

Federal Court of Appeal



Cour d'appel fédérale

Date: 20121011

Docket: A-194-11

Citation: 2012 FCA 257

**CORAM: NOËL J.A.
DAWSON J.A.
STRATAS J.A.**

BETWEEN:

**COMMUNICATIONS, ENERGY AND
PAPERWORKERS UNION OF CANADA**

Applicant

and

**EXPLORATION PRODUCTION INC., CTV SPECIALTY
TELEVISION ENTERPRISES INC., THE SPORTS NETWORK**

Respondents

Heard at Toronto, Ontario, on October 11, 2012.

Judgment delivered from the Bench at Toronto, Ontario, on October 11, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

Federal Court of Appeal



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

STRATAS J.A.

[1] The applicant seeks an order quashing a preliminary ruling dated April 27, 2011 made by the Canada Industrial Relations Board: 2011 CIRB 583. The Board ruled that the labour relations of Exploration Production Inc. do not fall within federal jurisdiction and are not subject to the application of the *Canada Labour Code*.

[2] In careful and thorough reasons, the Board set out the applicable legal test, made factual findings that were supported on the evidence before it, and applied the legal test to those findings. We have not been persuaded that the Board erred in any way.

[3] In argument before us, the applicant submitted that the Board defined the undertaking improperly. The definition of the undertaking that the applicant now proposes was not raised before the Board or in the applicant's memorandum before us. In our view, the Board could not have erred by failing to consider an argument that was not put to it.

[4] Therefore, the application for judicial review will be dismissed with costs.

“David Stratas”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-194-11

(AN APPLICATION FOR JUDICIAL REVIEW OF A DECISION OF THE CANADA INDUSTRIAL RELATIONS BOARD DATED APRIL 27, 2011, BOARD FILE NOS.: 26436-C, 26437-C.)

STYLE OF CAUSE: COMMUNICATIONS, ENERGY AND
PAPERWORKERS UNION OF CANADA v.
EXPLORATION PRODUCTION INC, CTV
SPECIALTY TELEVISION ENTERPRISES INC.,
THE SPORTS NETWORK

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: October 11, 2012

**REASONS FOR JUDGMENT OF
THE COURT BY:** (NOËL, DAWSON & STRATAS JJ.A.)

**DELIVERED FROM THE
BENCH BY:** STRATAS J.A.

APPEARANCES:

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John-Paul Alexandrowicz FOR THE RESPONDENTS
Nadine Zacks

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