

Docket: 2006-2978(IT)I

BETWEEN:

ROLAND S. ARNOLD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on December 16, 2008, at Hamilton, Ontario.

Before: The Honourable Justice Patrick Boyle

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Laurent Bartleman

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* with respect to the Appellant's 2003 taxation year is dismissed.

It is further ordered that the filing fee in the amount of \$100 be reimbursed to the Appellant.

Signed at Ottawa, Canada, this 8th day of January 2009.

"Patrick Boyle"

Boyle J.

Citation: 2009 TCC 23
Date: 20090108
Docket: 2006-2978(IT)I

BETWEEN:

ROLAND S. ARNOLD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

(Delivered orally from the Bench on December 16, 2008, in Hamilton, Ontario and modified for clarity and accuracy.)

Boyle J.

[1] Dr. Arnold has objected to his 2003 tax assessment and has launched a tax appeal under the Court's informal procedure. While the amounts in issue are very large, the tax in issue for the semi-retired taxpayer is within the informal procedure limits.

[2] Dr. Arnold raises three issues. First, he claims to have incurred an allowable business investment loss of between two and three million dollars in respect of a corporation owned by him which had bought a building that was subsequently realized by creditors in 2003.

[3] Secondly, Dr. Arnold claimed eighty thousand dollars of prior years' business losses in 2003, for repayments allegedly made by him to the Ontario Health Insurance Plan for over-billing.

[4] Thirdly, he raised for the first time this morning that he had to spend considerable time in May 2003 successfully defending his medical licence suspension in the United Kingdom which had been based upon his suspension by the Ontario College of Physicians and Surgeons in 2000 for over-prescribing narcotics.

[5] Dr. Arnold testified on his own behalf and called no other witnesses. He did not put any supporting documentation into evidence in respect of any of these three issues.

[6] The Crown entered his 2003 tax return and a two-page Ontario Land Registry printout showing a one-page charge of a building to a numbered company in 1986 and a one-page abstract for the period 1992 to 2002. I am told this is the only document Dr. Arnold ever provided to the Respondent. No document in the nature of a shareholders' register, minute book, banking documents, personal financial records, purchase agreement, sale agreement, accounting from a receiver or trustee, or financial statement has been produced in support of Dr. Arnold's claim. Indeed, he did not even testify to the capitalization by him by debt or equity of the real estate holding corporation.

[7] Dr. Arnold was aware of the need for documentary evidence from his previous appearances and correspondence in this matter. In his Amended Notice of Appeal he wrote, ". . . I will present to the court documentary evidence of the financial losses I sustained."

[8] In these proceedings the Court has allowed Dr. Arnold to late-file his appeal, adjourned a prior hearing date, allowed him to file an Amended Notice of Appeal, and set aside the dismissal of his appeal for failure to appear.

[9] This is the end of the road for Dr. Arnold. There is nothing further this Court can do for him. He has failed to satisfy the onus on him to demonstrate with persuasive evidence on a balance of probabilities standard that he incurred the expenses or suffered the losses claimed by him.

[10] The appeal is dismissed.

Signed at Ottawa, Canada, this 8th day of January 2009.

"Patrick Boyle"

Boyle J.

CITATION: 2009 TCC 23

COURT FILE NO.: 2006-2978(IT)I

STYLE OF CAUSE: ROLAND S. ARNOLD v. HER MAJESTY
THE QUEEN

PLACE OF HEARING: Hamilton, Ontario

DATE OF HEARING: December 16, 2008

REASONS FOR JUDGMENT BY: The Honourable Justice Patrick Boyle

DATE OF JUDGMENT: January 8, 2009

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Laurent Bartleman

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada