

Docket: 2008-2182(CPP)

BETWEEN:

MARITIME HARBOURS SOCIETY,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

Motion heard on February 9, 2009 at Halifax, Nova Scotia

Before: The Honourable Justice Wyman W. Webb

Appearances:

Agent for the Appellant: William Watkins
Counsel for the Respondent: Toks C. Omisade

ORDER

It is ordered that the Appellant shall have until April 10, 2009 to file an amended Notice of Appeal. If an amended Notice of Appeal is not filed by then, the appeal will be quashed.

Signed at Toronto, Ontario, this 27th day of February 2009.

“Wyman W. Webb”

Webb, J.

Citation: 20-09TCC128
Date: 20090227
Docket: 2008-2182(CPP)

BETWEEN:

MARITIME HARBOURS SOCIETY,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

REASONS FOR ORDER

Webb, J.

[1] The Appellant filed an appeal under the Canada Pension Plan (“CPP”). The only issue raised by the Appellant in its Notice of Appeal is that the assessment of the CPP premiums should be vacated on the basis of a Minutes of Settlement between the Appellant and Her Majesty the Queen, as represented by the Minister of Transport. The Respondent has brought a motion to quash the Appellant’s appeal.

[2] This Court was formed by an Act of Parliament, the *Tax Court of Canada Act*. The jurisdiction of this Court is set out in section 12 of that Act and in particular subsection 12(1) of this Act provides as follows:

12. (1) **The Court has exclusive original jurisdiction to hear and determine references and appeals to the Court on matters arising under** the *Air Travellers Security Charge Act*, **the Canada Pension Plan**, the *Cultural Property Export and Import Act*, Part V.1 of the *Customs Act*, the *Employment Insurance Act*, the *Excise Act, 2001*, Part IX of the *Excise Tax Act*, the *Income Tax Act*, the *Old Age Security Act*, the *Petroleum and Gas Revenue Tax Act* and the *Softwood Lumber Products Export Charge Act, 2006* **when references or appeals to the Court are provided for in those Acts.**

(emphasis added)

[3] Since this subsection provides that the jurisdiction of this Court to hear and determine appeals on matters arising under the CPP is when appeals to this Court are

provided for in this Act, the only matters that can be appealed to this Court in relation to CPP matters are those matters for which a right of appeal to this Court is provided in the CPP.

[4] The right to appeal under the CPP is set out in section 28 of this Act which provides as follows:

28. (1) **A person affected by a decision on an appeal to the Minister under section 27 or 27.1, or the person's representative, may, within 90 days after the decision is communicated to the person, or within any longer time that the Tax Court of Canada on application made to it within 90 days after the expiration of those 90 days allows, appeal from the decision to that Court in accordance with the Tax Court of Canada Act and the applicable rules of court made thereunder.**

(emphasis added)

[5] Section 27 of the CPP provides as follows:

27. An appeal to the Minister from a ruling may be made by the Minister of Social Development at any time, and by any other person concerned within 90 days after the person is notified of the ruling.

[6] Also section 26.1 of the CPP provides as follows:

26.1 (1) The Minister of Social Development, an employer, an employee or a person claiming to be an employer or an employee may request an officer of the Canada Revenue Agency authorized by the Minister of National Revenue to make a ruling on any of the following questions:

- (a) whether an employment is pensionable;
- (b) how long an employment lasts, including the dates on which it begins and ends;
- (c) what is the amount of any earnings from pensionable employment;
- (d) whether a contribution is payable;
- (e) what is the amount of a contribution that is payable; and
- (f) who is the employer of a person in pensionable employment.

[7] Therefore the only matters that can be appealed to this Court are matters that could properly form the basis of a ruling request under section 26.1 of the CPP. The

reference to “whether a contribution is payable” would be a reference to whether a contribution is payable in accordance with the provisions of the CPP.

[8] The Minutes of Settlement signed by the Minister of Transport cannot amend the CPP. Whether any amount is payable under the CPP can only be changed by an Act of Parliament, not by a document signed by the Minister of Transport. What affect, if any, that the Minutes of Settlement may have on whether the amount may be collected is another matter. This, however, is not a matter that arises under the CPP but arises as a result of a separate document that has been signed. As a result, the affect that the Minutes of Settlement may have on the issue of whether the amount may be collected is not a matter that can be appealed to this Court.

[9] The representative of the Appellant stated at the hearing of the Motion that he did have other grounds that he wanted to raise in relation to the assessment under the CPP and he requested time to amend the Notice of Appeal. As a result, the Appellant shall have until April 10, 2009 to amend its Notice of Appeal. If the Notice of Appeal is not amended by April 10, 2009, the appeal will be quashed.

Signed at Toronto, Ontario, this 27th day of February 2009.

“Wyman W. Webb”

Webb, J.

CITATION: 2009TCC128

COURT FILE NO.: 2008-2182(CPP)

STYLE OF CAUSE: MARITIME HARBOURS SOCIETY AND
M.N.R.

PLACE OF HEARING: Halifax, Nova Scotia

DATE OF HEARING: February 9, 2009

REASONS FOR ORDER BY: The Honourable Justice Wyman W. Webb

DATE OF ORDER: February 27, 2009

APPEARANCES:

Agent for the Appellant: William Watkins
Counsel for the Respondent: Toks C. Omisade

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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