

Docket: 2011-1138(IT)I

BETWEEN:

GERARD SHANAHAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on November 10, 2011 at Calgary, Alberta

Before: The Honourable Justice Wyman W. Webb

Appearances:

For the Appellant: The Appellant Himself
Counsel for the Respondent: Adam Gotfried

JUDGMENT

The Appellant's appeal is dismissed, without costs.

Signed at Ottawa, Canada, this 29th day of November, 2011.

“Wyman W. Webb”

Webb, J.

Citation: 2011TCC530
Date: 20111129
Docket: 2011-1138(IT)I

BETWEEN:

GERARD SHANAHAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Webb, J.

[1] The Appellant was reassessed to include in his income a benefit from employment in the amount of \$2,997 in relation to a trip to Las Vegas taken by the Appellant and his spouse in January 2007. The Appellant's former employer paid for the trip.

[2] The Appellant was, until August 2007, working for 998699 Alberta Ltd. which was carrying on business as Hyatt Automotive Group. Since the Appellant in 2007 had been working for this company for five or more years, he (as well as the other employees who had been working for the company for five or more years) was rewarded with a trip to Las Vegas. The Appellant and his spouse took the trip and the Appellant confirmed that there was no business element to the trip - it was simply a reward for employees who had been working for five or more years. The cost of the trip was \$2,997 and this was paid by 998699 Alberta Ltd.

[3] Paragraph 6(1)(a) of the *Income Tax Act* provides in part that:

6. (1) There shall be included in computing the income of a taxpayer for a taxation year as income from an office or employment such of the following amounts as are applicable:

(a) the value of board, lodging and other benefits of any kind whatever received or enjoyed by the taxpayer in the year in respect of, in the course of, or by virtue of an office or employment,

[4] Unfortunately the Appellant's former employer did not inform the Appellant that he would be considered to have a benefit from employment in relation to this trip nor was this benefit from employment included on his T4 slip. The benefit was discovered by the Canada Revenue Agency performing an audit on the books of 998699 Alberta Ltd.

[5] It is clear that the Appellant did receive a benefit from employment in the amount of \$2,997 in 2007 when the company for which he was then an employee paid for the trip to Las Vegas for the Appellant and his spouse. The Appellant's only argument was that he had not been informed by his former employer that the cost of the trip would be included in his income. However, the failure of his former employer to inform the Appellant of the tax consequences of taking the trip cannot change the requirement to include the amount of the benefit in his income.

[6] As a result the Appellant's appeal is dismissed, without costs.

Signed at Ottawa, Canada, this 29th day of November, 2011.

“Wyman W. Webb”

Webb, J.

CITATION: 2011TCC530

COURT FILE NO.: 2011-1138(IT)I

STYLE OF CAUSE: GERARD SHANAHAN AND HER
MAJESTY THE QUEEN

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: November 10, 2011

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

DATE OF JUDGMENT: November 29, 2011

APPEARANCES:

For the Appellant:	The Appellant Himself
Counsel for the Respondent:	Adam Gotfried

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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