

Docket: 2007-2994(IT)I

BETWEEN:

CAROLINE THIBEAULT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on February 13, 2008, at Chicoutimi, Quebec.

Before: The Honourable Justice Alain Tardif

Appearances:

For the Appellant: The Appellant herself

Counsel for the Respondent: Christina Ham

JUDGMENT

The appeal from the redeterminations dated March 3 and 20, 2006, by which the Minister of National Revenue disallowed the Goods and Services Tax Credit for the 2002, 2003 and 2004 taxation years and the Canada Child Tax Benefit for the 2004 base year, is dismissed without costs in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 4th day of March 2008.

“Alain Tardif”

Tardif J.

Translation certified true
on this 14th day of April 2008.
Susan Deichert, Reviser

Citation: 2008TCC119
Date: 20080304
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CAROLINE THIBEAULT,

Appellant,

And

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Respondent.

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REASONS FOR JUDGMENT

Tardif J.

[1] This is an appeal from the notice of determination relating to the Goods and Services Tax Credit for the 2002, 2003 and 2004 taxation years and the determination concerning the Canada Child Tax Benefit for the 2004 base year.

[2] By notice of redetermination dated March 3, 2006, the Minister revised the amount of the Appellant's Goods and Services Tax Credit and determined that she had received overpayments of \$294 for the 2002 taxation year, \$342 for the 2003 taxation year and \$317 for the 2004 taxation year.

[3] By notice of redetermination dated March 20, 2006, the Minister revised the Appellant's Canada Child Tax Benefit and determined that she had received an overpayment of \$636.17 for the period from November 2005 to February 2006, for the 2004 base year.

[4] On or about November 14, 2006, the Appellant served the Minister with a notice of objection relating to the two determinations.

[5] On November 22, 2006, the Minister agreed to extend the time for the notice of objection dated November 14, 2006, to be made valid.

[6] On February 7, 2007, the Minister confirmed the two notices of redetermination.

[7] In making and confirming the redeterminations, the Minister relied on the same assumptions of fact, as follows:

[TRANSLATION]

- (a) The Appellant and Dany Corneau have lived together since May 31, 2001; **(admitted)**
- (b) On October 12, 2005, they had a daughter, named Lya; **(admitted)**
- (c) The Appellant and Mr. Corneau were common-law partners throughout the periods in issue. **(denied)**

[8] The issues are whether the Minister was correct to revise the Appellant's Goods and Services Tax Credit and determine that the overpayments amounted to \$294 for the period from July 2003 to April 2004 for the 2002 taxation year, \$342 for the period from July 2004 to April 2005 for the 2003 taxation year, and \$317 for the period from July 2005 to January 2006 for the 2004 taxation year, and whether the Minister was correct to revise the amount of the Canada Child Tax Benefit and determine that the overpayment amounted to \$636.17 for the period from November 2005 to February 2006 for the 2004 base year.

[9] After being sworn, the Appellant admitted the facts in paragraphs 7(a) and (b) above and denied the facts in paragraph 7(c), that is, the fact that she was a common-law partner throughout the periods in issue.

[10] The Appellant essentially said that she was not the common-law partner of Dany Corneau. She acknowledged that Dany Corneau had lived with her since 2000, but as a co-tenant and not a common-law partner.

[11] As corroboration, she produced a lease (Exhibit A-1) showing that she was the only tenant named on the lease starting on May 1, 2000. The Respondent produced four documents: an application for the Canada Child Tax Benefit (Exhibit I-1), a change of marital status (Exhibit I-2), a second change of marital

status (Exhibit I-3) and a handwritten document prepared by her (Exhibit I-4), which reads as follows:

[TRANSLATION]

Explanation; from May 2001 to December 2004
we were co-tenants;

from December 2004 to date
we have been spouses

baby born October 12, 2005

With respect to the first three documents, the Appellant essentially said she had made a mistake and relied on her ignorance or failure to understand the questions.

[12] In this regard, the Appellant had the burden of proof. To discharge that burden, she must show, on a balance of probabilities, that what she says is correct.

[13] The facts submitted must be objectively reasonable and credible, particularly in this regard, when the decision to be made relates to intimate relationships.

[14] Although the oral explanations are theoretically possible, they leave some doubt; it is therefore very important to look to evidence that could confirm, or at least support, evidence that is questionable, to say the least.

[15] With the exception of the lease, which in itself is not strictly proof of anything, the Appellant was unable to provide support for what she said, other than what was said by the child's father, Dany Corneau.

[16] On the other hand, however, the Respondent produced documents that were filled out and signed by the Appellant, and that confirmed both that the determination was well-founded and that it was likely that the Appellant and Dany Corneau were common-law partners during the period in issue.

[17] This is very certainly circumstantial evidence that is, on the whole, sufficient to confirm that the determinations in issue were well-founded.

[18] For these reasons, the appeal is dismissed.

Signed at Ottawa, Canada, this 4th day of March 2008.

“Alain Tardif”

Tardif J.

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on this 14th day of April 2008.
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CITATION: 2008TCC119

COURT FILE NO.: 2007-2994(IT)I

STYLE OF CAUSE: Caroline Thibeault v. Her Majesty the Queen

PLACE OF HEARING: Chicoutimi, Quebec

DATE OF HEARING: February 13, 2008

REASONS FOR JUDGMENT BY: The Honourable Justice Alain Tardif

DATE OF JUDGMENT : March 4, 2008

APPEARANCES:

For the Appellant: The Appellant herself

Counsel for the Respondent: Christina Ham

COUNSEL OF RECORD:

For the Appellant:

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