

Federal Court of Appeal



Cour d'appel fédérale

Date: 20201127

Docket: A-361-18

Citation: 2020 FCA 203

**CORAM: GAUTHIER J.A.
DE MONTIGNY J.A.
LOCKE J.A.**

BETWEEN:

SAT PAL SHARMA

Appellant

and

CRA (CANADIAN REVENUE AGENCY)

Respondent

Heard by online video conference hosted by the Registry on November 26, 2020.

Judgment delivered at Ottawa, Ontario, on November 27, 2020.

REASONS FOR JUDGMENT BY:

DE MONTIGNY J.A.

CONCURRED IN BY:

**GAUTHIER J.A.
LOCKE J.A.**

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REASONS FOR JUDGMENT

DE MONTIGNY J.A.

[1] Mr. Sharma appeals from a decision of the Federal Court, dated November 1, 2018, dismissing his motion to reconsider an Order dated August 28, 2018. In that Order, Justice Bell denied his request for an extension of time to apply for judicial review of a decision by the CRA.

[2] It is well established that a motion for reconsideration pursuant to Rule 397 of the *Federal Courts Rules*, SOR/98-106, calls for the exercise of judicial discretion: *Ruffolo v. Fraser Valley Institution for Women*, 2016 FCA 91, at paras. 7-8. Accordingly, absent an error on a question of law or an extricable legal principle, this Court will only intervene with the exercise of that discretion if a palpable and overriding error can be demonstrated. No such error has been made out in the case at bar.

[3] Rule 397 provides that a party may request that the Federal Court reconsider the terms of an order on the grounds that the order does not accord with any reasons given for it, or that a matter that should have been dealt with has been overlooked or accidentally omitted. It is clearly not meant to be an appeal in disguise, allowing a litigant to re-argue an issue a second time, in the hope that the Court will change its mind: *Bell Helicopters Textron Canada Limitée v. Eurocopter*, 2013 FCA 261, at para. 15.

[4] In his initial decision, Justice Bell found as a fact that the appellant received notice of the CRA's decision no later than January 31, 2018. It is on the basis of this finding that Justice Bell dismissed the appellant's motion for an extension of time, the appellant having offered no reasonable explanation for the five month delay in bringing his motion. The appellant now claims that Justice Bell overlooked the fact that he requested from the CRA further reconsideration of its decision on February 6, 2018, and only heard back from the CRA on May 22, 2018. In that last correspondence from the CRA, it was reiterated that a final decision had been made on April 5, 2017, and that the only recourse was an application for judicial review to the Federal Court.

[5] In the decision under appeal, Justice Bell explicitly stated that “there was nothing on August 28, 2018, that was overlooked or accidentally omitted”. In those circumstances, Justice Bell made no error in dismissing the motion for reconsideration. I would therefore dismiss the appeal, with costs in the amount of \$150.00.

"Yves de Montigny"

J.A.

“I agree
Johanne Gauthier J.A.”

“I agree
George R. Locke J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-361-18

STYLE OF CAUSE: SAT PAL SHARMA v. CRA
(CANADIAN REVENUE
AGENCY)

PLACE OF HEARING: HEARD BY ONLINE VIDEO
CONFERENCE HOSTED BY
THE REGISTRY

DATE OF HEARING: NOVEMBER 26, 2020

REASONS FOR JUDGMENT BY: DE MONTIGNY J.A.

CONCURRED IN BY: GAUTHIER J.A.
LOCKE J.A.

DATED: NOVEMBER 27, 2020

APPEARANCES:

Sat Pal Sharma FOR THE APPELLANT
(ON HIS OWN BEHALF)

Mary Softley FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin FOR THE RESPONDENT
Deputy Attorney General of Canada