

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180321

Docket: A-123-16

Citation: 2018 FCA 56

**CORAM: RENNIE J.A.
WOODS J.A.
LASKIN J.A.**

BETWEEN:

WASSEEM DIRANI

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on March 21, 2018.

Judgment delivered from the Bench at Toronto, Ontario, on March 21, 2018.

REASONS FOR JUDGMENT OF THE COURT BY:

RENNIE J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on March 21, 2018).

RENNIE J.A.

[1] Wasseem Dirani appeals an Order of the Tax Court of Canada dated March 31, 2016 dismissing his application to set aside the Judgment of the Tax Court dated December 11, 2016.

[2] We are not satisfied on the record before us that there was any evidence upon which the Tax Court of Canada could have concluded that the appellant was served with the Notice of

Hearing in respect of his appeal. We note, in particular, that counsel previously acting for the Minister had advised the Tax Court that the appellant was refusing to accept registered mail, a statement from which current counsel now, correctly, resiles.

[3] In the circumstances we would allow the appeal, set aside the decision of the Tax Court and return the appellant's motion to set aside to the Tax Court for determination on a full and complete record.

[4] The Crown raises before us the objection that the appellant would, in any event, require an extension of time within which to file his motion to set aside. In our view, this should have been raised before the Tax Court in first instance. The matter having been put in issue before us, we would, having regard to the relevant criteria governing extensions of time, grant the motion in order that the substantive question – whether the appellant received notice of the hearing date – can be properly determined.

[5] We will make no order as to costs.

“Donald J. Rennie”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. CHIEF JUSTICE
ROSSITER OF THE TAX COURT OF CANADA DATED MARCH 31, 2016 IN
DOCKET NO. 2012-4153 (IT)G.**

DOCKET: A-123-16
STYLE OF CAUSE: WASSEEM DIRANI v. HER
MAJESTY THE QUEEN
PLACE OF HEARING: Toronto, Ontario
DATE OF HEARING: MARCH 21, 2018
REASONS FOR JUDGMENT OF THE COURT BY: RENNIE J.A.
WOODS J.A.
LASKIN J.A.
DELIVERED FROM THE BENCH BY: RENNIE J.A.

APPEARANCES:

Wasseem Dirani FOR THE APPELLANT
(Self-represented)
Devon E. Peavoy FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin FOR THE RESPONDENT
Deputy Attorney General of Canada