

Docket: 2006-1831(IT)I

BETWEEN:

MOHAMED BOUDALI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on April 19, 2007, at Windsor, Ontario, by
The Honourable Justice C.H. McArthur

Appearances:

For the Appellant:

The Appellant himself

Counsel for the Respondent:

Steven Leckie

ORDER

Upon motion by counsel for the Respondent for an Order quashing the Appellant's appeal from an assessment made under the *Income Tax Act* for the 2004 taxation year; or in the alternative, allowing the Respondent's an extension of 30 days to file a Reply to the Notice of Appeal;

And upon reading the affidavit of Stephanie Fong, filed;

And upon hearing the Appellant and counsel for the Respondent;

It is ordered the appeal herein is quashed.

Signed at Ottawa, Canada, this 4th day of May, 2007.

"C.H. McArthur"

McArthur J.

Citation: 2007TCC270
Date: 20070504
Docket: 2006-1831(IT)I

BETWEEN:

MOHAMED BOUDALI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

McArthur J.

[1] This motion is for an order quashing the Appellant's appeal for the 2004 taxation year on the basis the reassessment objected to and appealed by the Appellant is a nil assessment. There is a well established rule that there can be no appeal from a nil assessment¹. The Appellant's position does not fall within the exception to the general rule as set out by Bowman C.J. in *Aallcann Wood Suppliers Inc. v. The Queen*.²

[2] The Appellant represented himself and he stated that the amount of tax was being demanded from him so it could not be a nil assessment. The relevant Notice of Reassessment indicates:

	Amount of previous assessment	Revised amount
Net federal tax	\$501.30	0.00
Net Ontario tax	\$1,084.90	1,586.20

¹ The Respondent referred to the decisions of *The Queen v. The Consumers' Gas Company Ltd.*, 87 DTC 5008 at 5012 and *The Queen v. Bowater Mersey Paper Company Limited*, 87 DTC 5382 at 5383.

² 94 DTC 1475, at pages 1475-76.

[3] It is understandably very confusing for the Appellant, but the amount with which he is concerned is Ontario tax over which this Court does not have jurisdiction. I believe the Appellant's recourse is before the Ontario Superior Court if he is within statutory time limits.

[4] In conclusion, the motion is granted. The Notice of Appeal for the 2004 taxation year is quashed since the Notice of Reassessment resulted in nil federal tax owing.

Signed at Ottawa, Canada, this 4th day of May, 2007.

"C.H. McArthur"

McArthur J.

CITATION: 2007TCC270
COURT FILE NO.: 2006-1831(IT)I
STYLE OF CAUSE: MOHAMED BOUDALI AND THE QUEEN
PLACE OF HEARING: Windsor, Ontario
DATE OF HEARING: April 19, 2007
REASONS FOR JUDGMENT BY: The Honourable Justice C.H. McArthur
DATE OF JUDGMENT: May 4, 2007

APPEARANCES:

For the Appellant: The Appellant himself
Counsel for the Respondent: Steven Leckie

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
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