

Date: 20071022

Docket: A-98-07

Citation: 2007 FCA 343

**CORAM: LINDEN J.A.
NADON J.A.
PELLETIER J.A.**

BETWEEN:

DEAN PROVOST

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Calgary, Alberta, on October 22, 2007.

Judgment delivered from the Bench at Calgary, Alberta, on October 22, 2007.

REASONS FOR JUDGMENT OF THE COURT BY:

PELLETIER J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Calgary, Alberta, on October 22, 2007)

PELLETIER J.A.

[1] We are all of the view that the decision of the Umpire must be set aside and the matter remitted to the Chief Umpire or his designate for a fresh determination.

[2] The issues raised by the Commission's application were the definition of the appropriate work unit ("factory, workshop or other premises") and the existence of a work stoppage. The latter required consideration of the extent to which employees had remained at or returned to work and the extent of activity in the work unit. The Umpire set aside the decision of the Board of Referees

without identifying the appropriate work unit. He came to a conclusion as to the level of employee attendance by picking one number out of a multitude of numbers in the record without an explanation as to why he preferred that number over the others.

[3] In the circumstances the Umpire has not justified his decision to interfere with the decision of the Board of Referees. Accordingly, the matter must be remitted for a fresh determination.

"J.D. Denis Pelletier"

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-98-07

STYLE OF CAUSE: *DEAN PROVOST and THE ATTORNEY GENERAL OF CANADA*

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: OCTOBER 22, 2007

REASONS FOR JUDGMENT OF THE COURT BY: Linden, Nadon, Pelletier JJ.A.

DELIVERED FROM THE BENCH BY: PELLETIER J.A.

APPEARANCES:

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