

Docket: 2007-4141(IT)I

BETWEEN:

RÉAL BERNIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on June 17, 2008, at Montréal, Quebec

Before: The Honourable Justice Robert J. Hogan

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Sarom Bahk

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* for the 2006 taxation year is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 16th day of September 2008.

"Robert J. Hogan"

Hogan J.

Translation certified true
on this 14th day of November 2008.

Brian McCordick, Translator

Citation: 2008 TCC 379
Date: 20080916
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BETWEEN:

RÉAL BERNIER,

Appellant,

and

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[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

(Delivered orally from the bench on June 17, 2008, at Montréal, Quebec, and amended for greater clarity and precision)

Hogan J.

[1] Réal Bernier is appealing an income tax assessment for his 2006 taxation year. Under section 18.1 of the *Tax Court of Canada Act*, the informal procedure applies to his appeal.

[2] At the conclusion of the trial, I dismissed the taxpayer's appeal. For the parties' benefit, I consider it appropriate to put my reasons down in writing now.

[3] The issue arises out of the fact that the Canada Revenue Agency (CRA) charged the Appellant a total of \$120.21 in instalment interest.

[4] The facts set out in paragraphs 3 to 6 of the Reply to the Notice of Appeal are as follows:

[TRANSLATION]

3. The Minister initially assessed the Appellant for the 2006 taxation year on May 22, 2007.

4. On or about June 5, 2007, the Appellant served on the Minister his objection to the assessment dated May 22, 2007, for the 2006 taxation year.
5. In reply to the Appellant's objection to the assessment dated May 22, 2007, for the 2006 taxation year, the Minister confirmed the assessment on July 18, 2007.
6. In making and confirming the assessment of May 22, 2007, for the 2006 taxation year, the Minister relied on the following assumptions of fact:
 - (a) In his income tax return for his 2006 taxation year, the Appellant reported the following amounts:

<u>Description</u>	<u>Amount</u>
Quebec Pension Plan	\$6,263
Other pension	\$19,774
Interest/investment income	\$1,451
RRSP* income	\$10,000
Net business income	<u>\$2,039</u>
TOTAL INCOME	<u>\$39,527</u>

*Registered retirement savings plan

- (b) In his income tax return for his 2005 taxation year, the Appellant reported the following amounts:

<u>Description</u>	<u>Amount</u>
Quebec Pension Plan	\$6,122
Interest/investment income	\$1,392
RRSP* income	\$7,000
Other income	\$18,743
Net business income	<u>\$5,473</u>
TOTAL INCOME	<u>\$38,730</u>

*Registered retirement savings plan

- (c) In his income tax return for his 2004 taxation year, the Appellant reported the following amounts:

<u>Description</u>	<u>Amount</u>
Quebec Pension Plan	\$6,025
Other pension	\$18,813
RRSP* income	\$10,000
Net business income	<u>\$863</u>
TOTAL INCOME	<u>\$35,701</u>

*Registered retirement savings plan

- (d) On May 22, 2007, the Appellant's tax account for his 2006 taxation year broke down as follows:

<u>Description</u>	<u>Amount</u>
Federal tax	\$4,552.99
Refundable abatement	(\$751.24)
Tax deductions	(\$1,953.90)

- (e) On May 11, 2006, the Appellant's tax account for his 2005 taxation year broke down as follows:

<u>Description</u>	<u>Amount</u>
Federal tax	\$4,478.35
Refundable abatement	(\$738.93)
Tax deductions	(\$1,623.85)

- (f) On June 9, 2005, the Appellant's tax account for his 2004 taxation year broke down as follows:

<u>Description</u>	<u>Amount</u>
Federal tax	\$4,206.56
Refundable abatement	(\$694.08)
Tax deductions	(\$1,945.34)

- (g) The Appellant was required to make tax instalment payments for the 2004 and 2005 taxation years;

- (h) During the 2006 taxation year, the Appellant was required to pay the following amounts quarterly, that is, on March 15, June 15, September 15 and December 15:

<u>Period</u>	<u>Amount</u>
March 15	\$392.00
June 15	\$392.00
September 15	\$601.88
December 15	\$461.96

- (i) The Appellant did not make his instalment payments for his 2006 taxation year;
- (j) Instalment reminders were sent to the Appellant on the required dates to inform him of the payments he had to make for the 2006 taxation year;
- (k) Since the Appellant did not make any tax instalment payments for the 2006 taxation year, the Minister claimed \$120.21 in instalment interest;
- (l) As well, since the Appellant did not pay his tax balance until May 24, 2007, even though he was required to pay it on April 30, 2007, the Minister claimed \$10.70 in arrears interest.

Issues

[5] The issues are whether, for the 2006 taxation year:

- (a) the Appellant was required to make tax instalment payments;
- (b) the Minister was right to charge the Appellant \$120.21 in instalment interest;
- (c) the Minister was right to charge the Appellant \$10.70 in arrears interest;
- (d) the Minister correctly calculated the instalment and arrears interest.

[6] With regard to the interest, subsection 161(1) of the *Income Tax Act (ITA)* is clear and unambiguous. The Court has no jurisdiction to cancel or reduce interest properly charged under subsection 161(2) of the *ITA*.

[7] The Appellant did not provide any valid reason to challenge the charging of interest by the CRA. As his only argument, he referred to sections 146 and 147 of the *ITA* without establishing their relevance. For these reasons, the Court dismisses the appeal.

Signed at Ottawa, Canada, this 16th day of September 2008.

"Robert J. Hogan"

Hogan J.

Translation certified true
on this 14th day of November 2008.

Brian McCordick, Translator

CITATION: 2008 TCC 379

COURT FILE NO.: 2007-4141(IT)I

STYLE OF CAUSE: RÉAL BERNIER v. HER MAJESTY THE QUEEN

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: June 17, 2008

REASONS FOR JUDGMENT BY: The Honourable Justice Robert J. Hogan

DATE OF JUDGMENT: September 16, 2008

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Sarom Bahk

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
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Ottawa, Canada