

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130207

Docket: A-413-11

Citation: 2013 FCA 32

**CORAM: BLAIS C.J.
SHARLOW J.A.
TRUDEL J.A.**

BETWEEN:

GUY FIETZ

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Winnipeg, Manitoba, on February 7, 2013.

Judgment delivered from the Bench at Winnipeg, Manitoba, on February 7, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW 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 7, 2013)

SHARLOW J.A.

[1] This is an appeal of a judgment of Justice Webb of the Tax Court of Canada, as he then was, determining a question put to the Court on the joint application of the parties pursuant to Rule 58 of the *Tax Court of Canada Rules (General Procedure)*, SOR/90-688a. The question relates to the validity of a waiver where the prescribed form (Form 2029) does not specify on its face the matter or matters being waived. Justice Webb concluded that the absence of those particulars was not a fatal omission in this case because the intention of the

appellant who signed the form was clear from the surrounding circumstances (2011 TCC 493).

[2] Having considered the written and oral submissions of the appellant, we have not been persuaded that Justice Webb erred in law in deciding as he did. On the contrary, we agree with his decision, substantially for the reasons he gave.

[3] For that reason, this appeal will be dismissed with costs.

"K. Sharlow"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-413-11

**APPEAL FROM AN ORDER OF JUSTICE WEBB OF THE TAX COURT OF CANADA
DATED OCTOBER 20, 2011, DOCKET NO. 2010-1738(IT)G**

STYLE OF CAUSE: Guy Fietz v. Her Majesty The Queen

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: February 7, 2013

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

DELIVERED FROM THE BENCH BY: SHARLOW J.A.

APPEARANCES:

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