

BETWEEN:

SCOTT HENSON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on February 6, 2014 at Vancouver, British Columbia

Before: The Honourable Justice J.M. Woods

Appearances:

For the Appellant:	The Appellant Himself
Counsel for the Respondent:	Geraldine Chen

JUDGMENT

It is ordered that the appeal with respect to assessments made under the *Income Tax Act* and the *Employment Insurance Act* for the 2012 taxation year is dismissed. Each party shall bear their own costs.

Signed at Vancouver, British Columbia this 7th day of February 2014.

“J.M. Woods”

Woods J.

Citation: 2014 TCC 43
Date: 20140207
Dockets: 2013-2875(IT)I

BETWEEN:

SCOTT HENSON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Woods J.

[1] Scott Henson appeals in respect of an assessment made under the *Employment Insurance Act* which determined that he was required to repay a portion of employment insurance benefits paid to him in 2012. The amount of the repayment is \$3,959.40.

[2] Section 145 of the *Employment Insurance Act* requires a repayment of up to 30 percent of employment insurance benefits paid in a year if the individual's income for the year exceeds a threshold amount, which in this case is \$57,375. Income for this purpose is determined in accordance with the *Income Tax Act*, with minor adjustments.

[3] Pursuant to an assessment made under the *Income Tax Act* for the 2012 taxation year, Mr. Henson's income was determined to be \$88,875 (before deduction of the EI repayment). At this income level, Mr. Henson was required to repay the maximum portion of employment insurance benefits under section 145, which was 30 percent.

[4] At the hearing, counsel for the Crown described the relevant legislative provisions in some detail. Mr. Henson informed the Court that he understands the legislation, but he is requesting relief on grounds that the result is harsh in his particular circumstances.

[5] I have some sympathy for Mr. Henson's plight. The EI repayment is required because Mr. Henson received an unusual income amount in December 2012. If this amount had been received in 2013, there would not have been any claw back of employment insurance benefits because Mr. Henson's entitlement to benefits expired at the end of 2012.

[6] The exceptional income receipt was a lump sum payment of a workers' compensation claim in the amount of \$69,000. The claim related to a workplace injury in 2010, and it happened to be paid in December 2012.

[7] It is unfortunate for Mr. Henson that the claim was settled late in 2012, and that it was paid in a lump sum rather than by monthly payments. Mr. Henson had no control over this.

[8] The result seems to be harsh in Mr. Henson's particular circumstances, but it is not appropriate for me to grant any relief. It is the prerogative of Parliament to enact such laws as it sees fit. In this case, the legislation clearly provides for this result, and there is no relief that the Court can give.

[9] The appeal will be dismissed.

Signed at Vancouver, British Columbia, this 7th day of February 2014.

"J.M. Woods"

Woods J.

CITATION: 2014 TCC 43

COURT FILE NO.: 2013-2875(IT)I

STYLE OF CAUSE: SCOTT HENSON and HER MAJESTY
THE QUEEN

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: February 6, 2014

REASONS FOR JUDGMENT BY: The Honourable Justice J.M. Woods

DATE OF JUDGMENT: February 7, 2014

APPEARANCES:

For the Appellant:	The Appellant Himself
Counsel for the Respondent:	Geraldine Chen

COUNSEL OF RECORD:

For the Appellant:

Name:	n/a
Firm:	

For the Respondent:

William F. Pentney Deputy Attorney General of Canada Ottawa, Ontario
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