

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20100224

Docket: A-48-09

Citation: 2010 FCA 63

**CORAM: PELLETIER J.A.
TRUDEL J.A.
STRATAS J.A.**

BETWEEN:

LARRY MITCHELL FANCY

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Halifax, Nova Scotia, on February 24, 2010.

Judgment delivered from the Bench at Halifax, Nova Scotia, on February 24, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Halifax, Nova Scotia, on February 24, 2010)

STRATAS J.A.

[1] The appellant appeals from a decision of Barnes J. of the Federal Court in file T-425-08, dated December 29, 2008, dismissing his application for judicial review.

[2] The appellant submitted that the Pension Appeals Board applied the wrong test in refusing leave. It held that there was "no reasonable chance of success on appeal." The Board, says the appellant, should have used the test of "no arguable case."

[3] In our view, in substance the correct test was applied by the Board and so we reject the appellant's submission in this regard.

[4] Therefore, for the reasons given by Barnes J., we would dismiss the appeal. The respondent has not sought costs, and so none are awarded.

"David Stratas"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-48-09

**(APPEAL FROM AN ORDER OF JUSTICE BARNES OF THE FEDERAL COURT
DATED DECEMBER 29, 2008, FILE # T-425-08)**

STYLE OF CAUSE: Larry Mitchell Fancy v. Attorney
General of Canada

PLACE OF HEARING: Halifax, Nova Scotia

DATE OF HEARING: February 24, 2010

REASONS FOR JUDGMENT OF THE COURT BY: (PELLETIER, TRUDEL, STRATAS
J.J.A.)

DELIVERED FROM THE BENCH BY: STRATAS J.A.

APPEARANCES:

Michael K. Power, Q.C. FOR THE APPELLANT

Tania Nolet FOR THE RESPONDENT

SOLICITORS OF RECORD:

Power, Dempsey, Leefe & Reddy FOR THE APPELLANT
Bridgewater, Nova Scotia

John H. Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada