

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20140318**

**Docket: A-390-13**

**Citation: 2014 FCA 70**

**CORAM: PELLETIER J.A.  
GAUTHIER J.A.  
WEBB J.A.**

**BETWEEN:**

**SVETLANA FOTINOV, CITIZEN OF CANADA  
AND CITIZEN OF THE RUSSIAN FEDERATION**

**Appellant**

**and**

**ROYAL BANK OF CANADA**

**Respondent**

Motion in writing disposed of without the appearance of the parties.

Judgment delivered at Ottawa, Ontario, on March 18, 2014.

**REASONS FOR JUDGMENT BY:**

**GAUTHIER J.A.**

**CONCURRED IN BY:**

**PELLETIER J.A.  
WEBB J.A.**

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**Respondent**

**REASONS FOR JUDGMENT**

**GAUTHIER J.A.**

[1] The respondent, the Royal Bank of Canada (“RBC”), seeks the preliminary dismissal of the appeal on the basis that the said appeal has no reasonable chance of success, is frivolous and constitutes an abuse of process.

[2] RBC's motion is made in writing pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106. On February 11, 2014, Sharlow J.A. issued a direction to determine how the Registry was to treat the appellant's motion record given that the appellant was seeking further orders against RBC as well as an oral hearing to determine RBC's motion referred to above. Sharlow J.A. noted that the record disclosed no basis for granting an oral hearing. I agree and for the same reasons, the appellant's further request for an oral hearing is dismissed.

[3] The appellant's appeal concerns the decision of McVeigh J. of the Federal Court ("the judge") whereby she dismissed the appellant's Statement of Claim for want of jurisdiction. Since the judge was proceeding on a *de novo* basis, as she was reviewing a decision of a prothonotary to the same effect that was vital to the disposition of the case, she allowed the appellant to bring forth any argument that the appellant deemed necessary to oppose RBC's motion to strike the Statement of Claim on the basis that the Federal Court had no jurisdiction to grant the relief sought.

[4] As mentioned by Mainville J.A. in *Lessard-Gauvin v. Canada (Attorney General)*, 2013 FCA 147 at paragraph 8, the standard for preliminary dismissal of an appeal is high. It must be plain and obvious that the appeal has no reasonable chance of success and that it is clearly bound to fail.

[5] With these principles in mind, I am satisfied that it is plain and obvious that the Federal Court has no jurisdiction to entertain the appellant's claim for damages against RBC or to order RBC to provide various documents, information and explanations on the basis that RBC did not meet the disclosure requirements (more particularly, what is referred to as the consumer section provisions) of the *Bank Act*, S.C. 1991, c. 46 ("the Act") and of the regulations adopted thereunder.

[6] The Federal Court is a statutory court. Either the *Federal Courts Act*, R.S.C. 1985, c. F-7, or some other federal statute must confer jurisdiction to it over a matter. Provincial superior courts have jurisdiction to administer federal law, as well as provincial law. In the present case, the word “Court” is defined in section 2 of the Act to mean the various provincial courts described therein. As mentioned by the judge, there are some specific provisions in the Act that confer jurisdiction to the Federal Court such as section 977, where an appeal lies to the Federal Court of certain decisions of the Minister (see also the following provisions: 617.2(7), 624(2), 647.1(7), 654(2), 964(7)). None of these provisions are involved here.

[7] The appellant also alleges in her Statement of Claim that RBC violated her rights under the *Canadian Charter of Rights and Freedoms* (sections 7, 8 and 15). For the reasons explained by the judge at paragraph 34 of her judgment, it is clear and obvious that such claims cannot succeed.

[8] In the circumstances, it is neither useful nor necessary to deal with the various requests for disclosure and the other orders sought by the appellant in her Cross-Motion.

[9] However, as RBC is seeking costs, it is worth noting that this is not the first time that a Statement of Claim filed by the appellant against RBC based on the same general facts is struck for lack of jurisdiction by a judge of the Federal Court (see order of Boivin J., dated May 8, 2013 in T-443-13).

[10] In view of the foregoing, I propose that this motion be granted and that the appeal be dismissed with costs.

“Johanne Gauthier”

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J.A.

“I agree

J.D. Denis Pelletier J.A.”

“I agree

Wyman W. Webb J.A.”

Federal Court of Appeal



Cour d'appel fédérale

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-390-13

**STYLE OF CAUSE:** SVETLANA FOTINOV, CITIZEN OF CANADA, AND CITIZEN OF THE RUSSIAN FEDERATION v. ROYAL BANK OF CANADA

**MOTION MADE IN WRITING WITHOUT THE APPEARANCE OF THE PARTIES**

**PLACE OF HEARING:** OTTAWA, ONTARIO

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

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

**DATED:** MARCH 18, 2014

**WRITTEN REPRESENTATIONS BY:**

SVETLANA FOTINOV ON HER OWN BEHALF

ALEXANDER BAYUS FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

SVETLANA FOTINOV ON HER OWN BEHALF

GOWLING LAFLEUR HENDERSON LLP

FOR THE RESPONDENT