

Date: 20090120

Docket: A-227-08

Citation: 2009 FCA 17

**CORAM: NADON J.A.
SHARLOW J.A.
RYER J.A.**

BETWEEN:

MAHER ZAYTOUN

Appellant

and

CANADIAN FOOD INSPECTION AGENCY

Respondent

Heard at Ottawa, Ontario, on January 20, 2009.

Judgment delivered from the Bench at Ottawa, Ontario, on January 20, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on January 20, 2009)

NADON J.A.

[1] This is an appeal from a decision of Russell J. of the Federal Court, 2008 FC 502, dated April 17, 2008, setting aside an independent third-party review (the “independent reviewer’s decision”) conducted under the Canadian Food Inspection Agency’s (the “Agency”) Staffing Recourse Policy and dismissing the appellant’s judicial review application of the corrective measures put forward by the Agency following the aforesaid decision.

[2] We are all agreed that there was no basis upon which the Judge could interfere with the independent reviewer's decision.

[3] We are satisfied that there is nothing unreasonable in the independent reviewer's decision that the Agency's process in conducting interviews and administering written examinations for spouses on different days created an appearance of unfairness, thus tainting its hiring process and breaching its value of fairness.

[4] With respect to the corrective measures put forward by the Agency in response to the independent reviewer's decision, we are all of the view that the measures were unresponsive in that we interpret the Agency's response as simply maintaining the status quo.

[5] For these reasons, the appeal will be allowed with costs and the decision of the Federal Court will be set aside. The Agency's judicial review application of the independent reviewer's decision will be dismissed with costs and the appellant's judicial review application of the Agency's corrective measures decision will be allowed with costs. Finally, the Agency's decision will be quashed and referred back to the Agency for reconsideration in accordance with these Reasons.

"M. Nadon"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-227-08

**(APPEAL FROM A JUDGMENT OF THE FEDERAL COURT, 2008 FC 502, DATED
APRIL 17, 2008)**

STYLE OF CAUSE: MAHER ZAYTOUN v. CANADIAN
FOOD INSPECTION AGENCY

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: January 20, 2009

REASONS FOR JUDGMENT OF THE COURT BY: Nadon, Sharlow, Ryer JJ.A.

DELIVERED FROM THE BENCH BY: Nadon J.A.

APPEARANCES:

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