

Docket: 2007-2833(IT)I

BETWEEN:

GEORGE FREDERICK DUNN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on January 16, 2008, at Winnipeg, Manitoba.

Before: The Honourable Justice Wyman W. Webb

Appearances:

For the Appellant: The Appellant himself
Counsel for the Respondent: Meghan Riley

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the Appellant's 2003 and 2004 taxation years are dismissed without costs.

Signed at Halifax, Nova Scotia, this 24th day of January 2008.

“Wyman W. Webb”

Webb J.

Citation: 2008TCC37
Date: 20080124
Docket: 2007-2833(IT)I

BETWEEN:

GEORGE FREDERICK DUNN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Webb J.

[1] These appeals relate to the amount that the Appellant is entitled to claim for meal expenses in 2003 and 2004.

[2] The Appellant was a long-haul truck driver who spent a considerable amount of time in the United States. The Respondent had determined that the amount that the Appellant was entitled to claim for meals and entertainment expenses in 2003 (before taking into account the exchange rate for the amounts spent in US dollars) was \$6,443.60 determined as follows:

Number of days away:	282
Reasonable daily rate for meals:	\$45
Amount for meals:	\$12,690.00
Reduction pursuant to section 67.1:	50%
Net amount for meals:	\$6,345
Plus entertainment: \$197.20 x 50%:	\$98.60
Total Meals and Entertainment expenses allowed:	\$6,443.60

[3] For 2004, the amount that the Appellant was entitled to claim for meals and entertainment expenses (before taking into account the exchange rate for the amounts spent in US dollars) was determined as follows:

Number of days away:	244
Reasonable daily rate for meals:	\$45
Amount for meals:	\$10,980.00
Reduction pursuant to section 67.1:	50%
Net amount for meals:	\$5,490
Plus entertainment: \$135.58 x 50%	\$67.79
Plus entertainment: \$109.58 x 50%	\$54.79
Plus entertainment: \$19.64 x 50%	\$9.82
Total Meals and Entertainment expenses allowed:	\$5,622.40

[4] Additional amounts were also allowed in relation to the conversion of the amounts spent in US dollars into Canadian dollars based on the appropriate exchange rate.

[5] The Appellant does not dispute the number of days that he was away nor does he dispute the reasonable daily rate of \$45 for meals. The Appellant also does not dispute the amount used by the Respondent to convert the American currency into Canadian dollars. The only dispute that the Appellant has is in relation to the reduction in the amount claimed for meals by 50% as a result of the application of section 67.1 of the *Income Tax Act* (“Act”). This section in 2003 and 2004 provided as follows:

67.1 (1) For the purposes of this *Act*, other than sections 62, 63 and 118.2, an amount paid or payable in respect of the human consumption of food or beverages or the enjoyment of entertainment shall be deemed to be 50% of the lesser of

(a) the amount actually paid or payable in respect thereof, and

(b) an amount in respect thereof that would be reasonable in the circumstances.

[6] Section 67.1 was added to the *Act* in 1988. Prior to the addition of this section, the full amount of reasonable meal and entertainment expenses incurred for the purpose of earning income from a business would have been deductible in computing income from that business. Originally this section provided that the amount that would be allowed would be restricted to 80% of the lesser of the amounts described in paragraphs (a) and (b) above but this limitation was changed

to 50% for such expenses incurred after February 21, 1994.

[7] This section of the *Act* is clear. For the purposes of the *Act* the amount that the Appellant is entitled to claim as an expense for meals (before taking into account the exchange rate for the amounts spent in US dollars) is only 50% of the \$45 per day. The Appellant did not have any receipts for the actual amount that he spent on food, and there is no dispute between the Appellant and the Respondent that \$45 per day is a reasonable amount for meals. As a result of the application of the provisions of section 67.1 of the *Act*, the amount that the Appellant may claim in 2003 and 2004 for meals is limited to only 50% of this reasonable amount, which is the amount that was allowed. There are proposed amendments to this section of the *Act* for long-haul truck drivers, but these proposed amendments will not assist the Appellant in 2003 and 2004 as it is proposed that the amended provisions will not be effective until 2008.

[8] As a result, the appeals are dismissed without costs.

Signed at Halifax, Nova Scotia, this 24th day of January 2008.

“Wyman W. Webb”

Webb J.

CITATION: 2008TCC37

COURT FILE NO.: 2007-2833(IT)I

STYLE OF CAUSE: GEORGE FREDERICK DUNN AND HER
MAJESTY THE QUEEN

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: January 16, 2008

REASONS FOR JUDGMENT BY: The Honourable Justice Wyman W. Webb

DATE OF JUDGMENT: January 24, 2008

APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Meghan Riley

COUNSEL OF RECORD:

For the Appellant:

Name:	
Firm:	

For the Respondent:

	John H. Sims, Q.C.
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