

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180228

Docket: A-474-15

Citation: 2018 FCA 47

**CORAM: WEBB J.A.
RENNIE J.A.
GLEASON J.A.**

BETWEEN:

HELEN A. CLARKE

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on February 28, 2018.
Judgment delivered from the Bench at Toronto, Ontario, on February 28, 2018.

REASONS FOR JUDGMENT OF THE COURT BY:

WEBB J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on February 28, 2018.)

WEBB J.A.

[1] Helen Clarke has appealed the Order of Justice Valerie Miller of the Tax Court of Canada dated October 20, 2015 (Docket numbers 2015-519(IT)G and 2014-4560(IT)APP). This Order provided that:

- a) The Notice of Motion brought by Helen A. Clarke is dismissed;

- b) The Application to Extend the Time to File a Notice of Appeal with court file number 2014-4560(IT)APP and the Appeal with court file number 2015-519(IT)G are consolidated and will proceed under the court file number 2015-519(IT)G.
- c) Helen A. Clarke may amend her Notice of Appeal if she wishes but she must file and serve her amended Notice of Appeal within 30 days of the date on this Order.
- d) The Respondent has 90 days from the date of this Order to file and serve a Reply to the Notice of Appeal.
- e) The Respondent is awarded costs of \$500 to be paid forthwith by Helen A. Clarke.

[2] The motion that was dismissed was a motion for an Order requiring the Canada Revenue Agency (CRA) to produce all of the documents in Helen Clarke's name that were held by the CRA. During the hearing before the Tax Court this motion was withdrawn.

[3] Helen Clarke had separately filed an appeal with the Tax Court of Canada in relation to the assessments issued for her 2000 to 2009 taxation years and an application for an extension of time to file an appeal in relation to the assessments for the same taxation years. It is these two matters that were consolidated by the Tax Court judge.

[4] As acknowledged by counsel for Helen Clarke, when the Tax Court judge heard the matter that is the subject of this appeal, the only issue before her was whether the proceedings should be consolidated as Helen Clarke had withdrawn her motion for production of documents and the Crown had withdrawn her motion to quash Helen Clarke's application for an extension

of time. At the hearing before the Tax Court judge, Helen Clarke raised an estoppel issue that she submitted had to be addressed before any determination could be made in relation to the consolidation of the proceedings. The Tax Court judge rejected that argument and found that there was no impediment to consolidating the proceedings. The Order simply addressed the only matter that was before the Tax Court – the consolidation of the proceedings. The Order did not address the estoppel issue.

[5] It is trite law that an appeal is from the order, not the reasons (*Genpharm Inc. v. The Minister of Health and Procter & Gamble Pharmaceuticals Canada, Inc. and The Procter & Gamble Company*, 2002 FCA 290, [2003] 1 F.C. 402, at paragraph 7).

[6] There is no merit to this appeal from this Order and therefore the appeal is dismissed with costs which are fixed in the all-inclusive amount of \$2,500.

"Wyman W. Webb"
J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-474-15

APPEAL FROM A JUDGMENT OF THE HONOURABLE MADAM JUSTICE V. A. MILLER, DATED OCTOBER 20, 2015, DOCKET NUMBERS 2015-519(IT)G AND 2014-4560(IT)APP

DOCKET: A-474-15

STYLE OF CAUSE: HELEN A. CLARKE v. HER
MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: FEBRUARY 28, 2018

REASONS FOR JUDGMENT OF THE COURT BY: WEBB J.A.
RENNIE J.A.
GLEASON J.A.

DELIVERED FROM THE BENCH BY: WEBB J.A.

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