

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180914

Docket: A-388-17

Citation: 2018 FCA 163

**CORAM: NADON J.A.
STRATAS J.A.
BOIVIN J.A.**

BETWEEN:

DR. FRANK CH. HOKHOLD

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Vancouver, British Columbia, on September 12, 2018.

Judgment delivered at Vancouver, British Columbia, on September 14, 2018.

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

CONCURRED IN BY:

**NADON J.A.
STRATAS J.A.**

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REASONS FOR JUDGMENT

BOIVIN J.A.

[1] This is an appeal from a decision of Paris J. (the Judge) of the Tax Court of Canada. The Judge dismissed the Appellant's appeal from a Notice of Loss Determination for the 2008 taxation year. He determined that the Appellant was not entitled to a deduction of \$126,214.19 for bad debts pursuant to paragraph 20(1)(p) of the *Income Tax Act, R.S.C., 1985, c. 1* (5th Supp.).

[2] During argument, the Appellant detailed a long history of what he alleges is severe mistreatment by the Canada Revenue Agency (CRA). The Appellant also alleges that the Judge committed a number of errors and that he was therefore entitled to a deduction for bad debts. The only issue before our Court is the judgment of the Judge concerning the Appellant's deduction for bad debts.

[3] I am of the view that the Judge did not make a palpable or overriding error in assessing the evidence and in making findings of facts.

[4] More particularly, the Judge's decision is based on the lack of evidence and the record confirms that his finding of facts and his conclusion are well-founded. Although the Appellant submitted many documents concerning the CRA's garnishment, he did not submit any accounting records in order to prove the alleged bad debts in 2008.

[5] Also, the Judge did not err in determining that the evidence provided by the witnesses (Mr. and Mrs. Hokhold) was insufficient as the Appellant did not provide particulars regarding who his debtors were or how much they owed. The Judge's reasoning is sound that in order to have a "liquidated money demand, recoverable by action" one must know the identity of the debtor and the amount owed (Judge's reasons at para 52).

[6] The Appellant complains that he could not accurately calculate his deduction for bad debts because the CRA did not keep records of which debts were satisfied as a result of garnishment. While I understand the Appellant's complaint, it is not a ground for allowing the

appeal. Had the Appellant produced reliable records of services rendered and fees owing, he would have been able to provide a reliable estimate of bad debts. The onus would have then shifted to the CRA to show that it collected some of the debts through garnishment. However, the basis of the Judge's decision, amply supported by evidence, is that the Appellant could not produce reliable accounting records. As well, the Judge pointed out that information about payments of debts would have been received from the insurance companies (Judge's reasons at para 26).

[7] Finally, the serious allegation by the Appellant of apprehension of bias on the part of the Judge is simply without merit. The record demonstrates that the Judge was cognizant of the fact that the Appellant is self-represented and ensured that the hearing was a fair one.

[8] For these reasons, I would dismiss the appeal with costs.

"Richard Boivin"

J.A.

"I agree

M. Nadon J.A."

"I agree

David Stratas J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-388-17

STYLE OF CAUSE: DR. FRANK CH. HOKHOLD v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: VANCOUVER, BRITISH
COLUMBIA

DATE OF HEARING: SEPTEMBER 12, 2018

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: NADON J.A.
STRATAS J.A.

DATED: SEPTEMBER 14, 2018

APPEARANCES:

Dr. Frank Ch. Hokhold FOR THE APPELLANT
(ON HIS OWN BEHALF)

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