

Docket: 2012-414(IT)I

BETWEEN:

TIMOTHY D. RENNIE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal called for hearing on June 19, 2012 at Vancouver, British Columbia

Before: The Honourable Justice J.M. Woods

Appearances:

For the Appellant: No one appeared

Counsel for the Respondent: Dawn Francis

JUDGMENT

The appeal with respect to assessments made under the *Income Tax Act* for the 2009 and 2010 taxation years is dismissed.

Signed at Toronto, Ontario this 27th day of June 2012.

“J. M. Woods”

Woods J.

Citation: 2012 TCC 231
Date: 20120627
Docket: 2012-414(IT)I

BETWEEN:

TIMOTHY D. RENNIE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Woods J.

[1] The appellant, Timothy Rennie, filed a notice of appeal relating to the disallowance of the northern allowance in assessments made under the *Income Tax Act* for the 2009 and 2010 taxation years.

[2] In his reply, the Minister stated that a motion to quash the appeal would be made because Mr. Rennie had failed to file notices of objection with the Canada Revenue Agency as required by the applicable legislation.

[3] Mr. Rennie did not appear in Court on the day that the appeal was scheduled for hearing. Counsel for the respondent indicated that she had been in contact with Mr. Rennie and that he had informed her that he was not able to attend the hearing because he was working up north.

[4] Counsel also indicated that she informed Mr. Rennie that he could seek an adjournment of the hearing by applying to the Court. To my knowledge, no adjournment request was made.

[5] Counsel for the respondent asked that the appeal be quashed on the basis of the motion because no notices of objection were filed. In making this request, counsel indicated that Mr. Rennie was still in time to request an extension of time to file a notice of objection for the 2010 taxation year. She did not wish to deprive Mr. Rennie of the opportunity to make this request. In the alternative, counsel asked that the appeal be dismissed for failure to appear.

[6] I have decided that it is appropriate to dismiss the appeal on the basis that Mr. Rennie failed to appear. I am reluctant to decide on the basis of the motion because I have not heard Mr. Rennie's position.

[7] Although the appeal will be dismissed, this is not necessarily the end of the road for Mr. Rennie in this appeal. Section 18.21 of the *Tax Court of Canada Act* permits this decision to be reversed if a timely application is made to the Court and good reasons are provided for failing to appear.

[8] Section 18.21 reads:

18.21 (1) Where an appellant does not appear on the day fixed for the hearing, or obtain an adjournment of the hearing, of an appeal, the Court shall, on application by the respondent and whether or not the appellant has received notice of the application, order that the appeal be dismissed, unless the Court is of the opinion that circumstances justify that the appeal be set down for hearing at a later date.

(2) An appellant whose appeal has been dismissed pursuant to subsection (1) may apply to have the order of dismissal set aside and the appeal set down for hearing.

(3) The Court may set aside an order of dismissal made under subsection (1) where

(a) it would have been unreasonable in all the circumstances for the appellant to have attended the hearing; and

(b) the appellant applied to have the order of dismissal set aside as soon as circumstances permitted the application to be brought but, in any event, not later than one hundred and eighty days after the day on which the order was mailed to the appellant.

[9] It is not clear whether or not Mr. Rennie wishes to pursue the appeal. If he does, an application may be made to the Court as provided for in section 18.21.

[10] The appeal will be dismissed.

Signed at Toronto, Ontario this 27th day of June 2012.

“J. M. Woods”

Woods J.

CITATION: 2012 TCC 231

COURT FILE NO.: 2012-414(IT)I

STYLE OF CAUSE: TIMOTHY D. RENNIE v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: June 19, 2012

REASONS FOR JUDGMENT BY: The Honourable Justice J.M. Woods

DATE OF JUDGMENT: June 27, 2012

APPEARANCES:

For the Appellant:	No one appeared
Counsel for the Respondent:	Dawn Francis

COUNSEL OF RECORD:

For the Appellant:

Name:	n/a
Firm:	

For the Respondent:

Myles J. Kirvan
Deputy Attorney General of Canada
Ottawa, Ontario