

Citation: 2007TCC72
Date: 20070412
Docket: 2006-329(IT)I

BETWEEN:

JESSIE GRENIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

(Delivered orally from the bench on July 28, 2006,
at Montréal, Quebec, and modified for more clarity and precision.)

Archambault J.

[1] Jessie Grenier is appealing from an income tax assessment by the Minister of National Revenue (**Minister**) for the 2003 taxation year. In his assessment, the Minister added to Mr. Grenier's income an additional \$14,579 in employment income. In his Notice of Appeal, Mr. Grenier claims that the Minister converted into salary his compensation for travel expenses.

[2] In making his assessments, the Minister assumed the following facts:¹

- (a) During the year in issue, the Appellant played hockey for the Trois-Rivières Vikings and the Granby Prédateurs; (**admitted**)
- (b) He received \$5,359 from 9128-7730 Québec Inc. (Trois-Rivières Vikings) and \$9,220 from "Les Prédateurs de Granby Inc.;" (**admitted**)

¹ It should be noted that the Minister did not expressly assume that there was a contract of employment within the meaning of article 2085 of the *Civil Code of Québec* between Mr. Grenier and the two hockey teams.

- (c) The Appellant received those amounts as an allowance for travel expenses at a rate of 42¢ per kilometre; **(admitted)**
- (d) The Minister determined that the kilometres the Appellant travelled between his residence and his workplace were not related to his job; **(admitted)**
- (e) The expenses claimed by the Appellant are his personal expenses; **(denied)**
- (f) The Appellant did not keep a log of his travels; **(denied)**
- (g) The Appellant did not demonstrate that he had to travel for work. **(denied)**

[3] According to the testimonies of Mr. Grenier and James Leinhos, who both described themselves as students, Mr. Grenier played in a hockey league in 2003 without receiving wages for his services. All he received from the hockey teams was compensation for travel expenses. According to all the evidence presented to me,² the amount of the compensation approximately equalled the amount of the expenses the hockey players had to incur to participate in the teams' activities (hockey games and practices). Those expenses included not only travel expenses, but also equipment expenses (including hockey sticks). That was the case for the expenses Mr. Grenier incurred while playing for the Granby Prédateurs. Mr. Grenier estimated that when he played for Trois-Rivières Vikings, his expenses were \$804 more than the compensation received. I have no reason to doubt the credibility of Mr. Grenier's testimony, although it would have been wiser of him to provide exhibits to determine his expenses, namely the cost and number of hockey sticks.

[4] The compensation in issue does not, therefore, constitute disguised wages and accordingly, I do not believe that there was a contract of employment between Mr. Grenier and the two hockey teams, as one of the three factors necessary for such a contract to exist, that is remuneration for services rendered, was missing. Article 2085 of the *Civil Code of Québec* stipulates as follows:

² Including Exhibits A-1 to A-8.

2085 A contract of employment is a contract by which a person, the employee, undertakes for a limited period to do work for remuneration, according to the instructions and under the direction or control of another person, the employer.

[Emphasis added.]

[5] In my opinion, Mr. Grenier's activity in 2003 was merely a recreational activity for which he was reimbursed expenses. Therefore, there was no source of income, namely employment. Accordingly, sections 5 and 6 of the *Income Tax Act* do not in any way apply here.

[6] For all these reasons, Mr. Grenier's appeal should be allowed and the assessment should be referred back to the Minister for reconsideration and reassessment on the basis that the amount of \$14,579 added to Mr. Grenier's employment income did not constitute such an income.

Signed at Ottawa, Canada, this 12th day of April 2007.

“Pierre Archambault”

Archambault J.

Translation certified true

on this 25th day of June 2006.

Daniela Possamai, Translator

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PLACE OF HEARING: Montréal, Quebec
DATE OF HEARING: July 28, 2006
REASONS FOR JUDGMENT BY: The Honourable Justice Pierre Archambault
DATE OF JUDGMENT: August 3, 2006

DATE OF REASONS
FOR JUDGMENT: April 12, 2007

APPEARANCES:

For the Appellant: The Appellant himself
Agent for the Respondent: Chantal Roberge (articling student)

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada