

Docket: 2008-3186(IT)I

BETWEEN:

JAMES J. BELLIVEAU,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on July 20, 2009, at Prince Rupert, British Columbia

Before: The Honourable Justice D.W. Beaubier

Appearances:

Counsel for the Appellant: The Appellant himself
Counsel for the Respondent: Whitney Dunn

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* for the 2006 taxation year is dismissed.

Signed at Vancouver, British Columbia, this 21st day of July 2009.

“D.W. Beaubier”

Beaubier D.J.

Citation: 2009TCC374
Date: 20090721
Docket: 2008-3186(IT)I

BETWEEN:

JAMES J. BELLIVEAU,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Beaubier, D.J.

[1] This appeal pursuant to the Informal Procedure was heard at Prince Rupert, British Columbia on July 20, 2009. The Appellant was the only witness.

[2] The subject of dispute is set out in paragraphs 5-10 inclusive of the Reply which read as follows:

5. By way of a Notice dated September 27, 2007 (“Reassessment”), the Minister reassessed the Appellant for the 2006 taxation year to include unreported income of \$1,893.76 (“Amount”) and to levy a federal penalty of \$189.30 (“Penalty”).

6. By Notice dated March 15, 2008, received by the Minister on March 19, 2008, the Appellant objected to the Reassessment.

7. By Notice dated August 13, 2008, the Minister confirmed the Appellant’s 2006 taxation year because the Appellant failed to report the Amount which had to be included in his income for the 2006 taxation year, and also failed to report an amount that had to be included in his income for the 2005 taxation year, and therefore, the Appellant is liable to the Penalty, being 10% of the Amount according to subsection 163(1) of the *Income Tax Act*, R.S.C. 1985, c.1[5th Supp.] (“Act”).

8. In determining the Appellant’s tax liability for the 2006 taxation year, the Minister made the following assumptions of fact:

- a) in the 2005 taxation year, the Appellant failed to report an amount of employment income totalling \$10,333.00;
- b) no penalty was assessed in respect of this failure to report income in 2005;
- c) in the 2006 taxation year, the Appellant was in receipt of the following income:

Employment Insurance benefits	15,560.00
T4 – Heritage Salmon Ltd	2,901.03
T4A- Heritage Salmon Ltd	1,893.76
Total Income	20,354.79

- d) the Appellant reported total income of \$18,461.03 in filing his 2006 Return of Income;
- e) the Appellant failed to report the Amount; and
- f) the Appellant is not liable for any penalty pursuant to subsection 163(2) of the *Act* with respect to the failure to report the Amount in the 2006 taxation year.

B. ISSUES TO BE DECIDED

- 9. The issues are whether the Minister properly included the Amount in the Appellant's income for the 2006 taxation year and properly assessed the Penalty in the 2006 taxation year.

C. STATUTORY PROVISIONS RELIED ON

- 10. He relies on sections 3 and 150 and subsections 5(1) and 163(1) of the *Act*.

[3] Assumptions 8 a, d, e and f are correct. With respect to assumptions 8b and c the Court finds:

8b The Appellant believes that he paid a penalty of \$51 for his 2005 failure. However, this amount cannot relate to a penalty provision of the *Income Tax Act* because it does not accord with a calculation of any penalty due on \$10,333 under the *Income Tax Act* in 2005.

8c The Appellant is not sure whether he received \$1,893.76 or not. He is sure that he received a considerable sum by way of severance and accumulated holiday pay and other compensations. He is also sure that he never received any kind of T4 slip for

the amount and therefore didn't report it because he is of the view that if there is no T4 slip it is not reportable income for income tax purposes. In his view it is the government's duty to get the proper T4 to him.

[4] The Appellant is wrong. It is his responsibility to report his taxable income each year for income tax purposes whether he has a T4 or not. Moreover, his liability for the penalty in question is strict. The assumptions and evidence before the Court are that he did not report income in 2005 and he did not report income of \$1,893.76 which he received in 2006, as stated in assumption 8c. For this reason the penalties are due as assessed.

[5] The appeal is dismissed.

Signed at Vancouver, British Columbia, this 21st day of July 2009.

“D.W. Beaubier”

Beaubier D.J.

CITATION: 2009TCC374
COURT FILE NO.: 2008-3186(IT)I
STYLE OF CAUSE: JAMES J. BELLIVEAU AND
HER MAJESTY THE QUEEN
PLACE OF HEARING: Prince Rupert, British Columbia
DATE OF HEARING: July 20, 2009
REASONS FOR JUDGMENT BY: The Honourable Justice D.W. Beaubier
DATE OF JUDGMENT: July 21, 2009

APPEARANCES:

Counsel for the Appellant: The Appellant himself
Counsel for the Respondent: Whitney Dunn

COUNSEL OF RECORD:

For the Appellant:

Name:
Firm:

For the Respondent:

John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada