

Date: 20071002

Docket: A-597-06

Citation: 2007 FCA 311

**CORAM: NADON J.A.
SEXTON J.A.
SHARLOW J.A.**

BETWEEN:

ROBERT GUILD

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on October 2, 2007.

Judgment delivered from the Bench at Toronto, on October 2, 2007.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on October 2, 2007)

SHARLOW J.A.

[1] The appellant Robert Guild claims to have contracted hepatitis C from blood transfusions in 1973. In 1998, the Government of Canada settled a class action claim by agreeing to provide compensation to certain individuals infected with hepatitis C in or after 1986 as a result of blood transfusions. Mr. Guild was excluded from the settlement because he was infected before 1986.

[2] In 2003, Mr. Guild filed a complaint with the Human Rights Commission claiming that the decision to exclude him from the settlement contravened section 5 of the *Canadian Human Rights*

Act, R.C.S. 1985, c. H-6. The Commission concluded that Mr. Guild had not alleged a ground of discrimination that fell within the Act.

[3] Mr. Guild applied to the Federal Court for judicial review of that decision. His application was dismissed without costs by Justice von Finckenstein (2006 FC 1529). Mr. Guild now appeals to this Court.

[4] Counsel for Mr. Guild concedes, correctly in our view, that this appeal has been rendered moot by the recent decision of the Government of Canada to provide compensation to persons infected before 1986. We have not been persuaded that this moot appeal should be heard.

[5] Counsel for Mr. Guild argues that Mr. Guild should be awarded his costs in this Court and in the Federal Court. We see no basis for disturbing the decision of the Federal Court in relation to Court, and we note that the respondent does not seek costs of the appeal.

[6] The appeal will be dismissed without costs.

“K. Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-597-06

STYLE OF CAUSE: ROBERT GUILD
Appellant
and
THE ATTORNEY GENERAL OF CANADA
Respondent

DATE OF HEARING: OCTOBER 2, 2007

PLACE OF HEARING: TORONTO, ONTARIO

**REASONS FOR JUDGMENT OF
THE COURT BY:** (NADON, SEXTON & SHARLOW JJ.A.)

**DELIVERED FROM THE
BENCH BY:** SHARLOW, J.A.

APPEARANCES:

JOSEPH MARKIN FOR THE APPELLANT/
APPLICANT
MIRIMAM FLYNN FOR THE RESPONDENT

SOLICITORS OF RECORD:

JOSEPH MARKIN FOR THE APPELLANT/
TORONTO APPLICANT
JOHN H. SIMS, Q.C. FOR THE RESPONDENT
DEPUTY ATTORNEY GENERAL OF CANADA