

Docket: 2001-2324(IT)G

BETWEEN:

ALLAN ORCHESON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Lorna Orcheson* (2001-2325(IT)G) on January 7, 2004 and March 10, 11 and 12, 2004 at Toronto (Ontario)

Before: The Honourable Justice Gordon Teskey

Appearances

For the Appellant:

The Appellant himself

Counsel for the Respondent:

John Grant

AMENDED JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1995, 1996, 1997, 1998 and **1999** taxation years are allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the Appellant is entitled to deduct further expenses in those years, namely one-half of the following amounts: **\$8,022.00**, **\$7,192.00**, **\$8,933.12**, **\$9,054.78** and **\$6,418.00** respectively.

The Appellant is not entitled to any further relief.

Costs are awarded to the Respondent on a party and party basis to be taxed.

All in accordance with the Reasons for Judgement dated May 12, 2004 and the attached Reasons for Amended Judgment.

Signed at Kelowna, British Columbia, this 11th day of June, 2004.

"Gordon Teskey"

Teskey, J.

Docket: 2001-2325(IT)G

BETWEEN:

LORNA ORCHESON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Allan Orcheson* (2001-2324(IT)G) on on January 7, 2004 and March 10, 11 and 12, 2004 at Toronto (Ontario)

Before: The Honourable Justice Gordon Teskey

Appearances

For the Appellant:

The Appellant herself

Counsel for the Respondent:

John Grant

AMENDED JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1996, 1997, 1998 and **1999** taxation years are allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that she is entitled to deduct further expenses in those years, namely one-half of the following amounts: **\$7,192.00**, **\$8,933.12**, **\$9,054.78** and **\$6,418.00** respectively.

The Appellant is not entitled to any further relief.

Costs are awarded to the Respondent on a party and party basis, to be taxed, but to be allowed only one preparation and counsel fee at trial.

All in accordance with the Reasons for Judgement dated May 12, 2004 and the attached Reasons for Amended Judgment.

Signed at Kelowna, British Columbia, this 11th day of June, 2004.

"Gordon Teskey"

Teskey, J.

Citation: 2004TCC427
Date: 20040611
Docket: 2001-2324(IT)G

BETWEEN:

ALLAN ORCHESON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

and

Docket: 2001-2325(IT)G

BETWEEN:

LORNA ORCHESON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR AMENDED JUDGMENT

Teskey, J.

[1] When I did the mathematics for the original judgments, I worked on the figures in the "Allowed" columns in Schedule "A" in the Replies to the Notices of Appeal. It slipped my attention that, although the Minister of National Revenue originally allowed those various amounts, he had taken away a portion thereof, which he called "Seasonal Proportion". At the opening of the hearing, counsel for the Respondent acknowledged that these amounts were wrongly disallowed and should be allowed, which I have now done in each of the years in question in the amended judgments.

[2] It should be noted that in regards to the year 1999, the appeal is now allowed in order to add back the so-called seasonal proportion.

[3] Paragraph 8 of the Reasons refers to lump sum expenses of \$12,836.00, which should have read \$19,254.00, making the net profit for the year \$15,176.00.

[4] In paragraph 48 of the Reasons, I referred to a deduction of \$12,836.00 from gross income, this again should have read \$19,254.00.

[5] Paragraph 61 of the Reasons should now read:

Since all expenses proven at the hearing for the year 1999, on all three properties, do not exceed the amount of expenses allowed in the assessment and conceded, totalling \$19,254.00, the only remedy is to allow the appeal and give to the appellants each one-half of the seasonal proportion that had been originally deducted, namely the sum of \$6,418.00.

[6] Paragraph 62 of the Reasons is now wrong and should be ignored, as not having been written.

Signed at Kelowna, British Columbia, this 11th day of June, 2004.

"Gordon Teskey"

Teskey, J.

CITATION: 2004TCC427

COURT FILES NOS.: 2001-2324(IT)G and 2001-2325(IT)G

STYLES OF CAUSE: Allan Orcheson and The Queen
Lorna Orcheson and The Queen

PLACE OF HEARING: Toronto, Ontario

DATES OF HEARING: January 7, 2004 and March 10, 11, and
12, 2004

REASONS FOR AMENDED
JUDGMENTS BY: The Hon. Justice Gordon Teskey

DATE OF AMENDED
JUDGMENTS: June 11, 2004

APPEARANCES:

For the Appellants: The Appellants themselves

Counsel for the Respondent: John Grant

COUNSEL OF RECORD:

For the Appellants:

Name:

Firm:

For the Respondent: Morris Rosenberg
Deputy Attorney General of Canada
Ottawa, Canada