

Federal Court of Appeal



Cour d'appel fédérale

Date: 20221004

Docket: A-286-21

Citation: 2022 FCA 166

**CORAM: GLEASON J.A.
MACTAVISH J.A.
MONAGHAN J.A.**

BETWEEN:

JOHN TURMEL

Appellant

and

HIS MAJESTY THE KING

Respondent

Heard at Toronto, Ontario, on October 4, 2022.
Judgment delivered from the Bench at Toronto, Ontario, on October 4, 2022.

REASONS FOR JUDGMENT OF THE COURT BY:

MONAGHAN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on October 4, 2022).

MONAGHAN J.A.

[1] The appellant, John Turmel, appeals a decision of the Federal Court (2021 FC 1095) dismissing his appeal of an order of the Case Management Judge striking his statement of claim in its entirety, without leave to amend and with costs.

[2] The Federal Court followed this Court's decision in *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215 (*Hospira*), and identified the appellate standard of review from *Housen v. Nikolaisen*, 2002 SCC 33, as the standard to be applied in its review of the Case Management Judge's order.

[3] Applying that standard, the Federal Court could find no reviewable error in the Case Management Judge's decision, agreeing with her observations regarding the lack of facts necessary to support the appellant's claims under the *Canadian Charter of Rights and Freedoms*, her observations on the law, and her conclusion that the claim as drafted is an abuse of process.

[4] This Court can allow the appeal only if we are satisfied that the Federal Court made an error of law or a palpable and overriding error in refusing to interfere with the Case Management Judge's decision: *Hospira*, at para. 84. Contrary to Mr. Turmel's submission, it was not open to the Case Management Judge or the Federal Court to disregard the applicable law and it is similarly not open to us to do so.

[5] We see no error in the decision below and accordingly we will dismiss the appeal with costs, fixed in the all-inclusive amount of \$1,500.00.

"K.A. Siobhan Monaghan"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE ZINN DATED
OCTOBER 18, 2021, DOCKET NO. T-130-21**

DOCKET:	A-286-21
STYLE OF CAUSE:	JOHN TURMEL v. HIS MAJESTY THE KING
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	OCTOBER 4, 2022
REASONS FOR JUDGMENT OF THE COURT BY:	GLEASON J.A. MACTAVISH J.A. MONAGHAN J.A.
DELIVERED FROM THE BENCH BY:	MONAGHAN J.A.

APPEARANCES:

John Turmel	FOR THE APPELLANT (ON HIS OWN BEHALF)
James Schneider	FOR THE RESPONDENT

SOLICITORS OF RECORD:

A. François Daigle Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT
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