

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130610

Docket: A-2-13

Citation: 2013 FCA 155

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

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

KATHRYN BELL

Respondent

Heard at Toronto, Ontario, on June 10, 2013.

Judgment delivered from the Bench at Toronto, Ontario, on June 10, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

DAWSON J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on June 10, 2013)

DAWSON J.A.

[1] The issue raised on this application for judicial review is whether an Umpire erred when he concluded that the respondent had just cause, under subparagraph 29(c)(vi) of the *Employment Insurance Act*, S. C. 1996, c. 23, to leave her employment?

[2] The respondent has a degree in early childhood education. After being initially employed in that field, she was compelled to accept employment as a payroll assistant with a trucking company. She then voluntarily quit that employment to accept part-time employment as an early childhood educator. Both the Board of Referees and an Umpire found the respondent to have just cause to quit her employment.

[3] In our view, in order to reach this conclusion both the Board of Referees and the Umpire ignored the settled jurisprudence of this Court.

[4] In *Canada (Attorney General) v. Langlois*, 2008 FCA 18, 291 D.L.R. (4th) 149, this Court held that while it is legitimate for a worker to change the nature of their work, this cannot be done at the expense of the employment insurance fund, and does not constitute just cause for leaving employment. See also *Canada (Attorney General) v. Richard*, 2009 FCA 122, [2009] F.C.J. No. 511; *Canada (Attorney General) v. Langevin*, 2011 FCA 163, [2011] F.C.J. No. 662.

[5] The Umpire's failure to apply the settled jurisprudence renders his decision unreasonable.

[6] In the result, the application for judicial review will be allowed and the decision of the Umpire (CUB 80089) will be quashed. The matter will be referred back to the Chief Umpire or his designate for redetermination on the basis that the respondent did not have just cause to leave her employment with Erb Transport Limited and that she has not accumulated the minimum number of hours of insurable employment required to qualify for benefits. The Attorney General did not seek costs and no costs are awarded.

“Eleanor R. Dawson”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-2-13

(JUDICIAL REVIEW OF A DECISION OF THE HONOURABLE MR. JUSTICE GUY GOULARD SITTING AS UMPIRE APPOINTED UNDER THE EMPLOYMENT INSURANCE ACT, S.C. 1996 c.23, DATED NOVEMBER 9, 2012, IN DOCKET NO. CUB 80089)

STYLE OF CAUSE:

ATTORNEY GENERAL OF
CANADA V. KATHRYN BELL

PLACE OF HEARING:

Toronto, Ontario

DATE OF HEARING:

June 10, 2013

**REASONS FOR JUDGMENT
OF THE COURT BY:**

(NOËL, DAWSON & GAUTHIER
JJ.A.)

DELIVERED FROM THE BENCH BY:

DAWSON J.A.

APPEARANCES:

Derek Edwards

FOR THE APPLICANT

Kathryn Bell

FOR THE RESPONDENT, ON HER
OWN BEHALF

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