

Federal Court of Appeal



Cour d'appel fédérale

**Date: 20120425**

**Docket: A-295-11**

**Citation: 2012 FCA 128**

**Present: LÉTOURNEAU J.A.**

**BETWEEN:**

**MICHEL MAHEUX**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**and**

**ANDRÉ FERLAND**

**Respondent**

Motion dealt with in writing without appearance of the parties.

Order delivered at Ottawa, Ontario, on April 25, 2012.

**REASONS FOR ORDER BY:**

**LÉTOURNEAU J.A.**



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**Appellant(s)**

**and**

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**and**

**ANDRÉ FERLAND**

**Respondent(s)**

**REASONS FOR ORDER**

**LÉTOURNEAU J.A.**

[1] This is an appeal from a decision of the Federal Court dismissing, upon motion to strike, a claim for damages filed by the appellant against Her Majesty the Queen and André Ferland.

[2] The appellant is representing himself, and as is often the case, determining the content of the appeal book has proved to be a difficult exercise. At the heart of the dispute between the

parties is a Notice of Statutory Set-off (Notice) that had been filed in connection with the motion to strike the appellant's claim. By an agreement on the content of the book, signed by the parties on March 28, 2012, the Notice appears on the list of documents to be included in the appeal book.

[3] The parties do not agree on how this Notice came to be included in the appeal book. The appellant submits that the respondents were responsible for this. The respondents, however, reply that they noticed this addition in the email correspondence with the appellant and agreed to the Notice's inclusion in the record to place the debate in its proper context and allow the Court to consider this rarely used type of document.

[4] The application for statutory set-off is based on section 224.1 of the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c. 1. It is true that this Court has dealt with only a handful of proceedings based such applications: see *Mintzer v. Canada*, [1996] 2 F.C. 146 (C.A.) and *Bouchard v. Canada (Attorney General)*, 2009 FCA 321.

[5] Having signed the agreement, the appellant is now filing a motion to add new documents [TRANSLATION] "proving the falsification of the statutory set-off form", including two letters from the respondent André Ferland dating from 2009 and 2010 which the appellant refers to as [TRANSLATION] "blackmail letters". I have examined the two letters in question. They merely explain the file's status, ask the appellant to explain the financial transactions and remind him that, in view of his refusal to answer the questions, only he can resolve the impasse in the file.

[6] At any rate, like the Notice and the other documents that the appellant wishes to introduce on appeal, these two letters contribute nothing to the determination of the issue on appeal. The appellant is unhappy with the inclusion of the Notice. The respondents, as they write in their motion record, thought they were being helpful in not objecting to its inclusion. They consent to its removal from the agreement and propose that this be done. In view of the debate that was triggered and the fact that the document in question was not filed at trial, I think it is better in the circumstances to remove it from the agreement. Paragraph 344(1)(d) of the *Federal Courts Rules* (Rules) limits the content of the appeal book to documents filed in first instance that define the issues in the appeal.

[7] The respondents rightly complain of the unfairly acrimonious and vitriolic tone of the appellant's motion. Accordingly, should the appellant's motion be dismissed, they ask that costs be payable immediately. I agree, and in order to avoid additional proceedings, I would fix the costs at \$350, including disbursements.

[8] For these reasons, it will be so ordered:

The appellant's motion to add new evidence will be dismissed with costs fixed at \$350, including disbursements, payable immediately to the respondents.

The documents described in the agreement between the parties, dated March 28, 2012, will be included in the appeal book and filed in the record, with the exception of the Notice of Statutory Set-off.

In accordance with paragraph (c) of the Order dated March 20, 2012, of the Honourable Mr. Justice Mainville of this Court, the Administrator of the Court will prepare the appeal book on behalf of the appellant.

The parties shall comply with the time limits set in paragraphs (d) to (f) of the Order of Justice Mainville.

As this appeal has already been the subject of a *Status Review* further to an order dated February 20, 2012, of the Chief Justice of this Court, the Honourable Pierre Blais, and as the schedule fixed by Justice Mainville aims to make up for the time lost because of the appellant's failure to comply with the Rules relating to appeals (which failure is attributable to the fact that he is not represented by counsel and is unfamiliar with the procedural rules applicable to this case), the failure of the appellant to comply with this schedule may result in his appeal being dismissed with costs, without further notice or delay.

“Gilles Létourneau”

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J.A.



**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-295-11

**STYLE OF CAUSE:** MICHEL MAHEUX v. HER MAJESTY THE  
QUEEN **and** ANDRÉ FERLAND

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF THE PARTIES**

**REASONS FOR ORDER BY:** LÉTOURNEAU J.A.

**DATED:** April 25, 2012

**WRITTEN REPRESENTATIONS BY:**

Michel Maheux

ON HIS OWN BEHALF

Ian Demers

FOR THE RESPONDENTS

**SOLICITORS OF RECORD:**

Guy Favreau Complex  
Montréal, Quebec

FOR THE RESPONDENTS