

Date: 20070305

Docket: A-378-06

Citation: 2007 FCA 94

**CORAM: DÉCARY J.A.
NOËL J.A.
SEXTON J.A.**

BETWEEN:

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Appellant

and

LI LIU

Respondent

Heard at Vancouver, British Columbia, on March 5, 2007.

Judgment delivered at Vancouver, British Columbia, on March 5, 2007.

REASONS FOR JUDGMENT BY:

DÉCARY J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on March 5, 2007)

DÉCARY J.A.

[1] A Judge of the Federal Court granted the respondent's motion under Rule 8 of the *Federal Court Rules* for an extension of time to file an appeal from a decision of a citizenship judge (06-T-55).

[2] It is trite law that Rule 8 allows the Court to extend time limitations set out in the Rules. It does not grant the Court jurisdiction to extend time limitations set out in Acts of Parliament.

[3] Subsection 14(5) of the Citizenship Act reads as follows:

(5) The Minister or the applicant may appeal to the Court from the decision of the citizenship judge under subsection (2) by filing a notice of appeal in the Registry of the Court within sixty days after the day on which

(a) the citizenship judge approved the application under subsection (2); or

(b) notice was mailed or otherwise given under subsection (3) with respect to the application.

(5) Le ministre et le demandeur peuvent interjeter appel de la décision du juge de la citoyenneté en déposant un avis d'appel au greffe de la Cour dans les soixante jours suivant la date, selon le cas :

a) de l'approbation de la demande;

b) de la communication, par courrier ou tout autre moyen, de la décision de rejet.

[4] The case law is clear: Subsection 14(5) is mandatory and does not give the Federal Court the jurisdiction to extend the 60-day limitation period. See *Re. Conroy* [1979] 99 D.L.R. (3d) 642 (Federal Court T.D., Cattanach J., at 649; *Re. Dunnet*, [1979] 102 D.L.R.(3d) 400 (Federal Court T.D., Dubé J., at 402; *Re. Kelly*, [1979] 96 D.L.R. (3d) 470 (Federal Court T.D., Cattanach J., at 474); *Re. Araujo*, (1993) 63 F.T.R. 159 (Joyal J. at 160); *Ovenstone v. Canada (Minister of Citizenship and Immigration)*, (2000) 188 F.T.R. 157 (McKeown J. at 158); *Suzer v. Canada (Minister of Citizenship and Immigration)* 2002 FCT 418 (Blanchard J. at paragraph 5)

[5] These decisions are well-founded. The language of the time limitation is clear and unambiguous (see, by analogy, *Adam vs. Canada (Minister of Citizenship and Immigration)*, [2001] 1, C.F. 375 (C.A.), at paragraph 19, and *Wilbur-Ellis Co. of Canada v. Canada (Deputy Minister of National Revenue, Customs and Excise – M.N.R.)*, [1995] F.C.J. No. 1435, A-431-94). The Federal Court, to use the words of Blanchard J. in *Suzer*, “cannot create any right or arrogate any jurisdiction it does not properly have.”

[6] The appeal will be allowed, the decision of the Federal Court will be set aside, and the motion for an extension of time will be dismissed. It goes without saying that File T-1431-06, which was opened as a result of the Judge's order extending the time limit, shall be closed.

“Robert Décary”

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-378-06

STYLE OF CAUSE: MCI v. LI LIU

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: March 5, 2007

REASONS FOR JUDGMENT BY: DÉCARY J.A.
NOËL J.A.
SEXTON J.A.

DELIVERED FROM THE BENCH: Décary J.A.

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