

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20180417**

**Docket: A-322-16**

**Citation: 2018 FCA 78**

**CORAM: NADON J.A.  
DAWSON J.A.  
GLEASON J.A.**

**BETWEEN:**

**OLGA HUTCHINSON-JONES**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Winnipeg, Manitoba, on April 11, 2018.  
Judgment delivered at Ottawa, Ontario, on April 17, 2018.

**REASONS FOR JUDGMENT BY:**

**DAWSON J.A.**

**CONCURRED IN BY:**

**NADON J.A.  
GLEASON J.A.**

**Federal Court of Appeal**



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**BETWEEN:**

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**REASONS FOR JUDGMENT**

**DAWSON J.A.**

[1] The appellant filed a notice of appeal in the Tax Court of Canada appealing from assessments issued under the *Income Tax Act*, R.S.C. 1985, c.1 (5<sup>th</sup> Supp.) for the 2010, 2011, 2012, 2013, and 2014 taxation years. The Tax Court quashed the appeal on the grounds that no taxes, interest or penalties were assessed in respect of the 2010, 2011, 2013, and 2014 taxation

years and no notice of objection was filed on a timely basis in respect of the 2012 taxation year (oral reasons of the Tax Court delivered on August 19, 2016 in Court File 2016-824(IT)I).

[2] The appellant now appeals from the judgment of the Tax Court. She argues that the Tax Court erred in quashing her appeal because she had put in issue her entitlement to a larger tax refund based on her claim that a widowed parent pension she receives from the United Kingdom should be treated as a deduction and not a source of income.

[3] However, when the respondent moved for an order quashing the appeal the only evidence before the Court was the affidavit of an officer of the Canada Revenue Agency which stated that for the 2010, 2011, 2013, and 2014 taxation years no tax was payable for those years, that there was no record of the appellant serving a notice of objection for the 2012 reassessment within the time prescribed by subsection 165(1) of the *Income Tax Act*, and that there was no evidence that the appellant made any request for an extension of time in which to serve a notice of objection.

[4] The appellant filed no affidavit evidence in response.

[5] It is settled law that unless a taxpayer challenges the taxes, interest or penalties assessed for a taxation year there is nothing to appeal, and no relief the Tax Court can provide (*Canada v. Interior Savings Credit Union*, 2007 FCA 151, 362 N.R. 38, at paragraph 15 citing *Chagnon v. Normand*, (1889) 16 S.C.R. 661). The appellant has not shown the Tax Court erred on the record before it when it determined that no taxes, interest or penalties were assessed in the four taxation years in question so that there was nothing to appeal.

[6] Service of a notice of objection on the Minister on a timely basis is a condition precedent to the commencement of an appeal in the Tax Court. There is no evidence that the appellant served a notice of objection within the time prescribed by subsection 165(1) of the *Income Tax Act*, and no evidence that she made any request for an extension of time to serve a notice of objection. The appellant has not shown that the Tax Court erred in concluding that no appeal could be filed in respect of the 2012 taxation year.

[7] It follows that I would dismiss the appeal. In all of the circumstances I would not award costs.

“Eleanor R. Dawson”

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J.A.

“I agree.  
M. Nadon J.A.”

“I agree.  
Mary J.L. Gleason J.A.”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-322-16

**STYLE OF CAUSE:** OLGA HUTCHINSON-JONES v.  
HER MAJESTY THE QUEEN

**PLACE OF HEARING:** WINNIPEG, MANITOBA

**DATE OF HEARING:** APRIL 11, 2018

**REASONS FOR JUDGMENT BY:** DAWSON J.A.

**CONCURRED IN BY:** NADON J.A.  
GLEASON J.A.

**DATED:** APRIL 17, 2018

**APPEARANCES:**

OLGA HUTCHINSON-JONES FOR THE APPELLANT  
(on her own behalf)

MELISSA DANISH FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Nathalie G. Drouin FOR THE RESPONDENT  
Deputy Attorney General of Canada