

[OFFICIAL ENGLISH TRANSLATION]

2002-469(IT)I

BETWEEN:

LOUISE DUPRAS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on August 16, 2002, at Montréal, Quebec, by

the Honourable Judge Louise Lamarre Proulx

Appearances

For the Appellant:

The Appellant herself

Respondent's Agent:

Yacine Agnaou (Student-at-Law)

JUDGMENT

The appeal from the determination of the child tax benefit dated August 20, 2001, for the 1998 base year, and from the redetermination dated July 27, 2001, of the goods and services tax credit for the 1998 taxation year is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 20th day of August 2002.

"Louise Lamarre Proulx"

J.T.C.C.

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Date: 20020820
Docket: 2002-469(IT)I

BETWEEN:

LOUISE DUPRAS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Lamarre Proulx, J.T.C.C.

[1] This is an appeal under the Informal Procedure (a) from the redetermination of the Minister of National Revenue (the "Minister") dated August 20, 2001, of the Canada child tax benefit for the 1998 base year; and (b) from the redetermination dated July 27, 2001, of the goods and services tax credit for the 1998 taxation year.

[2] The point for determination is whether the appellant and Luc Rioux were living in a *de facto* union during the 1998 taxation year.

[3] The appellant was the only witness. She has two children, Sean and Emily, who are now 19 and 9 years of age respectively. Emily is the daughter of the appellant and Luc Rioux.

[4] The appellant began living together with Mr. Rioux in 1992. She stated that Mr. Rioux left the marital home in 1998 because she had asked him to leave as a result of certain gambling-related problems. He purportedly lived at a secondary residence belonging to his mother from February 1998 until February 2000.

[5] On March 22, 2002, Luc Rioux and the appellant acquired a property located at 116 Hilary Avenue in Pointe-Claire (Exhibit I-3). On May 27, 1997, the appellant and Luc Rioux had acquired a property located at 1020 Montée St-Nicolas in Bellefeuille (Exhibit I-2).

[6] Exhibit I-4 is the appellant's income tax return for the 1998 taxation year. On the return, she declared that she was single and that her address was 1020 Montée Saint-Nicolas, Bellefeuille.

[7] Exhibit I-5 is Luc Rioux's income tax return for the 1998 taxation year. The address is the same as that of the appellant. He stated on the return that he was the appellant's *de facto* spouse. The T4 from the employer also shows the same address.

[8] Exhibit I-6 is a page from the appellant's account statement. On it, she had indicated a payment of \$460 as a mortgage payment, but at the hearing she stated that Luc Rioux had made the mortgage and hydro payments. She did not understand why she had written mortgage opposite a payment. The respondent's agent pointed out that much more money had been withdrawn than deposited.

[9] Exhibit I-1 is the questionnaire completed by the appellant on June 21, 2001, to explain her separation. In it she stated that Mr. Rioux lived at 321 Rue Gagné in Ste-Sophie. Question 5 reads as follows:

[TRANSLATION]

5. Please attach to this questionnaire any document confirming that you and your spouse or former spouse are living or lived separately and apart during the periods of separation. You may use copies of rent receipts or utilities bills bearing separate addresses. If you are unable to provide any document whatever, put a checkmark here ___ and state why not.

[10] The appellant put a checkmark to indicate that she was unable to provide any document and gave no reason.

[11] The respondent's agent noted the inconsistencies in the appellant's position. The first was that there was no document showing Mr. Rioux's change of address. The second inconsistency was that Mr. Rioux had continued to make mortgage and hydro payments. The third was that, according to the appellant's income tax return, she had a net income of \$4,068.84 and, despite that, was apparently able to support a household of three persons by herself.

[12] The appellant stated that she had been helped by her family. As to the postal address, she explained that it had not been necessary to change it since Mr. Rioux was able to pick up the mail at the post office box because Ste-Sophie and Bellefeuille are approximately 30 minutes by car from one another.

Conclusion

[13] Mr. Rioux made no corrections to his 1998 tax return on which he stated that he had been the appellant's *de facto* spouse in 1998. No one in the family or among friends came to testify that the appellant and Mr. Rioux had in fact lived separate and apart during 1998. The appellant claimed that they lived separate and apart until February 2002. As of March 2002, they acquired another house together and mortgaged the house in Bellefeuille.

[14] Regrettably, the appellant's position is implausible in the circumstances of fact in this appeal as described above. Furthermore, there is a total lack of evidence to support that position. The appeal must therefore be dismissed.

Signed at Ottawa, Canada, this 20th day of August 2002.

"Louise Lamarre Proulx"

J.T.C.C.