

Docket: 2007-3154(OAS)

BETWEEN:

LOUIS LAROUCHE,

Appellant,

and

THE MINISTER OF HUMAN RESOURCES  
AND SOCIAL DEVELOPMENT,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

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Appeal heard on November 20, 2007, at Montréal, Quebec.

Before: The Honourable Justice Louise Lamarre Proulx

Appearances:

For the appellant:	The appellant himself
For the respondent:	Julie David

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**JUDGMENT**

The appeal from the decision of the Minister of Human Resources and Social Development concerning the determination of income under the *Old Age Security Act* from for the periods from July 2001 to June 2002 and July 2002 to June 2003 is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 11th day of December 2007.

"Louise Lamarre Proulx"

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Lamarre Proulx J.

Translation certified true  
on this 4th day of February 2008  
Michael Palles, Reviser

Citation: 2007TCC743  
Date: 20071211  
Docket: 2007-3154(OAS)

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LOUIS LAROUCHE,

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Respondent.

[OFFICIAL ENGLISH TRANSLATION]

### **REASONS FOR JUDGMENT**

Lamarre Proulx J.

[1] This is an appeal brought under the *Old Age Security Act* (the "Act") in respect of the monthly guaranteed income supplement provided for under sections 10 to 18 of the Act.

[2] On April 25, 2002, the appellant submitted two application forms for the guaranteed income supplement: one for July 2001 to June 2002 and the other for July 2002 to June 2003.

[3] These forms were filed at the hearing as Exhibit I-1.

[4] According to paragraph 11(b) of the Reply to the Notice of Appeal:

[TRANSLATION]

(b) In this form, the appellant did not report the following amounts he received:

(i) **Year 2000** (July 2001 to June 2002):

CSST (Quebec): **\$6,966.80;**

WSIB (Ontario): **\$6,755.76**

(ii) **Year 2001** (July 2002 to June 2003):

CSST (Quebec): **\$2,457.66**

WSIB (Ontario): **\$6,782.88**

[5] The appellant admits having received these amounts but submits that they did not have to be included in the calculation of his income for three reasons:

(1) With regard to the amounts received from the CSST, he states that he did not receive the proper statements, namely, the T5007 Statement of Benefits forms;

(2) With regard to the amounts received from the WSIB, he did receive the T5007, but he alleges that on the reverse side of these statements, the following note appears: [TRANSLATION] "The income shown on the slip is not taxable". There is also the following sentence: [TRANSLATION] "Do not include this amount in your income tax return." On this point, the appellant submits Exhibit A-1, a document in which three photocopies of the reverse sides of the slips appear;

(3) The third reason concerns section 42 of the Ontario *Worker's Compensation Act*. This section provides that a worker who has a permanent disability resulting from an injury is entitled to compensation for non-economic loss and any other benefit that he or she may receive under the *Worker's Compensation Act*.

### Analysis and conclusion

[6] The photocopies of the reverse sides of the T5007 slips submitted by the appellant as Exhibit A-1 are not dated. It is therefore not certain that these are really the reverse sides of the T5007 forms sent by the WSIB. In fact, in 1992, the instructions were clearly indicated on Exhibit A-3 submitted by the appellant himself:

[TRANSLATION]

Box 10 – Enter this amount on lines 144 and 250 of your income tax return.

Box 11 – Enter this amount on lines 145 and 250 of your income tax return. However, if you were married and lived with your spouse when you received the social assistance benefits or provincial supplements, the spouse with the higher income has to report this amount. The spouse who reports this amount as income can claim an equivalent deduction on line 250.

Even if you must enter these benefits on your income tax return, **you do not pay tax on them**, since you can claim a deduction for these amounts on line 250.

[7] In any event, it is trite law that what is important is the legislative scheme itself. Let us refer to the Act.

[8] Subsection 14(1) of the Act reads as follows:

14. (1) Every person by whom an application for a supplement in respect of a current payment period is made shall, in the application, make a statement of the person's income for the base calendar year.

...

[9] The relevant part of the definition of "income" in section 2 of the Act reads 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

...

[10] The expression "base calendar year" is defined in section 10 of the Act:

"base calendar year" means the last calendar year ending before the current payment period.

[11] A person's income for a calendar year must be calculated in compliance with the *Income Tax Act*. This brings us to the provisions of this Act.

[12] Section 3 of the *Income Tax Act* provides among other things that the taxpayer's income must be determined on the basis of the total of all amounts each of which is the taxpayer's income for the year.

[13] Paragraph 56(1)(v) of the *Income Tax Act* reads as follows:

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

...

(v) compensation received under an employees' or workers' compensation law of Canada or a province in respect of an injury, a disability or death;

[14] It should be noted that in computing the taxable income, the same amounts are deducted under subparagraph 110(1)(f)(ii) of the *Income Tax Act*.

[15] However, the *Old Age Security Act* refers to income and not to taxable income. The amounts received by the appellant from the CSST and the WSIB must be included in computing his income for the purposes of his income tax return for the base year.

[16] It is not whether or not the T5007 form is received which determines the amount of a person's income for a calendar year, but the provisions of the *Income Tax Act* to which the Act refers.

[17] The same principle applies to the reverse sides of the T5007 forms, although I am not certain for the above-mentioned reasons that these reverse sides were actually those of the T5007 slips received from the WSIB for the years 2001 and 2002.

[18] I will now deal with the appellant's submission to the effect that the compensation for non-economic loss under section 42 of the *Worker's Compensation Act* of Ontario must be excluded from the calculation of income.

[19] To be more precise, I must say that this piece of legislation no longer applies to industrial accidents, as it has been repealed. It has been replaced by the *Workplace Safety and Insurance Act*, c. 16 of the 1997 Statutes of Ontario. In any event, I am of the opinion that the appellant began receiving his compensation under the *Workplace Safety and Insurance Act*, as the current law has transitional provisions which continue the protection granted to workers under the former act.

[20] Both the current legislation and the former *Worker's Compensation Act* provide for compensation calculated on the basis of loss of earnings and non-economic losses. However, with regard to including, in computing income, compensation received under an employees' or workers' compensation law of

Canada or a province in respect of an injury, a disability or death, paragraph 56(1)(v) of the *Income Tax Act* does not make any distinction in terms of the nature of the elements—be it loss of earnings or non-economic losses—included in computing this compensation. Therefore, the total amount must be included in the calculation of a taxpayer's income.

[21] Accordingly, the appeal must be dismissed.

Signed at Ottawa, Canada, this 11th day of December 2007.

"Louise Lamarre Proulx"

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Lamarre Proulx J.

Translation certified true  
on this 4th day of February 2008  
Michael Palles, Reviser

CITATION: 2007TCC743

COURT FILE NO.: 2007-3154(OAS)

STYLE OF CAUSE: LOUIS LAROUCHE v. THE MINISTER OF  
HUMAN RESOURCES AND SOCIAL  
DEVELOPMENT

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: November 20, 2007

REASONS FOR JUDGMENT BY: The Honourable Justice Louise Lamarre  
Proulx

DATE OF JUDGMENT: December 11, 2007

APPEARANCES:

For the appellant:	The appellant himself
Counsel for the respondent:	Julie David

SOLICITORS OF RECORD:

For the appellant:

Name:

Firm:

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