

Docket: 2008-1745(GST)I

BETWEEN:

ROY DOERKSEN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

---

Appeal heard on June 24-25, 2009, at Lethbridge, Alberta

Before: The Honourable Justice D.W. Beaubier

Appearances:

For the Appellant:                      The Appellant himself  
Counsel for the Respondent:        Valerie Meier

---

**JUDGMENT**

The appeal from the assessment made under the *Excise Tax Act*, notice of which is dated August 3, 2007, is dismissed.

Signed at Saskatoon, Saskatchewan, this 8<sup>th</sup> day of July 2009.

“D.W. Beaubier”

---

Beaubier D.J.

Citation: 2009TCC350  
Date: 20090708  
Docket: 2008-1745(GST)I

BETWEEN:

ROY DOERKSEN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

Beaubier, D.J.

[1] This appeal pursuant to the Informal Procedure was heard at Lethbridge Alberta on June 24, 2009. The Appellant was the only witness.

[2] The particulars in dispute are set out in paragraphs 2, 3, 4 and 7 of the Reply to the Motion of Appeal. They read:

2. The Appellant filed the Rebate Application claiming a NHR in the amount of \$6,356.52 for the new home the Appellant acquired from a builder.

3. The Minister of National Revenue (the “Minister”) received the Rebate Application, on June 22, 2007.

4. The Minister assessed, by Notice of Assessment dated August 3, 2007 (the “Assessment”), that no amount was payable to the Appellant in respect of the NHR on the basis that the Rebate Application was received after the expiry of the statutory claim period.

7. In so assessing the Appellant and confirming the Assessment, the Minister made the following assumptions of fact:

(a) the Appellant purchased a single unit residential complex consisting of a new detached home (the “House”) from Hanna Brothers Construction Ltd.

(b) the Appellant purchased the House for use as his primary place of residence;

(c) the Appellant obtained possession/ownership of the House on October 15, 2004;

(d) the Appellant first occupied the House on October 16, 2004;

(e) after taking possession of the house the Appellant completed the landscaping and finished the basement, garage, patio and driveway;

(f) the tax paid in respect of the purchase of the House was no more than \$17,657.00; and

(g) the Appellant’s Rebate Application claiming a NHR in the amount of \$6,356.52 was received by the Minister on June 22, 2007.

[3] The evidence confirmed the Reply. In particular, the house transfer was registered in the Land Titles office on October 12, 2004. The transfer form from the builder was signed on October 15, 2004 and the Appellant moved into the house later in October 2004. The Appellant’s application for the New Housing Rebate (“NHR”) was received by Canada Revenue Agency (“CRA”) on June 22, 2007.

[4] Subsection 254(3) of the *Excise Tax Act* is mandatory. The NHR application must be received by CRA within 2 years of the transfer.

[5] That did not occur.

[6] As a result, the Appeal is dismissed.

Signed at Saskatoon, Saskatchewan, this 8<sup>th</sup> day of July 2009.

“D.W. Beaubier”

---

Beaubier D.J.

CITATION: 2009TCC350

COURT FILE NO.: 2008-1745(GST)I

STYLE OF CAUSE: ROY DOERKSEN AND HER MAJESTY  
THE QUEEN

PLACE OF HEARING: Lethbridge, Alberta

DATE OF HEARING: June 24, 2009

REASONS FOR JUDGMENT BY: The Honourable Justice D.W. Beaubier

DATE OF JUDGMENT: July 8, 2009

APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Valerie Meier

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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