

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20141204**

**Docket: A-253-13**

**Citation: 2014 FCA 284**

**CORAM: PELLETIER J.A.  
GAUTHIER J.A.  
SCOTT J.A.**

**BETWEEN:**

**CHARLES BERNARD**

**Appellant**

**and**

**SHAW SATELLITE G.P. (SHAW DIRECT)**

**Respondent**

Heard at Montréal, Quebec, on December 4, 2014.

Judgment delivered from the bench at Montréal, Quebec, on December 4, 2014.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**SCOTT J.A.**

**Federal Court of Appeal**



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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the bench at Montréal, Quebec, on December 4, 2014.)**

**SCOTT J.A.**

[1] This is an appeal by Charles Bernard (the appellant) against an order issued by a judge of the Federal Court (the judge) on March 5, 2013, dismissing the appellant's motion for an extension of time to file a notice of application for judicial review with respect to an arbitration award confirming the respondent's decision to discharge the appellant.

[2] The judge applied the proper test, namely the factors set out in *Canada (Attorney General) v. Larkman*, 2012 FCA 204, 433 N.R. 184, and *Canada (Attorney General) v. Hennelly*, [1999] F.C.J. No. 846 (QL), 244 N.R. 399. When faced with a judge's decision on a motion of this type, this Court's role is mainly to decide whether the judge properly weighed the factors in the case before him. There is no need for the judge to explain in detail all the reasons underlying his decision or to indicate how much weight was given to each factor (*Reza v. Canada*, [1994] 2 S.C.R. 394, at paragraph 20).

[3] In the case at bar, it is clear that two factors influenced the judge's decision. First, he concluded that the circumstances alleged by the appellant did not satisfy him that the appellant intended to pursue the case or that they prevented him from filing his notice of application for judicial review during the entire four-month period at issue, since the evidence filed in support of his motion for an extension did not cover the whole period. The judge also concluded that the application for judicial review essentially had little merit given the record before him. While he referred to the merit of the application rather than the existence of an arguable case, it is clear, considering the case law on which he relied, that this is the concept he was referring to. In light of these conclusions, he did not have to deal with the issue of prejudice.

[4] On careful analysis of the record and having weighed the appellant's and the respondent's oral and written submissions, we are of the opinion that this appeal must be dismissed, but without costs.

“A.F. Scott”

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J.A.

Translation

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-253-13

**STYLE OF CAUSE:** CHARLES BERNARD v. SHAW  
SATELLITE G.P. (SHAW  
DIRECT)

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** DECEMBER 4, 2014

**REASONS FOR JUDGMENT OF THE COURT BY:** PELLETIER J.A.  
GAUTHIER J.A.  
SCOTT J.A.

**DELIVERED FROM THE BENCH BY:** SCOTT J.A.

**APPEARANCES:**

Charles Bernard SELF-REPRESENTED

Howard A. Levitt FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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