

Docket: 2010-1858(OAS)

BETWEEN:

MARGUERITE LADORA,

Appellant,

and

THE MINISTER OF HUMAN RESOURCES
AND SKILLS DEVELOPMENT

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on August 15, 2011, at Montréal, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

For the appellant:	The appellant herself
Counsel for the respondent:	Grégoire Cadieux

JUDGMENT

Whereas the parties agree that the decision rendered in the file of *Raymond Dupuis* (2010-1844(OAS)) is the same.

The appeal of the decision made by the Minister of Human Resources and Skills Development concerning the determination of income for the purposes of the Income Supplement under subsection 28(2) of the *Old Age Security Act*, R.S.C. 1985, c O-9, is dismissed, and the decision is confirmed, in accordance with the attached Reasons for Judgment as well as those in the file of *Raymond Dupuis* (2010-1844(OAS)).

Signed at Ottawa, Canada, this 18th day of October 2011.

"Alain Tardif"

Tardif J.

Translation certified true
on this 22nd day of November 2011
Margarita Gorbounova, Translator

Citation: 2011 TCC 486
Date: 20111018
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REASONS FOR JUDGMENT

Tardif J.

[1] The appellant is appealing from a decision of the Minister of Human Resources and Skills Development (the Minister) concerning the determination of the amount of the monthly Guaranteed Income Supplement (the supplement) under the *Old Age Security Act* (OASA).¹

[2] The decision under appeal was made based on the facts assumed in the following subparagraphs:

[TRANSLATION]

- (a) The appellant has been receiving a disability pension from the CSST since 1967;

¹ *Old Age Security Act*, R.S.C., 1985, c. O-9, section 11.

- (b) The appellant has been receiving guaranteed income supplement benefits since 2003;
- (c) The form entitled "Application for the Old Age Security Pension" received on January 28, 2003, as submitted by the appellant;
- (d) The T5007 statements issued by the CSST in the appellant's name for 2007 and 2008, which indicate in box 10 the amount of the disability pension received by the appellant that has to be included in her income and, therefore, considered as such for the purposes of calculating her GIS.
- (e) The appellant's request to the Minister not to take into account her disability pension from the CSST for the purposes of calculating her GIS.

[3] Paragraphs 1, 2, 4 to 13, and 14 show the history behind as well as the path leading up to the decision that gave rise to this appeal. I believe it would be useful to reproduce the paragraphs in question:

[TRANSLATION]

1. As for the Notice of Appeal, he admitted that the appellant's monthly Guaranteed Income Supplement (GIS) payments had been decreased starting in July 2009.
2. He also admitted that the appellant's disability pension payments from Quebec's Commission de la Santé et Sécurité du Travail (CSST) were considered to be income for the purposes of calculating her guaranteed income supplement benefits starting in July 2009.
4. The appellant became eligible for old age security and the Guaranteed Income Supplement in August 2003, the month following her 65th birthday.
5. During the 2006 taxation year, the appellant produced a T5007 statement indicating an income of \$0 from the CSST.
6. For the payment period starting in July 2006, her Guaranteed Income Supplement benefits were therefore calculated on the basis that no amounts were paid to the appellant as income by the CSST.
7. When the Guaranteed Income Supplement payments were renewed for the period starting in July 2009, the Canada Revenue Agency confirmed to the respondent that the appellant's income for the 2007 and 2008

taxation years included income of \$5,617.00 for 2007 and \$5,730.00 for 2008 from the CSST.

8. The fact that the appellant's CSST income was never considered for the purposes of calculating the appellant's benefits resulted in an overpayment of \$2,808.00.
9. On July 29, 2009, the respondent informed the appellant that this Guaranteed Income Supplement overpayment for the payment period from July 2008 to June 2009 in the amount of \$2,808.00 would never be claimed from her because of an administrative error.
10. However, the respondent informed the appellant that the calculation of her Guaranteed Income Supplement for the period starting in July 2009 included the amount of \$5,730.00 paid to the appellant by the CSST in 2008, as prescribed by the Act.
11. On December 4, 2009, the appellant asked the respondent to reconsider that decision.
12. On December 8, 2009, the Minister confirmed his decision dated July 29, 2009.
13. On December 29, 2009, the appellant submitted her appeal to the Office of the Commissioner of Review Tribunals.
14. On June 2, 2010, the appeal was referred to the Tax Court of Canada.

[4] The appellant was present at the hearing. When the appellant learned that a file with the same issue was before the Court, she agreed that the decision to be rendered in that matter, namely, that of *Raymond Dupuis* (2010-1844(OAS)), would be the same in her case.

[5] Accordingly, the appeal is dismissed because, in fact, the decision under appeal is indeed well founded under the Act, and the parties agreed that the decision in *Raymond Dupuis* (2010-1844(OAS)), a copy of which is attached to this judgment, applies to this case.

Signed at Ottawa, Canada, this 18th day of October 2011.

"Alain Tardif"
Tardif J.

Translation certified true
on this 22nd day of November 2011
Margarita Gorbounova, Translator

CITATION: TCC 2011

COURT FILE NO.: 2010-1858(OAS)

STYLE OF CAUSE: MARGUERITE LADORA AND
M.H.R.S.D.C

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: August 15, 2011

REASONS FOR JUDGMENT BY: The Honourable Justice Alain Tardif

DATE OF JUDGMENT: October 18, 2011

APPEARANCES:

For the appellant: The appellant herself

Counsel for the respondent: Grégoire Cadieux

COUNSEL OF RECORD:

For the appellant:

Name:

Firm:

For the respondent: Myles J. Kirvan
Deputy Attorney General of Canada
Ottawa, Canada