

Date: 20090506

Docket: A-272-07

Citation: 2009 FCA 143

**CORAM: LÉTOURNEAU J.A.
BLAIS J.A.
TRUDEL J.A.**

BETWEEN:

FRÉDÉRIC RIOUX

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Québec, Quebec, on May 5, 2009.

Judgment delivered at Québec, Quebec, on May 6, 2009.

REASONS FOR JUDGMENT BY:

LÉTOURNEAU J.A.

CONCURRED IN BY:

**BLAIS J.A.
TRUDEL J.A.**

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REASONS FOR JUDGMENT

LÉTOURNEAU J.A.

[1] This appeal challenges some of the findings of fact made by Justice Tardif of the Tax Court of Canada (judge), including those based on the credibility of the witnesses, one of whom was the appellant.

[2] With regard to one of the activities of the appellant, the judge found that there was an arrangement to, using falsified invoices, benefit from subsidies offered by the Government of Quebec on the sale of computers.

[3] The appellant's bookkeeping was woefully inadequate according to the judge: no accounting records, no deposit slips and no bank statements to explain the appellant's business income, and many cash transactions.

[4] During the hearing before the Tax Court of Canada, the appellant admitted having forged people's signatures, to mislead the tax auditor, and invoices, to establish that he had paid subcontractors although this had not been the case.

[5] In oral argument before us, the appellant referred to a revised accounting of his income to explain that the amounts appearing there had been accounted for twice, meaning that the total should be adjusted by subtracting the amounts resulting from the duplication: see Exhibit I-6 in the Appeal Book, at pages 168 and 169.

[6] Exhibit I-6 was supplied later in the appeal process to the Tax Court of Canada by the appellant's accountant. It disclosed the additional income which the audit conducted by the respondent had not uncovered. The respondent had confined itself to the original assessment, which was lower than what the revised accounting of the appellant's income could generate. If there were accounting errors in this new statement of income, they were those of the appellant's accountant. They were of no consequence however.

[7] I can detect no error in the judge's conclusion according to which the appellant was unable to rebut the assumptions made by the Minister of National Revenue. Moreover, as I would like to

remind the appellant, who is representing himself, our Court does not have the authority to set aside the findings of fact made by the judge unless they result from a palpable or overriding error: *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235, *Rouleau v. Canada*, 2008 FCA 288. Nor is it within our jurisdiction or is it our intention to substitute our own: *ibidem*.

[8] For these reasons, I would dismiss the appeal with costs.

“Gilles Létourneau”

J.A.

“I agree.

Pierre Blais J.A.”

“I agree.

Johanne Trudel J.A.”

Certified true translation
Johanna Kratz

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-272-07

(APPEAL FROM A DECISION OF JUSTICE ALAIN TARDIF OF THE TAX COURT OF CANADA DATED MAY 2, 2007)

STYLE OF CAUSE: FRÉDÉRIC RIOUX v. HER MAJESTY THE QUEEN

PLACE OF HEARING: Québec, Quebec

DATE OF HEARING: May 5, 2009

REASONS FOR JUDGMENT BY: LÉTOURNEAU J.A.

CONCURRED IN BY: BLAIS J.A.
TRUDEL J.A.

DATED: May 6, 2009

APPEARANCES:

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FOR THE APPELLANT
(for himself)

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FOR THE RESPONDENT

SOLICITORS OF RECORD:

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