

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130206

Docket: A-370-11

Citation: 2013 FCA 29

**CORAM: SHARLOW J.A.
TRUDEL J.A.
WEBB J.A.**

BETWEEN:

CHRISTOPHER WINSTON CURPEN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Winnipeg, Manitoba, on February 6, 2013.

Judgment delivered from the Bench at Winnipeg, Manitoba, on February 6, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

TRUDEL J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Winnipeg, Manitoba, on February 6, 2013)

TRUDEL J.A.

[1] The *Employment Insurance Act*, S.C.1996, c.23 (the Act) and the *Employment Insurance Regulations*, SOR/96-332 (the Regulations) impose a duty on the Commission to calculate how a severance payment is to be applied, and the rate of benefits an applicant will be entitled to receive once the severance pay has been allocated under the Regulations.

[2] There is no discretion involved, and the Commission is bound to apply the provisions of the Act. The Commission applied the law as written and made the calculation. There is no challenge to the accuracy of its determination.

[3] Mr. Curpen argues that this Court should devise a special remedy for his case because the difficulties he encountered at his workplace were the result of what he characterized as whistleblowing in the public interest. Neither this Court, nor the Umpire, nor the Board of Referees has the legal authority to grant Mr. Curpen special relief based on his unique circumstances.

[4] No error has been shown in the decision of the Umpire warranting the intervention of this Court. As a result, this application for judicial review will be dismissed without costs, as none are being sought by the Respondent.

"Johanne Trudel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-370-11

APPEAL FROM A DECISION OF THE OFFICE OF THE UMPIRE DATED AUGUST 19, 2011, DOCKET NO. CUB 77468

STYLE OF CAUSE: Christopher Winston Curpen v.
Attorney General of Canada

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: February 6, 2013

REASONS FOR JUDGMENT OF THE COURT BY: TRUDEL J.A.

DELIVERED FROM THE BENCH BY: TRUDEL J.A.

APPEARANCES:

Christopher Winston Curpen ON HIS OWN BEHALF

Robert Neilson FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada