

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20110620

Docket: A-130-11

Citation: 2011 FCA 206

Present: NOËL J.A.

BETWEEN:

**INTERNATIONAL RELIEF FUND FOR THE AFFLICTED
AND NEEDY (CANADA)**

Applicant

and

MINISTER OF NATIONAL REVENUE

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on June 20, 2011.

REASONS FOR ORDER BY:

NOËL J.A.

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REASONS FOR ORDER

NOËL J.A.

[1] I am seized with a motion by the respondent to strike the applicant's application for an extension of time made pursuant to paragraph 168(2)(b) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (the *Income Tax Act*). Subsection 168(2) provides:

Revocation of registration

168. (2) Where the Minister gives notice under subsection 168(1) to a registered charity or to a registered Canadian amateur athletic association,

(a) if the charity or association has

Révocation de l'enregistrement

168. (2) Le ministre doit, dans le cas de l'alinéa *a*), et peut, dans les autres cas, publier dans la Gazette du Canada copie de l'avis prévu au paragraphe (1). Sur publication de cette copie, l'enregistrement de l'organisme de

applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the *Canada Gazette*, and

(b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*,

and on that publication of a copy of the notice, the registration of the charity or association is revoked.

bienfaisance ou de l'association canadienne de sport amateur est révoqué. La copie de l'avis doit être publiée dans les délais suivants :

a) immédiatement après la mise à la poste de l'avis, si l'organisme de bienfaisance ou l'association a adressé la demande visée à l'alinéa (1)a);

b) dans les autres cas, soit 30 jours après la mise à la poste de l'avis, soit à l'expiration de tout délai supérieur à 30 jours courant de la mise à la poste de l'avis que la Cour d'appel fédérale ou l'un de ses juges fixe, sur demande formulée avant qu'il ne soit statué sur tout appel interjeté en vertu du paragraphe 172(3) au sujet de la signification de cet avis.

[2] I agree with the respondent's submission that since the applicant's registration as a charity has been revoked, the extension of time is without object, and the application is accordingly moot.

[3] The applicant's contention that the respondent's letter dated March 22, 2011 is evidence of the fact that registration can be reinstated after formal revocation and that accordingly the matter is not moot is without foundation. This letter merely sought to protect the integrity of the Court process in the event of a conflict arising from the due exercise of the Minister's power to publish the

Notice of Revocation and the power of the Court to extend the 30-day period.

[4] As otherwise subsections 168(4) and 172(3) provide for an alternative means of reviewing the substantive issue raised by the applicant *i.e.* whether it qualifies as a charity, and as this process is engaged, there is no basis for this Court to exercise its discretion to hear the application despite its mootness.

[5] I would accordingly allow the respondent's motion to strike with costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-130-11

STYLE OF CAUSE: INTERNATIONAL RELIEF FUND
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NEEDY (CANADA)

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: NOËL J.A.

DATED: June 20, 2011

WRITTEN REPRESENTATIONS BY:

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