

Federal Court



Cour fédérale

Date: 20190604

Docket: 19-T-22

Citation: 2019 FC 782

St. John's, Newfoundland and Labrador, June 4, 2019

PRESENT: Madam Justice Heneghan

BETWEEN:

ALLAN MACDONALD

Plaintiff

and

THE ATTORNEY GENERAL OF CANADA

Defendant

ORDER AND REASONS

[1] Mr. Allan MacDonald (the “Applicant”) seeks an Order , pursuant to the *Federal Courts Rules*, SOR/98-106 (the “Rules”), extending the time to commence an application for judicial review pursuant to section 18.1 of the *Federal Courts Act*, R.S.C., 1985, c. F-7, relative a grievance arising while he is incarcerated at Warkworth Institution.

[2] The Applicant submitted his affidavit, sworn on March 7, 2019, in support of his motion. In his affidavit, he describes the circumstances that led to the delay in filing his application for

judicial review. The reason was the unavailability of funds to pay the filing fees and access to his funds was controlled by Correctional Service of Canada.

[3] The Attorney General of Canada, pursuant to the Rules, is the Respondent in this matter. The Court has been advised that the Respondent does not object to the motion for an extension of time. No submissions were filed on his behalf.

[4] In *Canada (Attorney General) v. Larkman* (2012), 433 N. R. 184 (F.C.A.), the Federal Court of Appeal addressed the factors to be considered by the Court in deciding to grant an extension of time, as follows:

[...] the following questions are relevant to this Court's exercise of discretion to allow an extension of time:

- (a) Did the moving party have a continuing intention to pursue the application?
- (b) Is there some potential merit to the application?
- (c) Has the Crown been prejudiced by the delay?
- (d) Does the moving party have a reasonable explanation for the delay?

[5] I am satisfied that the Applicant has met the test and the extension of time is granted. The Applicant is hereby granted a period of 30 days from the date of this Order to commence his application for judicial review.

ORDER in 19-T-22

THIS COURT ORDERS that the Applicant is hereby granted a period of 30 days from the date of this Order to commence his application for judicial review, pursuant to section 18.1 of the *Federal Courts Act*, R.S.C., 1985, c. F-7.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: 19-T-22

STYLE OF CAUSE: ALLAN MACDONALD v. ATTORNEY GENERAL OF
CANADA

**MOTION IN WRITING CONSIDERED AT ST. JOHN'S, NEWFOUNDLAND AND
LABRADOR PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: HENEGHAN J.

DATED: JUNE 4, 2019

WRITTEN REPRESENTATIONS BY:

Allan MacDonald

FOR THE PLAINTIFF
(ON HIS OWN BEHALF)

Nicole Walton

FOR THE DEFENDANT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE DEFENDANT