

Citation: 2009 TCC 423  
Date: 20090901  
Docket: 2008-3183(IT)I

BETWEEN:

SHEENA YOUNG,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

Miller J.

[1] Ms. Murray, in your submissions you said it seems unfair. It does not just seem unfair, it is unfair. The government has made a mistake and that mistake has cost Ms. Young 3, 4, 5 hundred – some amount of money that she would otherwise have been entitled to from the Alberta government. Regrettably Ms. Williams, the Crown is correct, as far as the jurisdiction of this court goes. There is nothing I can do about this, other than moan and rant and rave about it, though I will make the following comments which I suggest the Department of Justice passes on to its client, the government, and hopefully this can be resolved without having to go to any other court.

[2] Ms. Young's option is to sue the government, likely in Federal Court, because they have made a mistake, and they have certainly admitted they have made a mistake. The facts are pretty clear that your daughter filed as an Alberta resident, and because of the mailing address, the government treated her as a Saskatchewan resident and she is therefore in this predicament. But the government is quite right, these are provincial laws, and this court does not have any jurisdiction to make any ruling with respect to the Alberta Royalty Rebate.

[3] What I would say though, is that when the Government of Canada makes a mistake like this, it should not insist that a taxpayer such as your daughter has to

pursue lengthy and costly litigation to make the mistake right. It is very clear that the mistake was the government's, and the government should simply make it right. Whether they do this by allowing your daughter to keep the Saskatchewan tax credit, and sending another couple hundred dollars to make up the difference, is certainly up to them, but my view, and this is why I want these comments to be transcribed and put in writing, is that it would be unconscionable for the government to insist that your daughter has to now sue them in another court to get these few hundred dollars in such blatant circumstances.

[4] Ms. Williams, I cannot do anything more than say what I have just said, and ask you to get a written copy of that. Also, as Mr. Dunn and Ms. Murray have said, there is an application for a remission order, but again that makes you go through hoops and loops that I would like to think the Government of Canada will not make you go through.

[5] So, similar to other cases, with regret, I must allow the motion and quash the appeal in this court. But I will have these comments transcribed and a copy in writing will be sent to you and to the Department of Justice. Hopefully, -- and I certainly cannot give you any guarantee in that regard, but hopefully something will be done without you having to pursue this matter in another court.

[6] I am afraid that is all I can do. I order the return of any filing fee that was filed by your daughter with respect to this matter.

Signed at Ottawa, Canada, this 1st day of September, 2009.

"Campbell J. Miller"

---

C. Miller J.

CITATION: 2009 TCC 423

COURT FILE NO.: 2008-3183(IT)I

STYLE OF CAUSE: SHEENA YOUNG AND THE QUEEN

PLACE OF HEARING: Cranbrook, British Columbia

DATE OF HEARING: August 12, 2009

REASONS FOR JUDGMENT BY: Campbell J. Miller

DATE OF JUDGMENT: September 1, 2009

APPEARANCES:

Agent for Appellant:	Valerie Williams
Counsel for the Respondent:	Whitney Dunn/Lize Murray

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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