

Citation: 2004TCC400  
Date: 20040617  
Docket: 2003-2230(IT)I

BETWEEN:

ALI KHEDAIOUI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

[OFFICIAL ENGLISH TRANSLATION]

**(Delivered orally from the bench at Fort McMurray, Alberta, on May 20, 2004,  
and amended at Ottawa (Ontario), on June 17, 2004)**

### **REASONS FOR JUDGMENT**

#### **McArthur J.**

[1] This is an appeal from a decision by the Minister of National Revenue for the 1999 taxation year; 2000 is withdrawn. The Minister submits that the Appellant was not usually required to perform his job duties outside his employer's place of business or at various locations under paragraph 8(h)(1) of the *Income Tax Act* pursuant to income tax. Consequently, subsection 8(2) of the *Act* precludes the Appellant from deducting his travel expenses.

[2] In computing his income for 1999, the Appellant deducted ten thousand three hundred ninety-five dollars (\$10,395.00) for motor vehicle travel expenses. The following facts, which I find in paragraph 10 of the Reply to the Notice of Appeal, are not in dispute. At all relevant times, the Appellant was employed by Crown Camp Services Limited, the employer. The Appellant was not usually required to perform his job duties outside his employer's place of business or at various locations. The employer's place of business was PTL Lodge.

[3] The Appellant lived in Fort McMurray, Alberta. PTL Lodge was located seventy (70) kilometres from the Appellant's home. The Appellant travelled from his home to his place of work every day. The Appellant is requesting permission to deduct his car expenses. He lives in Fort McMurray with his wife and his seventeen- (17) year old daughter. He drives one hundred forty (140) kilometres daily to and from PTL Lodge, where he works as a cook. His hours of work are from 2:00 to 11:30 in the morning. The Lodge is a residence and restaurant, I believe, particularly for those working on the Tar Sands projects. There is no village between Fort McMurray and his place of work. Otherwise, he would move there with his family. He says that it is a dangerous highway, especially in the winter, and winters are long in this part of the world.

[4] In order to deduct car expenses, the Appellant must meet the conditions set out in paragraph 8(1)(h). Moreover, a taxpayer was usually required to perform work duties elsewhere than at the employer's place of business. The place of business of the Appellant's employer was the Lodge. He was not required to travel elsewhere. He simply travelled from his home to his place of work. While I share the Appellant's frustration, I would be stretching the interpretation of paragraph 8(1)(h) too far by granting his request.

[5] I found the Appellant to be scrupulously honest, almost to a fault. He did not colour his evidence to his own advantage. He told the facts as he understood them and asked for fairness. This is an appeal I would like to allow. But to do so would be to ignore the wording of subparagraph 8(1)(h)(i) and change the legislation. I have no discretion to do so.

[6] The Appellant may be well advised to speak to his Member of Parliament.  
The appeal is dismissed.

Signed at Ottawa, Canada, this 17<sup>th</sup> day of June 2004.

"C. H. McArthur"

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McArthur J.

Translation certified true  
on this 21<sup>st</sup> day of June 2004.

Maria Fernandes, Translator