROM THE BENCH BY: STRATAS J.A.

APPEARANCES:

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