

Docket: 2007-3592(EI)APP

BETWEEN:

AMARJIT SINGH GREWAL,

Applicant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

Application heard on November 26, 2007 at Vancouver, British Columbia

Before: The Honourable Justice L.M. Little

Appearances:

For the Applicant: The Applicant himself

Counsel for the Respondent: Max Matas

JUDGMENT

Upon application under subsection 103(1) of the *Employment Insurance Act* for an Order extending the time within which an appeal may be instituted;

And upon reading the Affidavit of Bernie Keays filed;

And upon hearing what was alleged by the parties;

The Application to extend the time is dismissed, without costs, in accordance with the attached Reasons for Judgment.

Signed at Vancouver, British Columbia, this 30th day of November 2007.

"L.M. Little"

Little J.

Citation: 2007TCC716
Date: 20071130
Docket: 2007-3592(EI)APP

BETWEEN:

AMARJIT SINGH GREWAL,

Applicant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

REASONS FOR JUDGMENT

Little J.

A. Statement of Facts:

[1] The Applicant was employed by B.C. Labour Contracting Ltd. (“Contracting”) in the 2001 taxation year.

[2] By letter dated October 27, 2006 the Minister of National Revenue (the “Minister”) determined that the Applicant had 426 insurable hours and associated insurable earnings of \$5,851.20 with Contracting for the period of June 1, 2001 to August 31, 2001.

[3] In the letter dated October 27, 2006 the Minister also determined that the Applicant was not employed in insurable earnings with Contracting for the period of April 16, 2001 to May 31, 2001 and September 1, 2001 to September 29, 2001 as the employment did not meet the requirements of paragraph 5(1)(a) of the *Employment Insurance Act* (the “Act”).

[4] The Applicant did not file a Notice of Appeal to the decision of the Minister dated October 27, 2006.

[5] On August 14, 2007 the Applicant filed an Application in the Tax Court to extend the time within which to file a Notice of Appeal.

[6] The Minister maintains that the Application for an extension of time was not made within 90 days after the expiration of the time otherwise limited by the *Act* for appealing the decision of the Minister.

B. Issue

[7] Does the Tax Court have the authority to extend the time within which a Notice of Appeal may be filed to a decision of the Minister?

C. Analysis and Decision

[8] Subsection 5.(1) of the *Act* reads as follows:

Commencement of Appeal

5.(1) An appeal by an appellant from a decision on an appeal to the Minister shall be instituted within the time period set out in subsection 103(1) of the Act, which is 90 days after the decision is communicated to the appellant, or within such longer time as the Court may allow on application made to it within 90 days after the expiration of those 90 days.

[9] Subsection 5.(2) reads as follows:

(2) Where a decision referred to in subsection (1) is communicated by mail, the date of communication is the date it is mailed and, in the absence of evidence to the contrary, the date of mailing is the date specified on the decision.

[10] Section 6 provides as follows:

Extension of Time

6.(1) An application for an order extending the time within which an appeal may be instituted may be in the form set out in Schedule 6.

(2) An application under subsection (1) shall be made by filing with the Registrar, in the same manner as appeals are filed under section 5, three copies of the application accompanied by three copies of the notice of appeal.

(3) No application shall be granted under this section to an applicant unless

- (a) the application is made within 90 days after the expiration of 90 days after the day on which the Minister communicated his or her decision to the applicant; and
- (b) the applicant demonstrates that
 - (i) within the initial 90-day period specified in paragraph (a), the applicant
 - (A) was unable to act or to instruct another to act in the applicant's name, or
 - (B) had a good faith intention to appeal,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application,
 - (iii) the application was made as soon as circumstances permitted it to be made, and
 - (iv) There are reasonable grounds for appealing the decision.

[11] It will be noted that subsection 6(3) of the *Act* provides that an Application for an extension of time to file a Notice of Appeal must be made within 90 days after the expiration of the first 90 days.

[12] In this situation the timelines are as follows:

Date of Minister's Decision: October 27, 2006.

Deadline for Filing Notice of Appeal: 90 days after October 27, 2006 is January 25, 2007.

Deadline for Filing Application to Extend the Time: April 25, 2007.

[13] The Applicant did not file his Application to extend the time until August 14, 2007, i.e. approximately 3 ½ months after the deadline.

[14] The Applicant also confirmed during the hearing that he was living at 32982 Harris Road, Abbotsford, B.C. V4X 1B8 at the time the decision was mailed.

[15] In the *Act*, Parliament has provided for a specific time limit of 180 days within which a taxpayer may file an Application to extend the time to file a Notice of Appeal. I do not have the authority to extend the time if the Application is made after the 180 day period.

[16] The Application to extend the time is dismissed without costs.

Signed at Vancouver, British Columbia, this 30th day of November 2007.

"L.M. Little"

Little J.

CITATION: 2007TCC716

COURT FILE NO.: 2007-3592(EI)APP

STYLE OF CAUSE: Amarjit Singh Grewal and
The Minister of National Revenue

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: November 26, 2007

REASONS FOR JUDGMENT BY: The Honourable Justice L.M. Little

DATE OF JUDGMENT: November 30, 2007

APPEARANCES:

For the Applicant: The Applicant himself

Counsel for the Respondent: Max Matas

COUNSEL OF RECORD:

For the Applicant:

Name:

Firm:

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