

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200206

Docket: A-387-17

Citation: 2020 FCA 38

**CORAM: RENNIE J.A.
DE MONTIGNY J.A.
LOCKE J.A.**

BETWEEN:

LESLIE PAUL BLAIS

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Vancouver, British Columbia, on February 5, 2020.

Judgment delivered at Vancouver, British Columbia, on February 6, 2020.

REASONS FOR JUDGMENT BY:

DE MONTIGNY J.A.

CONCURRED IN BY:

**RENNIE J.A.
LOCKE J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200206

Docket: A-387-17

Citation: 2020 FCA 38

**CORAM: RENNIE J.A.
DE MONTIGNY J.A.
LOCKE J.A.**

BETWEEN:

LESLIE PAUL BLAIS

Appellant

and

HER MAJESTY THE QUEEN

Respondent

REASONS FOR JUDGMENT

DE MONTIGNY J.A.

[1] The appellant, Mr. Leslie Paul Blais, appeals the decision of the Tax Court of Canada delivered orally on October 26, 2017 (2017-2325(IT)I), whereby his appeal of the Minister of National Revenue's assessments for taxation years 2006, 2007, 2008 and 2009 were dismissed. Upon motion of the respondent, and with the consent of the appellant, the Tax Court quashed the appeal of the 2007 taxation year on the ground that, it being a nil assessment, it could not be

appealed to the Tax Court. As for the 2006, 2008 and 2009 taxation years, the Court found that the appellant did not satisfy the requirements of the Income Tax Act (R.S.C. 1985, c. 1 (5th Supp.) as amended) (the Act) to deduct allowable business investment losses and moving expenses from his business income.

[2] Having carefully considered the appellant's arguments, I am of the view that the Tax Court committed no palpable and overriding errors in dismissing his arguments with respect to the 2006, 2008 and 2009 taxation years.

[3] Pursuant to paragraph 39(1)(c) of the Act, a taxpayer must have disposed of property that was "a share of the capital stock of a small business corporation" or "a debt owing to the taxpayer by a Canadian-controlled private corporation" to qualify for a business investment loss. The appellant does not deny that he did not own shares in or lend money to a small business corporation, as he carries on his business as a sole proprietorship. As a result, the Tax Court did not err in finding that he could not deduct the losses on the tools he had to replace as allowable business investment losses. Nor could they be deducted as business expenses, not only because the appellant did not meet his burden of proving the amount of his expenses, but more importantly because paragraph 18(1)(b) of the Income Tax Act prohibits the deduction of capital assets such as tools.

[4] As for the appellant's moving expenses, they could also not be deducted since they did not meet the definition of "eligible relocation" found in paragraph 248(1)(d) of the Act. The appellant testified that he moved only 3.8 kilometres from his house to the trailer on his jobsite,

which is far less than 40 kilometres required by paragraph 248(1)(d) to qualify for “eligible relocation”. Accordingly, the Tax Court made no palpable and overriding error in finding that he could not deduct his moving expenses from his income under subsection 62(1) of the Act.

[5] Finally, the appellant also raised for the first time before us a number of arguments pertaining to institutional bias resulting from the fact that the judiciary is paid out of the Consolidated Revenue Fund, and to alleged violations of his rights under sections 7, 11 and 15 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, c. 11. It is well established that such arguments ought to be made and substantiated at the trial level, and will not otherwise be entertained on appeal especially if they have not even been brought up in the written submissions.

[6] For all of the above reasons, I would dismiss the appeal with costs.

"Yves de Montigny"

J.A.

"I agree
Donald J. Rennie J.A."

"I agree
George R. Locke J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-387-17

STYLE OF CAUSE: LESLIE PAUL BLAIS v. HER
MAJESTY THE QUEEN

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: FEBRUARY 5, 2020

REASONS FOR JUDGMENT BY: DE MONTIGNY J.A.

CONCURRED IN BY: RENNIE J.A.
LOCKE J.A.

DATED: FEBRUARY 6, 2020

APPEARANCES:

LESLIE PAUL BLAIS FOR THE APPELLANT
(ON HIS OWN BEHALF)

JAMIE HANSEN FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin FOR THE RESPONDENT
Deputy Attorney General of Canada