

Date: 20080930

Docket: A-408-07

Citation: 2008 FCA 292

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

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

MANON COULOMBE

Respondent

Hearing held at Québec, Quebec, on September 30, 2008.

Judgment delivered from the bench at Québec, Quebec, on September 30, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

LÉTOURNEAU J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Québec, Quebec, on September 30, 2008)

LÉTOURNEAU J.A.

[1] The respondent was released from the Canadian Forces for having used illegal drugs, knowing that there was a zero tolerance policy in the Forces. It was, moreover, a repeat offence.

[2] The Employment Insurance Commission (Commission) refused to pay her benefits on the grounds that she had lost her employment because of her misconduct. The Board of Referees allowed the claimant's appeal, and the Umpire (CUB 68717) confirmed the decision of the Board of

Referees, consequently dismissing the Commission's appeal. This prompted the application for judicial review brought by the Commission.

[3] Clearly, the Board of Referees and the Umpire misinterpreted the legal concept of misconduct. Had they directed themselves correctly in law, they would have dismissed the claimant's appeal.

[4] For these reasons, the application for judicial review will be allowed with costs, the Umpire's decision will be set aside and the matter referred back to the Chief Umpire, or his or her designate, for redetermination on the basis that the respondent shall be disqualified from receiving benefits because of her misconduct within the meaning of sections 29 and 30 of the *Employment Insurance Act*, S.C. 1996, c. 23.

“Gilles Létourneau”

J.A.

Certified true translation
Sarah Burns

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-408-07

STYLE OF CAUSE: ATTORNEY GENERAL OF
CANADA v. MANON COULOMBE

PLACE OF HEARING: Québec, Quebec

DATE OF HEARING: September 30, 2008

**REASONS FOR JUDGMENT
OF THE COURT BY:** LÉTOURNEAU J.A.
NADON J.A.
PELLETIER J.A.

DELIVERED FROM THE BENCH BY: LÉTOURNEAU J.A.

APPEARANCES:

Pauline Leroux

FOR THE APPLICANT

SOLICITORS OF RECORD:

John H. Sims, Q.C.
Deputy Attorney General of Canada

FOR THE APPLICANT