

BETWEEN:

ASIM HAZAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion disposed of on consideration of written representations

Before: The Honourable Justice Gabrielle St-Hilaire

Appearances:

Agent for the Appellant: Asad Yakob
Counsel for the Respondent: Rini Rashid

ORDER

Whereas the Appellant brought a motion seeking an Order permitting him to be represented in his general procedure appeal by his accountant, Asad Yakob;

And whereas the Respondent opposes the motion;

And whereas the Appellant has requested that the motion be disposed of upon consideration of written representations and without appearance by the parties;

Upon consideration of the Appellant's pleadings in his notice of motion and of the Respondent's written representations;

It is ordered that the application be dismissed, without costs. The Appellant is ordered to retain counsel and to advise the Registry of the identity of his counsel within 60 days of the issuance date of this order, failing which the Respondent may bring a motion for the dismissal of the appeal.

Signed at Ottawa, Canada, this 18th day of July 2019.

“Gabrielle St-Hilaire”

St-Hilaire J.

Citation: 2019 TCC 152

Date: July 18, 2019

Docket: 2019-578(IT)G

BETWEEN:

ASIM HAZAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

St-Hilaire J.

[1] The Appellant brought a motion to request that Asad Yakob, who is an accountant and not a lawyer, represent him in his appeal under the general procedure. The Respondent opposes the motion.

[2] The grounds for the motion are the Appellant's lack of financial resources and the familiarity of Mr. Yakob, with the Appellant's books and records. The Appellant did not file any documentary evidence in support of his motion.

[3] The relevant legislation is found in section 17.1 of the *Tax Court of Canada Act* (the Act) and section 30 of the *Tax Court of Canada Rules (General Procedure)* (the Rules). Section 17.1 of the Act provides as follows:

17.1 (1) A party to a proceeding in respect of which this section applies may appear in person or be represented by counsel, but where the party wishes to be represented by counsel, only a person who is referred to in subsection (2) shall represent the party. [emphasis added]

(2) Every person who may practise as a barrister, advocate, attorney or solicitor in any of the provinces may so practise in the Court and is an officer of the Court.

[4] Rule 30 provides as follows:

30(1) Subject to subsection (3), a party to a proceeding who is an individual may act in person or be represented by counsel. [emphasis added]

30(2) Where a party to a proceeding is not an individual, that party shall be represented by counsel except with leave of the Court and on any conditions that it may determine.

30(3) Unless the Court orders otherwise, a person who is the representative of a party under a legal disability in a proceeding shall be represented by counsel, except where that person is also counsel acting in such a capacity.

[5] According to a plain reading of both section 17.1 of the Act and section 30 of the Rules, a party to a proceeding who is an individual may act in person or be represented by counsel. The legislative provisions referred to above do not give the Court discretion to allow an agent, such as an accountant, to represent an individual appellant. Hence, Mr. Hazan can represent himself or hire counsel to represent him. For case law of this Court supporting this interpretation, see for example, *Masa Sushi Japanese Restaurant Inc. v. The Queen*, 2017 TCC 239 at para 5-6; *Sutlej Foods Inc. v. The Queen*, 2019 TCC 20 at para 23.

[6] The motion is dismissed without costs. The Appellant is ordered to retain counsel and to advise the Registry of the identity of his counsel within 60 days of the issuance date of this Order, failing which the Respondent may bring a motion for the dismissal of this appeal.

Signed at Ottawa, Canada, this 18th day of July 2019.

“Gabrielle St-Hilaire”

St-Hilaire J.

CITATION: 2019 TCC 152
COURT FILE NO.: 2019-578(IT)G
STYLE OF CAUSE: ASIM HAZAN AND THE QUEEN
REASONS FOR ORDER BY: The Honourable Justice Gabrielle St-Hilaire
DATE OF ORDER: July 18, 2019

APPEARANCES:

Agent for the Appellant: Asad Yakob
Counsel for the Respondent: Rini Rashid

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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