Federal Court of Appeal



Cour d'appel fédérale

Date: 20090925

Docket: A-54-09

Citation: 2009 FCA 277

CORAM: NOËL J.A.

NADON J.A. PELLETIER J.A.

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

and

MOHANATHAS VAIRAMUTHU

Respondent

Heard at Montreal, Québec, on September 24, 2009.

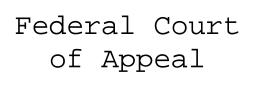
Judgment delivered at Ottawa, Ontario, on September 25, 2009.

REASONS FOR JUDGMENT BY:

PELLETIER J.A.

CONCURRED IN BY:

NOËL J.A. NADON J.A.





Cour d'appel fédérale

Date: 20090925

Docket: A-54-09

Citation: 2009 FCA 277

CORAM: NOËL J.A.

NADON J.A. PELLETIER J.A.

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

and

MOHANATHAS VAIRAMUTHU

Respondent

REASONS FOR JUDGMENT

PELLETIER J.A.

[1] The respondent voluntarily left his employment to accompany his wife to India to seek treatment for infertility. Two previous attempts at treatment in the Montreal area had not been successful. The respondent and his wife heard of a clinic in India and decided to seek treatment there.

[2] The decision to seek treatment abroad is certainly one which the respondent and his wife

were entitled to make. Given the importance of children in the respondent's culture, it may well

have been good cause for the respondent to have voluntarily left his employment but it is not just

cause. Given that the condition being treated is not a threat to life or to health, and given the

absence of evidence that no adequate alternate treatment was available in the Montreal area, the

decision to seek treatment abroad was not just cause within the meaning of section 30 of the

Employment Insurance Act, S.C. 1996 c. 23. In particular, it did not meet the standard set in

paragraph 29(c)(v) of the Act.

[3] The Umpire erred in law in disturbing the Board of Referees' decision. As a result, I would

allow the application for judicial review, I would set aside the decision of the Umpire and I would

remit the matter to the Umpire in Chief or his designate for redetermination on the basis that the

respondent was not justified in voluntarily leaving his employment to seek treatment abroad for a

condition for which treatment was available locally.

"J.D. Denis Pelletier"

J.A.

"I agree.

Marc Noël J.A."

"I agree.

M. Nadon J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-54-09

STYLE OF CAUSE: THE ATTORNEY GENERAL

OF CANADA and MOHANATHAS VAIRAMUTHU

PLACE OF HEARING: MONTREAL, QUÉBEC

DATE OF HEARING: SEPTEMBER 24, 2009

REASONS FOR JUDGMENT BY: PELLETIER J.A.

CONCURRED IN BY: NOËL J.A.

NADON J.A.

DATED: SEPTEMBER 25, 2009

APPEARANCES:

NICHOLAS R. BANKS FOR THE APPLICANT

PAULINE LEROUX

MOHANATHAS VAIRAMUTHU FOR THE RESPONDENT, ON HIS

OWN BEHALF

SOLICITORS OF RECORD:

JOHN H. SIMS, Q.C. OTTAWA, ONTARIO

DEPUTY ATTORNEY GENERAL OF CANADA

MOHANATHAS VAIRAMUTHU MONTREAL, QUÉBEC