

BETWEEN:

RONALD MEYER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Appeal heard on May 28, 2019, at Montreal, Quebec

Before: The Honourable Justice Dominique Lafleur

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Amelia Fink

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**JUDGMENT**

The appeal from the assessment made under the *Income Tax Act* and the *Employment Insurance Act*, for the 2017 taxation year, the notice of which is dated April 30, 2018, is dismissed, without costs, in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 10th day of June 2019.

“Dominique Lafleur”

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Lafleur J.

Citation: 2019 TCC 131  
Date: 20190610  
Docket: 2019-228(IT)I

BETWEEN:

RONALD MEYER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

Lafleur J.

[1] Mr. Meyer is appealing an assessment made under the *Income Tax Act* (“ITA”) and the *Employment Insurance Act* (“EI Act”) which determined that he was required to repay a portion of the employment insurance benefits paid to him in 2017. The amount to be repaid was \$1,449.90.

[2] Section 145 of the EI Act requires the repayment of employment insurance benefits (“EI benefits”) if an individual’s income exceeds a threshold amount, which for 2017 was \$64,125. The repayment amount is 30% of the lesser of i) the EI benefits paid to the individual in the taxation year, and ii) the amount by which the individual’s income for the year exceeds \$64,125. Income for the purposes of section 145 of the EI Act is determined in accordance with the ITA, subject to certain adjustments (section 144 of the EI Act).

[3] For the 2017 taxation year, Mr. Meyer’s income under the ITA was determined to be \$83,625 before deduction of the EI benefits’ repayment. Mr. Meyer’s income included an amount of \$79,089 he had withdrawn from his registered retirement savings plan (“RRSP”) in 2017. Because Mr. Meyer’s income exceeded the threshold amount of \$64,125 for 2017, he was required to repay 30% of the EI benefits paid to him in 2017, namely an amount of \$1,449.90.

[4] At the hearing, Mr. Meyer argued that the amount of \$79,089 he had withdrawn from his RRSP should not have been included in the calculation of his income for the purposes of the EI benefits' repayment under section 145 of the EI Act, as benefits paid out of his RRSP, being of a different nature, should not be considered as income for the purposes of the EI Act.

[5] At the hearing, counsel for the Respondent referred to the relevant provisions of the ITA and the EI Act. As benefits received out of an RRSP (subsection 146(8) of the ITA) must be included in the calculation of income under paragraph 56(1)(h) and section 3 of the ITA, the amount of \$79,089 has to be included in Mr. Meyer's income for the purposes of sections 144 and 145 of the EI Act. Counsel for the Respondent also aptly explained to the Court that Mr. Meyer would probably like to see Parliament amend section 144 of the EI Act so as to exclude from the calculation of income any amount received as a benefit out of an RRSP, as it has been done with respect to payments out of a registered disability savings plan.

[6] Mr. Meyer informed the Court that he now has a better understanding of the relevant provisions and that he understands that his argument cannot succeed.

[7] I also explained to Mr. Meyer the role of this Court in an appeal under the ITA, which is to determine whether the assessment in issue is valid and correct in light of the relevant statutory provisions and the facts of the case (*Ereiser v. The Queen*, 2013 FCA 20, 2013 DTC 5036, para. 31). The same principle applies for the purposes of the EI Act.

[8] Furthermore, as indicated by the Federal Court of Appeal in *Chaya v. The Queen*, 2004 FCA 327, the Court must take the statute as it finds it:

[4] The applicant says that the law is unfair and he asks the Court to make an exception for him. However the Court does not have that power. The Court must take the statute as it finds it. It is not open to the Court to make exceptions to statutory provisions on the grounds of fairness or equity. If the applicant considers the law unfair, his remedy is with Parliament, not with the Court.

[Emphasis added.]

[9] For these reasons, as decided at the hearing, the appeal is dismissed, without costs.

Signed at Ottawa, Canada, this 10th day of June 2019.

“Dominique Lafleur”

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Lafleur J.

CITATION: 2019 TCC 131

COURT FILE NO.: 2019-228(IT)I

STYLE OF CAUSE: RONALD MEYER  
v. HER MAJESTY THE QUEEN

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: May 28, 2019

REASONS FOR JUDGMENT BY: The Honourable Justice Dominique Lafleur

DATE OF JUDGMENT: June 10, 2019

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Amelia Fink

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: Nathalie G. Drouin  
Deputy Attorney General of Canada  
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