Federal Court of Appeal



Cour d'appel fédérale

Date: 20120301

Dockets: A-214-11

A-216-11

Citation: 2012 FCA 70

CORAM: SHARLOW J.A.

DAWSON J.A. TRUDEL J.A.

BETWEEN:

THE CANADIAN TRANSIT COMPANY

Appellant

and

MINISTER OF TRANSPORT, MINISTER OF FISHERIES AND OCEANS, MINISTER OF THE ENVIRONMENT, WINDSOR PORT AUTHORITY AND HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Respondents

Heard at Toronto, Ontario, on March 1, 2012.

Judgment delivered from the Bench orally at Toronto, Ontario, on March 1, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

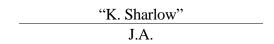
(Delivered from the Bench orally at Toronto, Ontario on March 1, 2012)

SHARLOW J.A.

[1] Despite the forceful and most able submissions of counsel for the appellant, we have not been persuaded that the record discloses any error on the part of Justice Kelen that warrants the intervention of this Court.

[2]	In substance, most of the challenges to Justice Kelen's decision turn on his findings of fact.
We ha	we been unable to discern any palpable and overriding error in those findings. In our view,
they w	ere all reasonably open to him on the record. Further, we cannot conclude that Justice Kelen
erred in	n law in any respect.

[3] These appeals will be dismissed with costs.



FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKETS: A-214-11 and A-216-11

APPEAL FROM THE JUDGMENT OF THE HONOURABLE MR. JUSTICE KELEN OF THE FEDERAL COURT, DATED MAY 4, 2011 IN DOCKET NO. T-2189-09.

STYLE OF CAUSE: THE CANADIAN TRANSIT COMPANY

v. MINISTER OF TRANSPORT, MINISTER OF FISHERIES AND OCEANS, MINISTER OF THE ENVIRONMENT, WINDSOR PORT AUTHORITY AND HER MAJESTY THE

QUEEN IN RIGHT OF ONTARIO

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: March 1, 2012

REASONS FOR JUDGMENT OF THE

COURT BY: (SHARLOW, DAWSON & TRUDEL JJ.A.)

DELIVERED FROM THE BENCH BY: SHARLOW J.A.

APPEARANCES:

Kevin O'Brien FOR THE APPELLANT

Lindsay Rauccio

William MacLarkey FOR THE RESPONDENT (Her

Majesty the Queen in right of Ontario)

FOR THE RESPONDENT (Minister of Transport, Minister of Fisheries and Andrea Bourke Oceans, Minister of the Environment,

Jon Bricker Windsor Port Authority)

SOLICITORS OF RECORD:

OSLER, HOSKIN & HARCOURT LLP

Toronto, Ontario

ATTORNEY GENERAL FOR ONTARIO

Crown Law Office – Civil

Toronto, Ontario

Myles J. Kirvan

Deputy Attorney General of Canada

Toronto, Ontario

FOR THE APPELLANT

FOR THE RESPONDENT (Her

Majesty the Queen in right of

Ontario)

FOR THE RESPONDENT

(Minister of Transport, Minister of Fisheries and Oceans, Minister of

the Environment, Windsor Port

Authority)