

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20110223

Docket: A-184-10

Citation: 2011 FCA 67

**CORAM: LÉTOURNEAU J.A.
NADON J.A.
SEXTON J.A.**

BETWEEN:

MIKE DAOUST

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Winnipeg, Manitoba, on February 23, 2011.

Judgment delivered from the Bench at Winnipeg, Manitoba, on February 23, 2011.

REASONS FOR JUDGMENT OF THE COURT BY:

LÉTOURNEAU J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Winnipeg, Manitoba, on February 23, 2011)

LÉTOURNEAU J.A.

[1] This is an appeal from a decision of the Tax Court of Canada whereby the judge, in an oral judgment rendered from the Bench on April 9, 2010 followed by an edited version of the transcript of the oral reasons signed on June 17, 2010, affirmed the income tax reassessments of the appellant for the 2005 and 2006 taxation years.

[2] At issue was the refusal by the minister of National Revenue to accept the rental losses claimed by the appellant in the amount of \$9,173.77 and \$6,506.38 respectively. In 2007, the losses amounted to \$8,025.00, for a total of \$23,725.15 for three years. This amount represented only half of the total expenses incurred by the appellant. The total rental revenue for these three years added up to \$4,400.00.

[3] The expenses resulted from the appellant's ownership of a cottage located on Moth Lake, Ontario, that he had purchased in 2004 with a view to generate income and as a capital investment.

[4] Despite the arguments of the appellant, we have not been convinced that the Tax Court of Canada committed a reviewable error when it concluded that "the profit and loss experience would indicate that the Appellant's primary intention was not to make a profit from the rental of the cottage": see reasons for judgment at paragraph 18.

[5] There was evidence to support this conclusion and the conclusion "that the primary intention of the Appellant was to use the cottage for personal purposes, with occasional rentals to reduce the cost of maintaining the property": *ibidem*, at paragraph 24. Hence, on the basis of the evidence before it, the final and reasonable conclusion by the Tax Court that the cottage was not a source of income: *ibidem*, at paragraph 25.

[6] For these reasons, the appeal will be dismissed with costs.

“Gilles Létourneau”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-184-10

STYLE OF CAUSE: MIKE DAOUST v. HER MAJESTY
THE QUEEN

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: February 23, 2011

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OF THE COURT BY:** LÉTOURNEAU J.A.
NADON J.A.
SEXTON J.A.

DELIVERED FROM THE BENCH BY: LÉTOURNEAU J.A.

APPEARANCES:

Mike Daoust SELF-REPRESENTED

Julien Bédard FOR THE RESPONDENT

SOLICITORS OF RECORD:

Myles J. Kirvan FOR THE RESPONDENT
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