

Date: 20130624

Docket: A-539-12

Citation: 2013 FCA 166

**CORAM: SHARLOW J.A.
DAWSON J.A.
STRATAS J.A.**

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

DANIEL MACLEOD

Respondent

Heard at Halifax, Nova Scotia, on June 24, 2013.

Judgment delivered from the Bench at Halifax, Nova Scotia, on June 24, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

DAWSON J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Halifax, Nova Scotia, on June 24, 2013)

DAWSON J.A.

[1] This is an application for judicial review of a decision of an Umpire (CUB 79998). The Umpire upheld the decision of the Board of Referees which found that the respondent, Mr. MacLeod, had established good cause for his five-year delay in applying for employment insurance benefits.

[2] On this application the Attorney General asserts that the Umpire erred in two respects. First, the Attorney General argues that, although the Umpire acknowledged that the respondent had to demonstrate good cause for his delay in applying for benefits, the Umpire erred by failing to articulate the legal test associated with this requirement. Second, the Attorney General submits that the Umpire's assessment of the evidence was unreasonable.

[3] For the following two reasons we have not been persuaded that the Umpire erred as alleged.

[4] First, it is settled law that the reasons need not include all of the jurisprudence or other details a reviewing court might prefer to see. This does not, by itself, impugn the validity of either the reasons or the result reached under a reasonableness analysis. It is sufficient if the reasons allow a reviewing court to understand why the tribunal made its decision and to determine whether the conclusion is within the range of acceptable outcomes (*Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, at paragraph 16).

[5] In the present case, after stating that properly supported medical reasons can constitute good cause for delay in making a claim for benefits, the Umpire cited seven prior decisions made by Umpires. In five of the cited decisions the Umpire expressly set out the test for good cause for delay (CUBS 12100, 13378, 14326, 16333, and 19161). In the sixth cited decision the Umpire expressly applied the correct test (CUB 71716). In this circumstance, we have not been satisfied that the Umpire failed to direct his mind to the correct test.

[6] Second, while the Attorney General argues that the Umpire failed to give proper consideration to the respondent's employment record and to his history of dealings with the Commission, the Umpire referred to this evidence in his reasons. The Umpire simply did not give this evidence the weight the Commission argued it should have. In our view, the Umpire's assessment of the evidence was within the range of acceptable outcomes and so cannot be said to be unreasonable.

[7] For these reasons, despite the able submissions of counsel for the Attorney General, the application for judicial review will be dismissed. The applicant did not seek costs.

"Eleanor R. Dawson"
J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-539-12

STYLE OF CAUSE: Attorney General of Canada v. Daniel MacLeod

PLACE OF HEARING: Halifax, Nova Scotia

DATE OF HEARING: June 24, 2013

REASONS FOR JUDGMENT OF THE COURT BY: (SHARLOW, DAWSON, STRATAS JJ.A.)

DELIVERED FROM THE BENCH BY: DAWSON J.A.

APPEARANCES:

Sarah Drodge FOR THE APPELLANT

No appearance. FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney FOR THE APPELLANT
Deputy Attorney General of Canada