

Federal Court of Appeal



Cour d'appel fédérale

Date: 20211117

Docket: A-288-20

Citation: 2021 FCA 221

**CORAM: PELLETIER J.A.
DE MONTIGNY J.A.
LEBLANC J.A.**

Docket: A-288-20

BETWEEN:

HUU NGHIA VUONG

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Montréal, Quebec, on November 16, 2021.

Judgment delivered at Montréal, Quebec, on November 17, 2021.

REASONS FOR JUDGMENT BY:

PELLETIER J.A.

CONCURRED IN BY:

**DE MONTIGNY J.A.
LEBLANC J.A.**

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REASONS FOR JUDGMENT

PELLETIER J.A.

[1] Mr. Vuong appeals from the decision of the Federal Court (2020 FC 1039) in which the Court dismissed Mr. Vuong's application for judicial review of a Social Security Tribunal [Appeal Division] (SST-AD) decision.

[2] In 2018, Mr. Vuong was laid off from his employment. He applied for employment insurance benefits. Unfortunately, his employer made an error in calculating his earnings in his Record of Employment (ROE.)

[3] Mr Vuong applied for reconsideration of the Commission's determination of his benefits. The Commission made the necessary adjustments to Mr. Vuong's claim file so that in the end Mr. Vuong's claim was dealt with correctly.

[4] In the interim, the employer prepared a new ROE which Mr. Vuong believes also contains errors but agrees that those errors do not affect the correctness of the Commission's determination as to his benefits. Mr. Vuong, however, wishes to have the errors in the new ROE corrected even though as the Federal Court pointed out at paragraph 7 of its reasons: "any error can have no possible impact on Mr. Vuong's future claims".

[5] In his attempts to have the corrections made, Mr. Vuong raised the matter with his employer and with Service Canada but to no avail. He then applied to the Social Security Tribunal (General Division) (SST-GD) to have his ROE corrected.

[6] The SST-GD dismissed his application on its own motion, as permitted by ss.53 (1) of the *Department of Employment and Social Development Act* S.C. 2005 c.34. It held that it had no jurisdiction to correct a ROE.

[7] Mr. Vuong's appeal of this decision to the SST-AD was dismissed on the basis that there was no error of law or jurisdiction in the SST-GD's decision. Mr. Vuong's application for judicial review was dismissed for the same reason.

[8] The Social Security Tribunal can only hear appeals which are entrusted to it by legislation. Unfortunately for Mr. Vuong, there is no legislation, which provides for appeals from Service Canada. There is no mechanism by which this Court or the Social Security Tribunal can compel Mr. Vuong's employer to correct his ROE.

[9] The Court is aware that Mr. Vuong is experiencing some distress because of his inability to have his ROE corrected. Unfortunately, we are not in a position to be of assistance to him.

[10] The appeal will be dismissed but without costs.

"J.D. Denis Pelletier"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET : A-288-20

STYLE OF CAUSE : HUU NGHIA VUONG v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING : MONTRÉAL (QUEBEC)

DATE OF HEARING : NOVEMBER 16, 2021

REASONS FOR JUDGMENT BY: PELLETIER J.A.

CONCURRED IN BY: DE MONTIGNY J.A.
LEBLANC J.A.

DATED: NOVEMBER 17, 2021

APPEARANCES:

ME ISABELLE MATHIEU-MILLAIRE

FOR THE RESPONDENT
ME ISABELLE MATHIEU-
MILLAIRE

SOLICITORS OF RECORD:

A. François Daigle
Deputy Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT
ME ISABELLE MATHIEU-
MILLAIRE