

**Date: 20080922**

**Docket: A-91-08**

**Citation: 2008 FCA 277**

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

**BETWEEN:**

**MARIA ROMITA**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Toronto, Ontario, on September 18, 2008.

Judgment delivered at Ottawa, Ontario, on September 22, 2008.

**REASONS FOR JUDGMENT BY:**

**SEXTON J.A.**

**CONCURRED IN BY:**

**NADON J.A.  
PELLETIER J.A.**

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**BETWEEN:**

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**ATTORNEY GENERAL OF CANADA**

**Respondent**

**REASONS FOR JUDGMENT**

**SEXTON J.A.**

[1] The applicant applied for a disability pension in April 2003. She claimed to have many disabling conditions with the main one being irritable bowel syndrome. The applicant stopped working on February 1, 2002, due to her medical condition. Her application for disability benefits was denied by the Commission.

[2] The applicant appealed the respondent's decision to the Office of the Commissioner of Canada Pension Plan Review Tribunals. In a decision the Review Tribunal held that the applicant did not meet the definitions of severe and prolonged disability as provided in the Plan.

[3] The applicant sought and was granted leave to appeal the decision of the Review Tribunal to the Pension Appeals Board which held that there was insufficient evidence to demonstrate that the applicant was suffering from a severe and prolonged disability and hence was not eligible to receive a disability pension.

[4] This is an application to set aside the decision of the Pension Appeals Board (“Board”) dated January 18, 2008.

[5] The issue before this Court is whether the Board committed a reviewable error in finding that the applicant was not suffering from a severe and prolonged disability. The standard of review of the decision of the Board is one of reasonableness.

[6] I am of the view that the Board, having reviewed the evidence, correctly identified the issue to be determined and applied the correct legal test, that is, whether the applicant had a severe and prolonged disability such as to render her incapable, regularly, of pursuing any substantially gainful occupation.

[7] As a result, I am unable to conclude that the decision of the Board was unreasonable.

[8] The application for judicial review should therefore be dismissed without costs.

“J. Edgar Sexton”

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J.A.

“I agree  
M. Nadon J.A.”

“I agree  
J.D. Denis Pelletier J.A.”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-91-08

**(APPEAL FROM A JUDICIAL REVIEW OF PENSION APPEALS BOARD'S DECISION  
DATED JANUARY 18, 2008, FILE NO. CP24116.)**

**STYLE OF CAUSE:** MARIA ROMITA v. ATTORNEY GENERAL  
OF CANADA

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 18, 2008

**REASONS FOR JUDGMENT BY:** SEXTON J.A.

**CONCURRED IN BY:** NADON J.A.  
PELLETIER J.A.

**DATED:** SEPTEMBER 22, 2008

**APPEARANCES:**

MARIA ROMITA FOR THE APPLICANT (on her own  
behalf)

MARIE-JOSÉE BLAIS FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

MARIA ROMITA FOR THE APPLICANT (on her  
BOLTON, ONTARIO own behalf)

JOHN H. SIMS, Q.C. FOR THE RESPONDENT  
DEPUTY ATTORNEY GENERAL OF CANADA  
OTTAWA, ONTARIO