

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20120425

Docket: 12-A-9

Citation: 2012 FCA 127

Present: LÉTOURNEAU J.A.

BETWEEN:

PRITCHARD BROADCASTING INC.

Applicant

and

**CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS
COMMISSION**

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on April 25, 2012.

REASONS FOR ORDER BY:

LÉTOURNEAU J.A.

Federal Court
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REASONS FOR ORDER

LÉTOURNEAU J.A.

[1] The applicant, Pritchard Broadcasting Inc., seeks an order for an extension of time to file an application for judicial review to challenge Broadcasting Decision CRTC 2011-640 rendered by the Canadian Radio-Television and Telecommunications Commission (CRTC) on October 6, 2011.

[2] The applicant is not legally represented. The motion for an extension of time was filed by Robert Pritchard who is the President and sole Director for the applicant. While the technical legal

terms are not used, it appears from the affidavit of Mr. Pritchard that the applicant complains about the unfairness of the process followed by the CRTC in rendering its decision.

[3] In a letter addressed to our Court on March 2, 2012, counsel for the Attorney General of Canada objected to the applicant's motion on the basis that the appropriate remedy for the applicant was an appeal pursuant to subsection 31(2) of the *Broadcasting Act*, S.C. 1991, c. 11. Counsel also raised two other objections to the applicant's motion, namely an improper service of the motion by e-mail and the fact that the CRTC was improperly named as a respondent.

[4] The Attorney General's letter led to the issuance of a Direction by Noël J.A. on March 14, 2012. Following this Direction, the Attorney General filed a motion to strike the applicant's motion for an extension of time and to replace the CRTC by the Attorney General as a respondent should the motion for an extension of time be allowed to proceed.

[5] Subsection 28(2) of the *Federal Courts Act*, R.S.C. 1985, c-F7 (Act) as amended makes sections 18 to 18.5 of the Act applicable to judicial review applications made to the Court of Appeal pursuant to section 28 of the Act. Section 18.5 states that a decision of a federal board is not subject to judicial review if an appeal is expressly provided for. This bar against judicial review applies whether the right of appeal is limited or not by a requirement to obtain leave: see *Turmel v. C.R.T.C.*, 2008 FCA 405. Subsection 31(2) of the *Broadcasting Act* does provide an appeal on leave to the Court of Appeal on a question of law or a question of jurisdiction.

[6] In *Pachul v. Canadian Radio-Television and Telecommunications*, 2002 FCA 165, our Court ruled that resort to an application for judicial review is barred when the issues sought to be decided “are fairly described as questions of law or jurisdiction”: *ibidem*, at paragraph 13. I am satisfied that, in the present instance, the issues raised by the applicant involve questions of law or jurisdiction which cannot be made the subject of a section 28 application.

[7] For these reasons, the respondent’s motion to strike will be allowed and the applicant’s motion for an extension of time to file a section 28 application for judicial review will be dismissed. As the respondent did not seek costs, none will be awarded.

“Gilles Létourneau”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: 12-A-9

STYLE OF CAUSE: PRITCHARD BROADCASTING INC. v.
CANADIAN RADIO-TELEVISION AND
TELECOMMUNICATIONS COMMISSION

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: LÉTOURNEAU J.A.

DATED: April 25, 2012

WRITTEN REPRESENTATIONS BY:

Robert Pritchard

SELF-REPRESENTED

Kelly Peck

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Myles J. Kirvan
Deputy Attorney General of Canada

FOR THE RESPONDENT