

Date: 20070103

Docket: T-1650-06

Citation: 2007 FC 3

Montréal, Quebec, January 3, 2007

Present: Prothonotary Richard Morneau

BETWEEN:

RICHARD CLAVEAU

Applicant

and

**MINISTER OF HUMAN RESOURCES AND
SKILLS DEVELOPMENT CANADA**

Respondent

Motion in writing by the respondent for an order dismissing the applicant's application for judicial review.

[Section 369 of the *Federal Courts Rules*]

REASONS FOR ORDER AND ORDER

[1] WHEREAS this Court has jurisdiction to dismiss an application for judicial review at this preliminary stage if, on its face, it is so clearly improper as to be bereft of any possibility of success (see *David Bull Laboratories (Can.) Inc. v. Pharmacia Inc.* [1995] 1 F.C. 588) (*Pharmacia*);

[2] WHEREAS the Court is able to determine this motion on the basis of written representations by the parties;

[3] WHEREAS the applicant's application for judicial review filed on September 12, 2006, deals with a decision dated August 14, 2006, by the Canada Employment Insurance Commission (the Commission) refusing a request submitted by the applicant, in his name and in his representative capacity, to write off a debt established as a result of an overpayment of Employment Insurance benefits (the debt);

[4] WHEREAS at this point, the debt is not final or definitive, since it is being disputed before the Umpire and the matter has not yet been heard, not to mention that the remedy of an application for judicial review of the Umpire's decision before the Federal Court of Appeal has not been exhausted;

[5] WHEREAS the Court agrees with the respondent that the definitive nature of the debt is an essential prerequisite for dealing with any write-off request (see *Attorney General of Canada v. Muguette Filiatrault, Desjardins, Décary, Noël, J.J.A.*, docket A-874-97, decision dated September 18, 1998, at paragraphs 9 and 13);

[6] GIVEN this situation, it is therefore clear and obvious that the applicant's application for judicial review must be considered premature and should be struck out, based on *Pharmacia*;

[7] GIVEN this finding, the Court does not need to rule on the alternative relief claimed by the respondent in his motion and, moreover, the Court dismisses any relief claimed by the applicant in his written representations in response.

ORDER

For the foregoing reasons, the applicant's application for judicial review is struck out, with no right to amend, and with costs.

“Richard Morneau”

Prothonotary

Certified true translation
Mary Jo Egan, LLB

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1650-06

STYLE OF CAUSE: RICHARD CLAVEAU
Applicant
and
MINISTER OF HUMAN RESOURCES AND
SKILLS DEVELOPMENT CANADA
Respondent

**MOTION IN WRITING REVIEWED IN MONTRÉAL WITHOUT APPEARANCE BY
THE PARTIES**

REASONS FOR ORDER BY: PROTHONOTARY MORNEAU

DATED: JANUARY 3, 2007

WRITTEN REPRESENTATIONS:

Sylvain Unvoy

FOR THE APPLICANT

Nicholas R. Banks

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Dussault Lemieux Larochelle
Québec, Quebec

FOR THE APPLICANT

John H. Sims, Q.C.
Deputy Attorney General of Canada

FOR THE RESPONDENT