

Docket: 2004-3210(OAS)

BETWEEN:

ABDUL RAHIM ABDUL-RAHMAN,

Appellant,

and

THE MINISTER OF HUMAN RESOURCES
AND DEVELOPMENT CANADA,

Respondent.

Appeal heard on February 14, 2005 at Montreal, Québec

Before: The Honourable Justice Louise Lamarre Proulx

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon Petit

JUDGMENT

The appeal from a decision of the Minister of Human Resources and Development Canada, further to a reference from a Review Tribunal pursuant to subsection 28(2) of the *Old Age Security Act*, is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 2nd day of March, 2005.

"Louise Lamarre Proulx"

Lamarre Proulx, J.

Citation: 2005TCC172
Date: 20050302
Docket: 2004-3210(OAS)

BETWEEN:

ABDUL RAHIM ABDUL-RAHMAN,

Appellant,

and

THE MINISTER OF HUMAN RESOURCES
AND DEVELOPMENT CANADA,

Respondent.

REASONS FOR JUDGMENT

Lamarre Proulx, J.

[1] This is a reference made by a Review Tribunal, pursuant to subsection 28(2) of the *Old Age Security Act* (the "Act"), for a decision by this Court on whether an amount of \$3,099.30 that is a retirement benefit received from the Quebec Pension Plan, for the year 2002, shall be included in the calculation of Mr. Abdul-Rahman's income for the application of the *Act*.

[2] The Appellant does not contest that he is entitled to a retirement pension under the *Act Respecting the Quebec Pension Plan* ("*Quebec Pension Plan*"). He argues that it should not be included in income because it is not an employment income. He also argues that a pension benefit is defined as being not earned income in a dictionary. In this respect, he refers to the translation of "rente" that he has found in a French-English pocket dictionary. The word "rente" is translated as "unearned income, pension".

[3] Counsel for the Respondent has referred me to the various legislative provisions applying in this matter.

Analysis and conclusion

[4] Section 2 of the *Act*, entitled "Interpretation", defines income as follows:

"income" of a person for a calendar year means the person's income for the year computed in accordance with the *Income Tax Act*, except that ...

[5] The exceptions mentioned are not relevant to this particular matter.

[6] The relevant part of paragraph 56(1)(a) of the *Income Tax Act* reads as follows:

56(1) Without restricting the generality of section 3, there shall be included in computing the income of a taxpayer for a taxation year,

(a) **Pension benefits, unemployment insurance benefits, etc.** — any amount received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,

(i) a superannuation or pension benefit including, without limiting the generality of the foregoing,

...

(B) the amount of any benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

...

[7] That provision stipulates that an amount of any benefit received by a taxpayer under a provincial plan as defined in section 3 of the *Canada Pension Plan* must be included in the taxpayer's income.

[8] Section 3 of the *Canada Pension Plan* reads as follows:

APPLICATION AND OPERATION OF ACT

3(1) In this *Act*,

"provincial pension plan" means a plan of old age pensions and supplementary benefits for the establishment and operation of

which provision has been made as described in paragraph (a) or (b) of the definition of "province providing a comprehensive pension plan" under a law of a province providing a comprehensive pension plan.

"province providing a comprehensive pension plan" means a province prescribed by a regulation made on the recommendation of the Minister of Human Resources Development for the purposes of this *Act* as a province

- (a) the government of which has, on or before May 3, 1965, signified the intention of that province to provide for the establishment and operation in that province, in lieu of the operation therein of this Act, of a plan of old age pensions and supplementary benefits providing for the making of contributions thereunder commencing with the year 1966 and providing for the payment of benefits thereunder comparable to those provided by this Act, or

...

[9] The *Prescribed Province Pension Regulations* read as follows:

1. These Regulations may be cited as the *Prescribed Province Pension Regulations*.
2. The Province of Quebec is hereby prescribed, for the purposes of the *Canada Pension Plan*, as a province the government of which has, before the 30th day after April 3, 1965, signified the intention of such province to provide for the establishment and operation in that province, in lieu of the operation therein of the *Canada Pension Plan*, of a plan of old age pensions and supplementary benefits providing for the making of contributions thereunder, commencing with the year 1966 and providing for the payment of benefits thereunder comparable to those provided by the *Canada Pension Plan*.

[10] Section 105 of the *Québec Pension Plan* reads as follows:

QUALIFICATIONS FOR BENEFIT

Kinds of pensions

105 The Board shall, subject to the rules laid down in this Act, pay the following pensions and benefits:

(a) *a retirement pension* to a qualified contributor;

...

[11] According to the rules on statutory interpretation, a tribunal will refer to dictionaries to understand the meaning of a word only if it is not defined in a statute.

[12] In this instance, the legislative intent is quite clear. "Income" is defined in the *Old Age Security Act*, as being income as computed in the *Income Tax Act*. A tribunal may not go further than that. I may say however in passing that the definitions that I have found in the dictionaries are not at odd with this meaning.

[13] Pursuant to subparagraph 56(1)(a) of the *Income Tax Act*, the amount of any benefit received under the *Quebec Pension Plan* must be included in the calculation of income

[14] Consequently, the amount of \$3,099.30 is to be included in the calculation of income for the application of the *Old Age Security Act*.

Signed at Ottawa, Canada, this 2nd day of March, 2005.

"Louise Lamarre Proulx"

Lamarre Proulx, J.

CITATION: 2005TCC172

COURT FILE NO.: 2004-3210(OAS)

STYLE OF CAUSE: Abdul Rahim Abdul-Rahman and The
Minister of Human Resources and
Development Canada

PLACE OF HEARING: Montreal, Québec

DATE OF HEARING: February 14, 2005

REASONS FOR JUDGEMENT BY: The Hon. Justice Louise Lamarre Proulx

DATE OF JUDGMENT: March 2, 2005

APPEARANCES:

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon Petit

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
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