

FORM 337.1 - Rule 337.1

NOTICE OF APPEAL

A-225-22

(Court File No.)

FEDERAL COURT OF APPEAL

BETWEEN:

Midjohoho Franck Gloglo
 c/o Hervé Prince
 142, Omer-daigneault Street
 Mercier, QC, J6R 0K6
 Tel. 438 680 5011
 franckgloglo@gmail.com

(Appellant)

and

Minister of National Revenue

ID#1

COUR D'APPEL FÉDÉRALE FEDERAL COURT OF APPEAL	
D É P O S É	NOV 02 2022
JUSTIN DE SOUSA	
MONTRÉAL, QC	FILED

(Court seal)

NOTICE OF APPEAL

(under subsection 27(1.2) of the Federal Courts Act)

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Federal Court of Appeal at a time and place to be fixed by the Judicial Administrator. Unless the court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at **Montreal's Office of the Federal Court of Appeal or any closest Office where the Court sits**

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the judgment appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-996-6795) or at any local office.

(Separate page)

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the judgment of the Tax Court of Canada dated October 6th, 2022, by which The Tax Court presided by The Honorable Justice Gabrielle St-Hilaire orders that the Respondent's motion to quash my case was granted and consequently, my appeal dismissed

THE APPELLANT ASKS that the Federal Court of Appeal:

- Overturn the Judgement of The Honorable Gabrielle St-Hilaire of the Tax Court dated October 06th 2022 in the case *Midjohodo Franck Gloglo v. Minister of National Revenue, 2022-379 (CPP)*,
- Order that his contributions in the Irish Single Public Service Pension Scheme based on his employment and Assistant Professor (formerly McCann FitzGerald Assistant Professor in Law and Business) be transferred to Canadian Pension Plan,
- impose any costs incurred on the Respondent,

THE GROUNDS OF APPEAL are as follows:

1. On February 1st, 2022, I appealed a failure of the Minister of National Revenue to address my claims for contributions to Canadian Pension Plan – **2022-379 (CPP)** – with respect to my employment as McCann FitzGerald Assistant Professor in Law and Business at University College Dublin from November 1st 2019 through August 31th 2022, under the *Agreement on Social Security Between Canada and Ireland* in Force January 1, 1992 (SI/92-53), to the Tax Court of Canada. Following the pleadings, the Hearing of the Case occurred at the Montreal's Office of the Tax Court of Canada, under the presidency of The Honorable Justice Gabrielle St-Hilaire on Thursday October 6th, 2022, who rendered Her Judgement from the Bench after the Hearing,
2. However, I disagree with the Judgement of The Honorable Justice Gabrielle St-Hilaire in the Case on several points:
In this case, (**2022-379 (CPP)**), The Honorable Justice Gabrielle St-Hilaire failed to observe the principle of Natural Justice, to make a Judicial Decision to fix the silence of the Minister of National Revenue on this point of my claims, having discovered by HERSELF that the claim was about transferring my pension contributions in the Irish Single Public Pension Scheme to Canadian Pension Plan, and the Minister of National Revenue did not respond to my claim within the timeframe, although she was given the opportunity to do so, before I brought my appeal to the Tax Court.
3. In failing to give a Judicial Response to the silence of the Minister of National Revenue on this aspect of my claim, The Honorable Justice Gabrielle St-Hilaire rendered Her Judgement, to my understanding, 'in a perverse or capricious manner or without regard for the material' submitted to the Tax Court; besides, the Tax Court did not collect the Document the Court requested me to bring in five copies to the Hearing, a copy of which I provided to the Respondent's Counsel in the Courtroom, prior

to the Hearing, what, to some extent, might amount to a procedural unfairness, as there is additional Document that The Honorable Justice Gabrielle St-Hilaire might have looked at,

4. My concern is that the Tax Court covered the failure of the Minister of National Revenue to address my claims, by backing the lack of the Minister's Decision on this aspect, since the evidences show that the Minister was given the opportunity to respond, but yet did not. Nothing in Law, not even the practices of the Pension Plan of the Province I am living in, at a given moment, as suggested in an Affidavit submitted on behalf of the Minister of National Revenue, can cover that failure. Perhaps, The Honorable Justice Gabrielle St-Hilaire should have stayed far away from the huge and purposive failure of the Minister of National Revenue, by giving a full Judicial Meaning to that misachievement of the Minister of National Revenue; so by quashing my lawsuit, without fixing the Minister of National Revenue's failure to take account of transferring my Irish Single Public Pension Scheme contributions to Canadian Pension Plan, The Honorable Gabrielle St-Hilaire simply covered the Minister of National Revenue's purposive silence, what could mean allowing the Administration's machinery to rely upon administrative practice, what could result in a loss of right, because nothing in any Law of Canada demands that a citizen shall live and reside in a specific Province or Territory for ever,

(Subsection 27(1.3) provides as follows:

27(1.3) The only grounds for an appeal under subsection (1.2) are that the Tax Court of Canada

(a) acted without jurisdiction, acted beyond its jurisdiction or **refused to exercise its jurisdiction;**

(b) **failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe;**

(c) erred in law in making a decision or an order, whether or not the error appears on the face of the record;

(d) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it;

(e) acted, or failed to act, by reason of fraud or perjured evidence; or

(f) **acted in any other way that was contrary to law, especially *Chaput v. Romain*, [1955] S.C.J. No. 61, [1955] S.C.R. 834 at 854-55 (S.C.C.)**

The appellant requests that the Tax Court of Canada send a certified copy of the following material that are in the possession of the Court to the appellant to the Registry:

- Introductory memorandum to the Tax Court
- Additional submissions in response to the Reply of the Minister of National Revenue relating to the 2022-379 (CPP), in particular: Very Quick Response to the Reply of the Ministry, SINGLE PUBLIC SERVICE PENSION SCHEME, Employment Detail Summary 2020, PaySlips November 2019 through August 2020, Form for Appeal of a ruling under the Canada Pension Plan and/or Employment Insurance Act, REQUEST FOR INSURABILITY RULING

In case these Documentations might not be available, the Appellant can provide a copy thereof
the Federal Court of Appeal,

November 2nd 2022

Signature of appellant



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SOR/2004-283, s. 27

Docket: 2022-379(CPP)

BETWEEN:

MIDJOHODO FRANCK GLOGLO,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent.

Appeal heard and decision rendered orally from the bench on
October 6, 2022, at Montreal, Quebec

Before: The Honourable Justice Gabrielle St-Hilaire

Appearances:

For the Appellant:

The Appellant himself

Counsel for the Respondent:

M^e Noémie Vespignani

JUDGMENT

UPON motion made by Counsel for the Respondent to have the appeal quashed;

AND having heard from the Appellant and Counsel for the Respondent;

THIS COURT ORDERS that the Respondent's motion to quash is granted and the appeal made under the *Canada Pension Plan* is dismissed without costs.

Signed at Ottawa, Canada, this 7th day of October 2022.

“Gabrielle St-Hilaire”

St-Hilaire J.