

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210615

Docket: A-345-19

Citation: 2021 FCA 119

[ENGLISH TRANSLATION]

**CORAM: BOIVIN J.A.
GLEASON J.A.
LEBLANC J.A.**

BETWEEN:

ALEXANDRE LE BOUTHILLIER

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard online by videoconference hosted by the registry
on June 15, 2021.

Judgment delivered from the Bench at Ottawa, Ontario, on June 15, 2021.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on June 15, 2021).

BOIVIN J.A.

[1] This is an appeal from the judgment by Justice Favreau of the Tax Court of Canada (the TCC judge) rendered on August 27, 2019 (2018-598(IT)I). The TCC judge dismissed the appellant's appeal of the reassessment made under the *Income Tax Act* (the ITA), dated October 6, 2016, for the 2013 taxation year.

[2] The assessment in question was made by the Minister of National Revenue on the basis that the appellant received employment income for only a few days during the 2013 taxation year and nearly all of the employment expenses claimed by the appellant were incurred after his employment contract had ended.

[3] The standard of review in this case is that of palpable and overriding error for questions of fact and questions of mixed fact and law and that of correctness for questions of law (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235).

[4] We are all of the opinion that this appeal cannot succeed.

[5] The TCC judge considered all of the documentary and testimonial evidence and he drew his own conclusions on the weight to be given to the contradictory evidence. In particular, the TCC judge did not err by relying on the unequivocal language of the termination letter dated January 7, 2013, or by concluding that, in light of the evidence, the appellant did not meet the requirements for a deduction for employment expenses for the 2013 taxation year since he was not, after January 7, 2013, under any obligation to perform duties or to incur any employment expenses for that purpose. The T2200 form, upon which the appellant relies, is of no help to him because the form, in the context of the evidence that was before the TCC judge, has no probative value and is not determinative in this case. The appellant is asking us to reassess the evidence, which is not the role of this Court.

[6] With respect to the burden of proof, the TCC judge came to his decision on the basis of the evidence in the record. Under the circumstances, this issue is moot.

[7] Accordingly, the appeal will be dismissed with costs, in this Court only.

“Richard Boivin”

J.A.

Certified true translation
Janine Anderson, Jurilinguist

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-345-19

STYLE OF CAUSE: ALEXANDRE LE BOUTHILLIER
v. HER MAJESTY THE QUEEN

PLACE OF HEARING: BY ONLINE
VIDEOCONFERENCE

DATE OF HEARING: JUNE 15, 2021

**REASONS FOR JUDGMENT OF THE COURT
BY:** BOIVIN J.A.
GLEASON J.A.
LEBLANC J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

APPEARANCES:

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Julien Dubé-Sénécal FOR THE RESPONDENT

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