



FREDERICTON, NEW BRUNSWICK, MONDAY, DECEMBER 9, 1996

**CORAM: HUGESSEN, J.A.  
DÉCARY, J.A.  
CHEVALIER, D.J.**

**BETWEEN:**

**THE ATTORNEY GENERAL OF CANADA**

Applicant

- and -

**PATRICK EDWARD VAUTOUR**

Respondent

**JUDGMENT**

**HUGESSEN J.A.**

The application is allowed, the decision of the Umpire is set aside and the matter is remitted to an Umpire to be designated by the Chief Umpire for redetermination on the basis that the decision of the Board of Referees should be set aside and the appeal of the claimant to that Board dismissed.

**"J. K. Hugessen"**

J.A.



A-733-95

FREDERICTON, NEW BRUNSWICK, MONDAY, DECEMBER 9, 1996

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DÉCARY, J.A.  
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BETWEEN:

THE ATTORNEY GENERAL OF CANADA,

Applicant

- and -

PATRICK EDWARD VAUTOUR,

Respondent

**REASONS FOR JUDGMENT**

(Delivered from the Bench at Fredericton, NB on 9 December, 1996)

**HUGESSEN J.A.**

We are all of the view that the learned Umpire erred in law when he purported to allocate, pursuant to secs. 57 and 58 of the Regulations, a sum received by the claimant for unjust dismissal and then treated the weeks to which the sum had been so allocated as weeks of insurable employment. A person who has been dismissed or otherwise separated from his or her employment, and receives compensation therefor, ceases to be employed. The fact that the

compensation may be allocated, for purposes of calculating benefits, to some number of weeks following the dismissal or separation does not mean that the person continues in that insurable employment which by definition has come to an end.

We would add that in any event the question as to whether and for how long the claimant was in insurable employment is one which neither the Board of Referees nor the Umpire has power to decide (see sec. 61(3) of the Act).

The application will be allowed, the decision of the Umpire will be set aside and the matter will be remitted to an Umpire to be designated by the Chief Umpire for redetermination on the basis that the decision of the Board of Referees should be set aside and the claimant's appeal to that Board dismissed.

  
J.A.

**FEDERAL COURT OF CANADA  
APPEAL DIVISION**

**NAMES OF SOLICITORS AND SOLICITORS ON THE RECORD**

**COURT FILE NO.:** A-733-95

**STYLE OF CAUSE:** THE ATTORNEY GENERAL OF CANADA

- and -

PATRICK EDWARD VAUTOUR

**PLACE OF HEARING:** Fredericton, New Brunswick

**DATE OF HEARING:** December 9, 1996

**REASONS FOR JUDGMENT BY:** Hugessen J.A.

**APPEARANCES:**

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FOR THE APPLICANT

Patrick Edward Vautour

FOR THE RESPONDENT

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FOR THE RESPONDENT