

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130109

Docket: A-111-12

Citation: 2013 FCA 2

**CORAM: NOËL J.A.
GAUTHIER J.A.
MAINVILLE J.A.**

BETWEEN:

ALI TAHMOURPOUR

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on January 9, 2013.

Judgment delivered from the Bench at Ottawa, Ontario, on January 9, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on January 9, 2013)

NOËL J.A.

[1] This is an appeal from a decision of the Federal Court (2012 FC 378), where Near J. (the Federal Court judge) dismissed Mr. Tahmourpour's (the appellant's) application for judicial review of a decision of the Canadian Human Rights Tribunal (the Tribunal) (2010 CHRT 34).

[2] The issue raised on appeal is whether the Federal Court judge erred in failing to quash the decision of the Tribunal on the basis that it was rendered in breach of natural justice.

[3] In his application before the Federal Court, the appellant (then applicant) took the position that, beyond the relief based on the breach of natural justice, it was in the interest of justice that the Court address and determine the ultimate remedial issue, *i.e.* the extent of the loss of income caused by the discrimination and which should have been awarded by the Tribunal (Notice of Application, p. 4, 1st heading, para. (b); 2nd heading, para. (e) and Appeal Book, p. 9).

[4] Consistent with the relief sought by the Notice of Application, the appellant invited the Federal Court judge to address this issue. The Federal Court judge addressed and disposed of the matter by reference to the submissions made by the parties on this point at paragraphs 28 to 32 of his reasons. He held that the appellant had no entitlement beyond the loss awarded.

[5] The appellant, in this appeal, has not challenged the adverse conclusion reached by the Federal Court judge on this issue.

[6] In order to succeed on appeal, it was incumbent upon the appellant to take issue with the conclusion of the Federal Court judge on the substantive issue. Having failed to do this we are left with a final decision on this point which makes the outcome of the decision of the Tribunal inevitable, even if it was returned as the appellant asks us to do (*Mobil Oil Canada Ltd. v. Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 S.C.R. 202, p. 228).

[7] The appeal will accordingly be dismissed. No order is made as to costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-111-12

**(APPEAL FROM A JUDGMENT OF THE HONOURABLE JUSTICE NEAR OF THE
FEDERAL COURT DATED MARCH 30, 2012, DOCKET NO. T-38-11.)**

STYLE OF CAUSE: ALI TAHMOURPOUR v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: January 9, 2013

REASONS FOR JUDGMENT OF THE COURT BY: Noël, Gauthier, Mainville J.J.A.

DELIVERED FROM THE BENCH BY: Noël J.A.

APPEARANCES:

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Christine Johnson

FOR THE APPELLANT

Kathryn Hucal

FOR THE RESPONDENT

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