

Date: 20070920

Docket: A-552-06

Citation: 2007 FCA 298

**CORAM: DESJARDINS J.A.
DÉCARY J.A.
RYER J.A.**

BETWEEN:

CHIEF PENSIONS ADVOCATE

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on September 20, 2007.

Judgment delivered from the Bench at Vancouver, British Columbia, on September 20, 2007.

REASONS FOR JUDGMENT OF THE COURT BY:

DESJARDINS J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on September 20, 2007)

DESJARDINS J.A.

[1] We are all of the view that Heneghan J. made no error in reaching the conclusion that is found at paragraph 43 of her Reasons for Judgment:

This application for judicial review addresses a general question of statutory interpretation, not the application of the law to particular facts. The issue before the Court is whether the Board may consider the principle of “due diligence” in deciding whether to exercise its discretion to reconsider an appeal decision, pursuant to subsection 32(1) and section 111 of the VRAB Act. In my opinion, that question can be answered affirmatively, subject to the provision that the Board’s discretion must be exercised in a manner that conforms with the broad purpose of the Act and respects the intent and meaning of sections 3 and 39. Due diligence should not be given disproportionate weight.

[2] This appeal will therefore be dismissed.

[3] The Respondent is not asking for costs.

"Alice Desjardins"

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-552-06

STYLE OF CAUSE: Chief Pensions Advocate v. AGC

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: September 20, 2007

REASONS FOR JUDGMENT BY: DESJARDINS J.A.
DÉCARY J.A.
RYER J.A.

DELIVERED FROM THE BENCH BY: DESJARDINS J.A.

DATED: September 20, 2007

APPEARANCES:

Evans Robert Elkin
James T. Beckett
Mariève Sirois-Vaillancourt

FOR THE APPELLANT

Sadian Campbell

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Veteran Affairs Canada
Bureau of Pension Advocates
Quebec, QC

FOR THE APPELLANT

John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT