

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130625

Docket: A-419-12

Citation: 2013 FCA 170

**CORAM: BLAIS C.J.
MAINVILLE J.A.
NEAR J.A.**

BETWEEN:

DUNCAN A. BOWES CD1

Appellant

and

DEPARTMENT OF NATIONAL DEFENCE

Respondent

Heard at Winnipeg, Manitoba, on June 25, 2013.

Judgment delivered from the Bench at Winnipeg, Manitoba, on June 25, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

NEAR J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Winnipeg, Manitoba, on June 25, 2013)

NEAR J.A.

[1] The appellant appeals from the September 4, 2012 Order of the Federal Court (12-T-59), in which the judge dismissed his application for an extension of time to file an application for judicial review of a decision rendered with respect to the appellant's grievance by the final authority pursuant to the *National Defence Act*, R.S.C. , 1985, c. N-5.

[2] The *National Defence Act* is clear that “[a] decision of a final authority in the grievance process is final and binding and, except for judicial review under the *Federal Courts Act*, is not subject to appeal or to review by any court”: section 29.15. The appellant was informed of the timelines within which he could commence an application for judicial review. The judge applied the proper legal test, and was not satisfied by the appellant’s explanations for the long delay (over 180 days) in commencing his application. As the appellant has not demonstrated any error that would warrant this Court’s intervention, I would dismiss the appeal with costs.

"D.G. Near"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-419-12

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE BEAUDRY
DATED SEPTEMBER 4, 2012, DOCKET NO. 12-T-59**

STYLE OF CAUSE: Duncan A. Bowes CD1 v.
Department of National Defence

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: June 25, 2013

REASONS FOR JUDGMENT OF THE COURT BY: Blais C.J.
Mainville J.A.

DELIVERED FROM THE BENCH BY: Near J.A.

APPEARANCES:

Duncan A. Bowes CD1

ON HIS OWN BEHALF

Christine Singh

FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney
Deputy Attorney General of Canada

FOR THE RESPONDENT