

Federal Court of Appeal



Cour d'appel fédérale

Date: 20120911

Docket: A-419-11

Citation: 2012 FCA 233

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

BETWEEN:

THE ACCESS INFORMATION AGENCY INC.

Applicant

and

**CANADA REVENUE AGENCY
(COMMISSIONER OF REVENUE)**

Respondent

Hearing held at Ottawa, Ontario, on September 11, 2012.

Judgment delivered from the Bench at Ottawa, Ontario, on September 11, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

BLAIS C.J.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on September 11, 2012)

BLAIS C.J.

[1] In this case, the applicant has put all its eggs in one basket, deliberately choosing to rely solely on alleged breaches of procedural fairness.

[2] Regarding the merits of the decision under appeal, the applicant chose not to address this issue, except for noting that it is a nullity by reason of an apprehension of bias.

[3] Notwithstanding the applicant's submissions to the contrary, Mr. Downey never stated that he was biased.

[4] In light of all the circumstances of this case, including the fact that the decision was rendered on June 11, 2011, the applicant has failed to satisfy us that there may be a reasonable apprehension of bias on the part of Mr. Downey, with regard to his decision to investigate the complaints that had been filed.

[5] It is our opinion that section 9 of the *Canadian International Trade Tribunal Act* does not apply in this case.

[6] Moreover, the applicant has failed to satisfy us that there was any reason that would have disqualified Mr. Fréchette from continuing the inquiries initiated by Mr. Downey and from making his decision.

[7] As to the delay in issuing the reasons, the applicant clearly set out all its arguments on procedural fairness in its notice of application and its memorandum. It did not avail itself of any of the remedies available to challenge the merits of the decision after it received the reasons.

[8] Accordingly, the application for judicial review will be dismissed with costs.

“Pierre Blais”

C.J.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-419-11

Appeal from a determination of the Canadian International Trade Tribunal issued on October 17, 2011.

STYLE OF CAUSE: THE ACCESS INFORMATION
AGENCY INC. and CANADA
REVENUE AGENCY
(COMMISSIONER OF REVENUE)

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: September 11, 2012

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

DELIVERED FROM THE BENCH BY: BLAIS C.J.

APPEARANCES:

Thomas Dastous FOR THE APPLICANT

Marie Josée Montreuil FOR THE RESPONDENT

SOLICITORS OF RECORD:

Dastous Law FOR THE APPLICANT
Ottawa, Ontario

Myles J. Kirvan FOR THE RESPONDENT
Deputy Attorney General of Canada