

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20100412**

**Docket: A-36-10**

**Citation: 2010 FCA 91**

**Present: PELLETIER J.A.**

**BETWEEN:**

**ATTORNEY GENERAL OF CANADA**

**Applicant**

**and**

**CAROLYNN SÉGUIN**

**Respondent**

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on April 12, 2010.

**REASONS FOR ORDER BY:**

**PELLETIER J.A.**

Federal Court  
of Appeal



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**REASONS FOR ORDER**

**PELLETIER J.A.**

[1] The Attorney General of Canada filed a motion for leave to adduce evidence that was not presented to the Board of Referees or the Umpire. The motion will be dismissed for the following reasons.

[2] The issue is whether the respondent received maternity benefits during the weeks of July 30 and August 6, 2006. The Commission alleges that the respondent received \$413 in benefits each of those weeks. The Commission entered into evidence before the Board of Referees a computerized statement showing the payment of benefits to the respondent for the

weeks of July 30 and August 6. The Board of Referees noted that the computerized statement was contradicted by other documentary evidence and by the testimony of the respondent herself.

[3] The Attorney General is requesting leave to file in evidence before this Court two benefit warrants made out to the respondent, one dated August 7, 2006, in the amount of \$718, and the other dated August 20, 2006, in the amount of \$718. According to the sworn statement of Elena Kotova, a Commission officer, these warrants represent respectively [TRANSLATION] “the net amount of parental benefits compensation covering the following two periods of two weeks: week of July 23, 2006, and July 31, 2006, and weeks of August 6, 2006, and August 13, 2006 . . .”.

[4] The difficulty with these two warrants is as follows. The computerized statement filed shows that the respondent was entitled to \$413 for the week of August 6, 2006, and that she was paid this amount. However, the respondent was not entitled to any payment for the week of August 13, and she received no payment for that period. The new evidence, as interpreted by the Commission officer, contradicts the evidence already on file.

[5] One of the conditions for admitting fresh evidence on appeal is that this evidence must be conclusive on a relevant issue. As the record stands, I am unable to find that the two warrants and the Commission officer’s interpretation thereof are conclusive regarding whether the respondent received benefits in the weeks in question. Moreover, the probative value of the warrants depends on a fact that is not in evidence, namely, that the respondent cashed them. Her

signature does not appear on the warrants, and nothing links any of the other writing on the warrants to the respondent.

[6] For these reasons, I would dismiss the motion. Given that the respondent did not file a record, there is no reason to grant costs.

“J.D. Denis Pelletier”

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J.A.

Certified true translation  
Tu-Quynh Trinh

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-36-10

**STYLE OF CAUSE:** **ATTORNEY GENERAL OF  
CANADA and CAROLYNN  
SÉGUIN**

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:** PELLETIER J.A.

**DATED:** APRIL 12, 2010

**WRITTEN REPRESENTATIONS BY:**

PAULINE LEROUX

FOR THE APPLICANT

CAROLYNN SÉGUIN

FOR THE RESPONDENT, ON HER  
OWN BEHALF

**SOLICITORS OF RECORD:**

JOHN H. SIMS, Q.C.  
DEPUTY ATTORNEY GENERAL OF CANADA

FOR THE APPLICANT

CAROLYNN SÉGUIN  
HAMMOND, ONTARIO

FOR THE RESPONDENT, ON HER  
OWN BEHALF