

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130305

Docket: A-382-11

Citation: 2013 FCA 65

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

BETWEEN:

THE WORLD JOB AND FOOD BANK INC.

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Calgary, Alberta, on March 5, 2013.

Judgment delivered from the Bench at Calgary, Alberta, on March 5, 2013.

REASONS FOR JUDGMENT OF THE COURT BY:

GAUTHIER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Calgary, Alberta, on March 5, 2013.)

GAUTHIER J.A.

[1] The World Job and Food Bank Inc. (WJFB) appeals to this Court pursuant to paragraph 172(3)(a.1) of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) (the *Act*) from the Canada Revenue Agency's (CRA) confirmation of the Minister's proposal to revoke WJFB's registration as a charitable organization based on the list of non-compliance set out in the Minister's Notice of Intent to Revoke.

[2] The Notice of Intent to Revoke was issued after the CRA had completed an audit for the period of 2003 to 2006. The grounds listed therein and in CRA's Notice of confirmation are that WJFB failed to demonstrate that it devotes all of its resources to charitable activities carried on by itself, it failed to keep information in such form so as to enable the Minister to determine whether there are any grounds for the revocation of registration, and it failed to keep a duplicate of each receipt containing prescribed information for donations received by it. During the hearing, WJFB conceded this last ground.

[3] The conclusion that WJFB ceased to qualify for registration as a charitable organization under the *Act* is a finding of mixed fact and law reviewable on a reasonableness standard (*Hostelling International Canada v. MNR*, 2008 FCA 396 at para 7; *House of Holy God v. Canada (Attorney General)*, 2009 FCA 148 at para 4).

[4] Before this Court, WJFB argues that the decision-maker erred in ignoring evidence submitted to establish that it devotes all its resources to charitable activities carried on by itself as well as some comments in the auditor's report. It argues that it supplied sufficient documentation to prove that it meets the *Act's* requirements, particularly subsections 149.1 and 230(2).

[5] In order to succeed in this appeal, WJFB had to demonstrate that all three bases for the Minister's and the CRA's conclusion are unreasonable, as each of them is sufficient to justify the decision to revoke. WJFB has evidently not done so. There is evidence in the record to support the decision on all three grounds. It is not this Court's role to re-weigh the evidence.

[6] At the hearing of the appeal, WJFB raised for the first time the argument that the Minister's published guidelines prevented her from exercising her discretion by revoking WJFB's status. Even if we assume that the guidelines somehow restrict the exercise of the Minister's discretion to revoke, the record support the fact that this is a case of aggravated non compliance as the organization cannot or will not bring itself into compliance. (see Guidelines for applying the new sanctions, page 2- **aggravated** non compliance)

[7] Accordingly, the appeal will be dismissed with costs.

"Johanne Gauthier"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-382-11

STYLE OF CAUSE: THE WORLD JOB AND FOOD BANK INC. v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: MARCH 05, 2013

REASONS FOR JUDGMENT BY: NOËL J.A.
GAUTHIER J.A.
TRUDEL J.A.

DELIVERED FROM THE BENCH BY: GAUTHIER J.A.

DATED: MARCH 05, 2013

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