

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20110210

Docket: A-250-10

Citation: 2011 FCA 78

**CORAM: BLAIS C.J.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

TAMMY DAVISON

Respondent

Heard at Halifax, Nova Scotia, on February 10, 2011.

Judgment delivered from the Bench at Halifax, Nova Scotia, on February 10, 2011.

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 Halifax, Nova Scotia, on February 10, 2011)

PELLETIER J.A.

[1] This is an application for judicial review of a decision of the Pension Appeal Board (PAB) overturning a decision of the Review Tribunal which found that the respondent was not disabled within the meaning of the Canada Pension Plan. The PAB found, on the evidence before it, that the applicant did meet the statutory test.

[2] The applicant argued before us that the PAB had committed a number of errors in its treatment of the evidence before it. The respondent argued that when the PAB's reasons are read as a whole, they disclose a coherent line of reasoning which supports a conclusion which was within the range of possible outcomes, having regard to the facts and the law. The respondent does not dispute that the PAB's conclusion is reasonable.

[3] The standard of review of the PAB's decision on questions of fact and mixed fact and law is reasonableness. While we agree with the applicant that the PAB's reasons are not all that they could be, we are satisfied that, read as a whole, in the context of the totality of the evidence, they support the PAB's conclusion, a conclusion which was available to it on the basis of the record before it.

[4] The applicant put considerable emphasis on the fact that the PAB ignored the respondent's admissions, made at or around the time of her minimum qualifying period, that she was willing and able to engage in gainful employment. It would have been preferable for the PAB to deal with this issue in more detail in its reasons, but it is apparent that the Board was aware of this evidence (see para. 5 of its reasons) but that it did not give it the weight which the applicant believed it deserved.

[5] Similarly, while the PAB may have misstated Dr. Gonsalves' opinion on the severity of the applicant's psychiatric condition, there was other evidence before it which supported its conclusion.

[6] In the end, we are satisfied that the PAB did consider all of the evidence before it and that its reasons, though laconic, reflect this and support its conclusion.

[7] As a result, the application for judicial review will be dismissed with costs.

"J.D. Denis Pelletier"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-250-10

STYLE OF CAUSE: ATTORNEY GENERAL OF
CANADA and TAMMY DAVISON

PLACE OF HEARING: HALIFAX, NOVA SCOTIA

DATE OF HEARING: FEBRUARY 10, 2011

REASONS FOR JUDGMENT OF THE COURT BY: BLAIS C.J.
PELLETIER J.A.
TRUDEL J.A.

DELIVERED FROM THE BENCH BY: PELLETIER J.A.

APPEARANCES:

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