

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20100323**

**Docket: A-290-09**

**Citation: 2010 FCA 83**

**CORAM: BLAIS C.J.  
NADON J.A.  
TRUDEL J.A.**

**BETWEEN:**

**ATTORNEY GENERAL OF CANADA**

**Applicant**

**and**

**ROGER OUMET**

**Respondent**

Heard at Montréal, Quebec, on March 23, 2010.

Judgment delivered from the Bench at Montréal, Quebec, on March 23, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Montréal, Quebec, on March 23, 2010)**

**NADON J.A.**

[1] The respondent lost his employment with J.P. Lessard Canada Inc. on March 23, 2007.

[2] From May 7 to May 16, 2007, he held new employment with EPM Mecanic 2982897  
Canada Inc.

[3] A benefit period was established by the Employment Insurance Commission (the “Commission”) beginning June 24, 2007.

[4] On October 1, 2007, the respondent asked the Commission to antedate his claim for benefits to March 23, 2007, a request that the Commission refused on the ground that he had not shown, within the meaning of subsection 10(4) of the *Employment Insurance Act*, that there was good cause for the delay throughout the period.

[5] The Board of Referees found that the respondent had good cause for the delay in making his initial claim for benefits, and it allowed his appeal.

[6] The Umpire dismissed the Commission’s appeal, determining that the Board of Referees had made no reviewable error.

[7] We are of the opinion that the respondent lacked good cause for the entire period of the delay in making his claim for benefits. More specifically, the evidence leaves no doubt that the claimant lacked good cause for the delay for the period from May 16 to June 26, 2007.

[8] Regarding the reasons advanced by the respondent for the delay, that is, that he had not thought that he was entitled to benefits after losing his employment with J.P. Lessard on March 23, 2007; that he had been guaranteed new employment, which he held from May 7 to May 16, 2007; that he had had to work for three weeks before receiving a record of employment from EPM Mecanic; and that he was again seeking employment, we are satisfied, in light of the

evidence on file and the case law (see *Canada (Attorney General) v. Smith* (1993), 153 N.R. 317, paragraph 4; *Canada (Attorney General) v. Mehdinasab*, 2009 FCA 282, paragraphs 5 and following; *Canada (Attorney General) v. McBride*, 2009 FCA 1, paragraph 6; *Canada (Attorney General) v. Scott*, 2008 FCA 145, paragraphs 9 to 12; and *Canada (Attorney General) v. Brace*, 2008 FCA 118, paragraphs 8 to 11) that these are not good causes for his delay in making his initial claim for benefits.

[9] Under these circumstances, the Board of Referees could in no way conclude that the respondent had good cause for the delay and, consequently, the Umpire erred by failing to intervene.

[10] The application for judicial review will therefore be allowed with costs, the Umpire's decision is set aside and the matter is referred back to the Chief Umpire or his designate for redetermination on the basis that the respondent has not shown that there was good cause for the delay in making his initial claim for benefits.

“Marc Nadon”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-290-09

**STYLE OF CAUSE:** A.G.C. v. Roger Ouimet

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** March 23, 2010

**REASONS FOR JUDGMENT OF THE COURT BY:** BLAIS C.J.  
NADON J.A.  
TRUDEL J.A.

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

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