

**Date: 20091029**

**Docket: A-630-08**

**Citation: 2009 FCA 316**

**CORAM: SHARLOW J.A.  
LAYDEN-STEVENSON J.A.  
RYER J.A.**

**BETWEEN:**

**ATTORNEY GENERAL OF CANADA**

**Applicant**

**and**

**SONJHA SURAGE-JAMES**

**Respondent**

Heard at Toronto, Ontario, on October 29, 2009.

Judgment delivered from the Bench at Toronto, Ontario, on October 29, 2009.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**RYER J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Toronto, Ontario, on October 29, 2009)**

**RYER J.A.**

[1] This is an application for judicial review of a decision of Umpire R.C. Stevenson (CUB 71377), dated November 4, 2008, dismissing the appeal of the Attorney General of Canada from a decision of a Board of Referees (the “Board”). The Board allowed the appeal of Ms. Sonjha Surage-James, holding that none of the retained earnings of FotsCanada Inc. (the “Company”) could be attributed to her as earnings from self-employment, within the meaning of section 35 of the *Employment Insurance Regulations*, SOR/96-332 (the “Regulations”), during the period that she

was collecting maternity and parental leave benefits under the *Employment Insurance Act*, S.C. 1996, c. 23.

[2] Before the Board, the Employment Insurance Commission argued that Mrs. Surage-James was self-employed, for the purposes of section 35 of the *Regulations*, because she was the owner of all of the shares of the Company. The Board rejected that argument based on a number of factual findings. The Board found that, although Mrs. Surage-James caused the incorporation of the Company and was its sole shareholder and signing officer, the business of the Company was operated by her husband, and her activities in relation to that business were limited to signing batches of blank Company cheques that her husband used, as needed, in his day-to-day operation of the business, and certain other minor matters. The Board also found that Mrs. Surage-James received no income from the Company.

[3] In our view, the Umpire correctly determined that he was required to review the Board's decision on the standard of reasonableness and we have not been persuaded that he made any error that warrants our intervention when he applied that standard of review to the Board's decision.

[4] Accordingly, the application for judicial review will be dismissed, with costs.

“C. Michael Ryer”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-630-08

**(AN APPLICATION FOR JUDICIAL REVIEW OF A DECISION OF THE  
HONOURABLE MR. JUSTICE STEVENSON, AS UMPIRE, DATED NOVEMBER 4,  
2008, IN COURT FILE NO. CUB 71377.)**

**STYLE OF CAUSE:** ATTORNEY GENERAL OF CANADA v. SONJHA  
SURAGE-JAMES

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** October 29, 2009

**REASONS FOR JUDGMENT OF  
THE COURT BY:** (SHARLOW, LAYDEN-  
STEVENSON & RYER J.J.A.)

**DELIVERED FROM THE BENCH BY:** RYER J.A.

**APPEARANCES:**

Sadian Campbell FOR THE APPLICANT

Jonathan J. Sommer FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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