

Federal Court  
of Appeal



CANADA

Cour d'appel  
fédérale

**Date: 20090527**

**Docket: A-417-07**

**Citation: 2009 FCA 174**

**CORAM: NADON J.A.  
PELLETIER J.A.  
TRUDEL J.A.**

**BETWEEN:**

**PHILLIP L. LANDRY**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Halifax, Nova Scotia, on May 27, 2009.

Judgment delivered from the Bench at Halifax, Nova Scotia, on May 27, 2009.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**PELLETIER J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Halifax, Nova Scotia, on May 27, 2009)**

**PELLETIER J.A.**

[1] In determining whether the allowance received by the appellant with respect to his vehicle expenses was reasonable, the Tax Court judge proceeded on the basis that the appellant's total vehicle usage in each of the years in question was 72,000 kilometers. The appellant challenges this, arguing that the right number is closer to 53,000 kilometers.

[2] At paragraph 12 of his reasons, the Tax Court judge explained that the appellant did not have any “specific documents or information” to support his position as to his total kilometers driven. Accordingly he relied on the calculation prepared by the appeals officer. The appellant’s attempts to put new evidence of vehicle usage before this Court by way of affidavits were refused. As a result, the appeal is to be decided on the basis of the evidence which was before the Tax Court judge.

[3] Having regard to the record before the Tax Court judge, we cannot identify any error which would justify our intervention.

[4] The appeal will be dismissed with costs.

“J.D. Denis Pelletier”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-417-07

**APPEAL FROM AN ORDER OF MR. JUSTICE WEBB OF THE TAX COURT OF CANADA IN FILE NO. 2006-2893(IT)I.**

**STYLE OF CAUSE:** PHILLIP L. LANDRY v.  
HER MAJESTY THE QUEEN

**PLACE OF HEARING:** Halifax, Nova Scotia

**DATE OF HEARING:** May 27, 2009

**REASONS FOR JUDGMENT OF THE COURT BY:** (NADON, PELLETIER,  
TRUDEL J.J.A.

**DELIVERED FROM THE BENCH BY:** PELLETIER J.A.

**APPEARANCES:**

PHILLIP L. LANDRY  
(on his own behalf)

FOR THE APPELLANT

AMY KENDELL

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

John H. Sims, Q.C.  
Deputy Attorney General of Canada

FOR THE RESPONDENT