

Date: 20070307

**Docket: A-225-06
A-222-06
A-223-06
A-224-06
A-226-06
A-227-06
A-228-06
A-229-06**

Citation: 2007 FCA 100

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

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

LAKE CITY CASINOS LIMITED

Respondent

Heard at Vancouver, British Columbia, on March 7, 2007.

Judgment delivered from the Bench at Vancouver, British Columbia, on March 7, 2007.

REASONS FOR JUDGMENT BY:

NOËL J.A.

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REASONS FOR JUDGMENT

(Delivered from the Bench at Vancouver, British Columbia, on March 7, 2007)

NOËL J.A.

[1] These reasons dispose of the present appeal as well as appeals A-222-06 to A-229-06 inclusively. A copy of these reasons will accordingly be filed in those dockets as reasons for judgment.

[2] In order to succeed, it was incumbent upon the Appellant to show that the tips were paid by the employer in the liberal sense attributed to this word by the Supreme Court of Canada in *Canadian Pacific Ltd. v. Canada*, [1986] 1 S.C.R. 678. This required a demonstration that the tips came into the possession of the employer who then remitted them to the employees.

[3] Having regard to the Agreed Statements of Facts, it was open to the Tax Court Judge to hold that the tips were physically distributed by the employees themselves and not by the employer.

[4] The appeal will be accordingly dismissed with one set of costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-225-06, A-222-06, A-223-06,
A-224-06, A-226-06, A-227-06,
A-228-06, A229-06

STYLE OF CAUSE: HMQ v. LAKE CITY CASINOS LTD

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: March 7, 2007

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

DELIVERED FROM THE BENCH BY: NOËL J.A.

DATED: March 7, 2007

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