

Docket: 2013-3038(IT)APP

BETWEEN:

MARK BUSH,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

Application heard on March 12, 2014 at Hamilton, Ontario

By: The Honourable Justice J.M. Woods

Appearances:

For the Applicant: The Applicant himself
Counsel for the Respondent: Jan Jensen

ORDER

Upon application for an Order to extend the time for serving a notice of objection to assessments made under the *Income Tax Act* for the 2007 and 2008 taxation years, the application is dismissed.

Signed at Ottawa, Ontario this 26th day of March 2014.

“J.M. Woods”

Woods J.

Citation: 2014 TCC 97
Date: 20140326
Docket: 2013-3038(IT)APP

BETWEEN:

MARK BUSH,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

Woods J.

[1] Mark Bush brings an application for an extension of time to serve a notice of objection with respect to assessments made under the *Income Tax Act* for the 2007 and 2008 taxation years.

[2] The respondent submits that the application should be denied on two grounds, first that the application was filed late, and second that there was no preliminary application to the Minister of National Revenue for a time extension within the time provided.

[3] Mr. Bush submits that he did everything he could to challenge the assessments by phoning and visiting the Canada Revenue Agency (CRA) on many occasions. As he suggests: “What more could he do?”

[4] Unfortunately for Mr. Bush, it appears that he actively pursued his claim with the CRA but that he did not take the specific steps required by the legislation in order to preserve his right to object. This Court has no authority to grant an extension of time unless these steps have been taken.

[5] It is only necessary for me to consider the respondent's argument that an application for an extension of time was not made to the Minister of National Revenue before the deadline expired.

Discussion

[6] Pursuant to paragraph 166.2(5)(a) of the *Act*, this Court is prohibited from granting the Order requested by Mr. Bush unless he had first applied to the Minister of National Revenue for an extension of time within one year after the deadline for serving a notice of objection.

[7] In this case, Mr. Bush had to apply to the Minister for an extension of time by May 2, 2012, which was one year and 90 days after the relevant notices of assessment were sent to him. In this regard, the notices of assessment were sent on January 31, 2011, and notices of objection had to be served within the next 90 days.

[8] The legislation requires that the notice of objection and the application to the Minister to extend time must be in writing, unless the Minister accepts a different form of communication.

[9] The evidence reveals that Mr. Bush did not serve either a written notice of objection or a written application to extend time to the Minister by May 2, 2012. In fact, it appears that Mr. Bush had no written communication with the CRA about this issue during this period.

[10] Unfortunately for Mr. Bush, the verbal communications that he had with the CRA do not satisfy the legislative requirements for serving the Minister with either a notice of objection or an application to extend time. The application will be dismissed on this basis.

Signed at Ottawa, Ontario this 26th day of March 2014.

“J.M. Woods”

Woods J.

CITATION: 2014 TCC 97

COURT FILE NO.: 2013-3038(IT)APP

STYLE OF CAUSE: MARK BUSH AND HER MAJESTY THE QUEEN

PLACE OF HEARING: Hamilton, Ontario

DATE OF HEARING: March 12, 2014

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

DATE OF ORDER: March 26, 2014

APPEARANCES:

For the Applicant: The Applicant himself
Counsel for the Respondent: Jan Jensen

COUNSEL OF RECORD:

For the Applicant:

Name:

Firm:

For the Respondent:

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