

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20100526

Docket: A-385-09

Citation: 2010 FCA 137

**CORAM: BLAIS C.J.
EVANS J.A.
SHARLOW J.A.**

BETWEEN:

DARREN BISHOP

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Halifax, Nova Scotia, on May 26, 2010.

Judgment delivered from the Bench at Halifax, Nova Scotia, on May 26, 2010.

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 Halifax, Nova Scotia, on May 26, 2010)

SHARLOW J.A.

[1] This is an appeal of a judgment of the Tax Court of Canada dismissing Mr. Bishop's income tax appeals for 2004, 2005 and 2006 (2009 TCC 323). The issue in the Tax Court was whether certain expenditures made by Mr. Bishop in relation to a rental property in Amherst, Nova Scotia were deductible expenses or capital outlays.

[2] The only evidence presented at the Tax Court hearing was the oral evidence of Mr. Bishop. Relying on that evidence, the judge concluded that the expenditures in issue were on account of

capital because they brought into existence a substantially new capital asset. For the reasons that follow, we have concluded that this appeal must be dismissed.

[3] Mr. Bishop says that he brought documentation with him to the Tax Court hearing to prove that his expenses were deductible but he was not allowed to present them because he was told that the documentation had to be provided in advance of the hearing. The record discloses no basis for concluding that Mr. Bishop was told or could reasonably have been led to believe that he was barred from presenting documentary evidence at the hearing because it had not been provided in advance. While it appears that his representative at the Tax Court was not familiar with court procedures, the record shows that the Tax Court judge was open to receive any evidence that might have been presented, and was also open to adjourning the hearing until the next day. His suggestion to that effect was not accepted and no request was made for any other adjournment.

[4] As to whether the expenditures in issue were deductible or not, it is clear from the reasons of the Tax Court judge that he was aware of the relevant principles and jurisprudence. His reasons also indicate that he did not misapply any applicable legal principle or make any palpable and overriding error in his appreciation of the relevant facts. We are compelled to conclude that the record discloses no basis upon which the intervention of this Court could be justified.

[5] For these reasons, this appeal will be dismissed with costs.

“K. Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-385-09

**(APPEAL FROM A JUDGMENT OF THE TAX COURT OF CANADA DATED
JULY 15, 2009, FILE NO. 2009-141(IT)I)**

STYLE OF CAUSE: Darren Bishop v. AGC

PLACE OF HEARING: Halifax, Nova Scotia

DATE OF HEARING: May 26, 2010

REASONS FOR JUDGMENT OF THE COURT BY: BLAIS C.J., EVANS AND
SHARLOW J.J.A.

DELIVERED FROM THE BENCH BY: SHARLOW J.A.

DATED: May 26, 2010

APPEARANCES:

Darren Bishop APPELLANT ON HIS OWN
BEHALF

Deanna M. Frappier FOR THE RESPONDENT

SOLICITORS OF RECORD:

Myles J. Kirvan FOR THE RESPONDENT
Deputy Attorney General for Canada