

MONTREAL, QUEBEC, THE 17th DAY OF JANUARY 1997

CORAM:

**THE HONOURABLE MR. JUSTICE HUGESSEN
THE HONOURABLE MR. JUSTICE DÉCARY
THE HONOURABLE DEPUTY JUSTICE CHEVALIER**

BETWEEN:

CLAIRE BRISEBOIS,

Applicant,

AND:

**CANADA EMPLOYMENT AND IMMIGRATION
COMMISSION,**

Respondent,

AND:

DEPUTY ATTORNEY GENERAL OF CANADA,

Mis-en-cause.

J U D G M E N T

The application for judicial review is allowed. The decision of the Umpire is quashed and the matter is referred back to an umpire for redetermination on the basis that the claimant's appeal must be allowed.

James K. Hugessen

J.A.

Certified true translation

Stephen Balogh

CORAM: **HUGESSEN J.A.
DÉCARY J.A.
CHEVALIER D.J.**

BETWEEN:

CLAIRE BRISEBOIS,

Applicant,

AND:

**CANADA EMPLOYMENT AND
IMMIGRATION COMMISSION,**

Respondent,

AND:

DEPUTY ATTORNEY GENERAL OF CANADA,

Mis-en-cause.

Hearing held at Montréal
on Friday, January 17, 1997

Judgment delivered at Montréal
on Friday, January 17, 1997

REASONS FOR JUDGMENT OF THE COURT BY:

HUGESSEN J.A.

CORAM: **HUGESSEN J.A.
DÉCARY J.A.
CHEVALIER D.J.**

BETWEEN:

CLAIRE BRISEBOIS,

Applicant,

AND:

**CANADA EMPLOYMENT AND
IMMIGRATION COMMISSION,**

Respondent,

AND:

DEPUTY ATTORNEY GENERAL OF CANADA,

Mis-en-cause.

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Montréal
on Friday, January 17, 1997)

HUGESSEN J.A.

We all agree that both the Umpire and the Board of Referees erred in finding that the claimant should have produced a medical certificate to justify her contention that she had no alternative but to quit her employment. It seems clear to us that the claimant was not relying on an illness when she stated that working constantly in a standing position gave her sore feet. At the time, she was 59 years old and quite simply found the employment she had accepted in a restaurant too demanding physically. Since her credibility was not questioned, a medical certificate would have added nothing to her testimony.

The application for judicial review will be allowed, the decision of the Umpire will be quashed and the matter will be referred back to an umpire for redetermination on the basis that the claimant's appeal must be allowed.

James K. Hugessen

J.A.

Certified true translation

Stephen Balogh

FEDERAL COURT OF APPEAL

A-510-96

BETWEEN:

CLAIRE BRISEBOIS,

Applicant,

AND:

**CANADA EMPLOYMENT AND
IMMIGRATION COMMISSION,**

Respondent,

AND:

DEPUTY ATTORNEY GENERAL OF CANADA,

Mis-en-cause.

REASONS FOR JUDGMENT OF THE COURT

FEDERAL COURT OF APPEAL
NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO.: A-510-96

STYLE OF CAUSE: CLAIRE BRISEBOIS, Applicant,

AND:

CANADA EMPLOYMENT AND IMMIGRATION COMMISSION, Respondent,

AND:

DEPUTY ATTORNEY GENERAL OF CANADA, Mis-en-cause.

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: January 17, 1997

REASONS FOR JUDGMENT OF THE COURT (THE HONOURABLE MR. JUSTICE HUGESSEN, THE HONOURABLE MR. JUSTICE DÉCARY AND THE HONOURABLE DEPUTY JUSTICE CHEVALIER)

DELIVERED FROM THE BENCH BY: The Honourable Mr. Justice Hugessen

Dated: January 17, 1997

APPEARANCES:

William de Merchant
Claudine Barabé for the applicant

Dominique Gagné for the respondent

SOLICITORS OF RECORD:

Campeau, Ouellet et Associés
Montréal, Quebec for the applicant

George Thomson
Deputy Attorney General
of Canada
Ottawa, Ontario for the respondent