

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20120131

Docket: A-250-11

Citation: 2012 FCA 35

**CORAM: LÉTOURNEAU J.A.
NOËL J.A.
MAINVILLE J.A.**

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

and

CARTER MAUGHAN

Respondent

Hearing held by Video-conference
Between Québec, Quebec and Fredericton, New Brunswick, on January 31, 2012.

Judgment delivered from the Bench at Québec, Quebec, on January 31, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

Federal Court
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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Québec, Quebec, on January 31, 2012)

NOËL J.A.

[1] Two questions are in issue in this application for judicial review. The first is whether the claimant had just cause for leaving his employment. The second is whether the claimant was available for work for the period of August 12 to August 27, 2010.

[2] With respect to the first issue, we are of the view that there was evidence before the Board of Referees and subsequently before the Umpire to support their respective conclusion that the

claimant had just cause for leaving his employment within the meaning of paragraph 29c) of the *Employment Insurance Act*, S.C. 1996, c. 23. The Attorney General's application for judicial review therefore fails on this ground.

[3] As to availability, both the Board of Referees and the Umpire had the obligation to determine whether the claimant met this condition for the above period, and failed to do so. Given that according to the evidence, the claimant had to care for his sister on a continuous and ongoing basis during this period, we find that he was unavailable for work throughout these two weeks (*Canada (Attorney General) v. Penney*, 2005 FCA 241).

[4] The application for judicial review will be allowed in part with respect to the issue of availability and the matter will be returned to the Chief Umpire or his designate so that it may be decided again on the basis that the respondent was not available for work for the period of August 12 to August 27, 2010, and therefore was not entitled to benefits for that period.

"Marc Noël"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-250-10

STYLE OF CAUSE: The Attorney General of Canada v.
Carter Maughan

**APPLICATION FOR JUDICIAL REVIEW DEALT BY VIDEO-CONFERENCE WITH
APPEARANCE OF THE PARTIES.**

DATE OF HEARING: January 31, 2012

REASONS FOR JUDGMENT OF THE COURT BY: LÉTOURNEAU, NOËL AND
MAINVILLE J.J.A.

DELIVERED FROM THE BENCH BY: NOËL J.A.

APPEARANCES:

Julien S. Matte FOR THE APPLICANT

Carter Maughan FOR THE RESPONDENT
(self-represented)

SOLICITORS OF RECORD:

Myles J. Kirvan FOR THE APPLICANT

N/A FOR THE RESPONDENT
(self-represented)