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F I L E D	FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE February 09, 2024 09 février 2024
FORM 337.1 - Rule 337.1	
Kyla Chisholm	
TOR	1

(Court File
No.

FEDERAL COURT OF APPEAL

BETWEEN:

NICHOLA ANTROBUS

Appellant

and

HIS MAJESTY THE KING

Respondent

(Court seal)

NOTICE OF APPEAL

(pursuant to subsection 27(1) 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 on the following page.

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 (place where Federal Court of Appeal ordinarily 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 where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being 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.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

February 7, 2024

Issued by: _____
(Registry Officer)

Address of local office:
Registry of the Federal Courts
180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

TO: CANADA REVENUE AGENCY / DEPARTMENT OF JUSTICE

AND TO:
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Respondent Counsel

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal, which ordinarily sits at the Toronto location at 180 Queen Street West, Suite 200, Toronto ON M5V 3L6, from the judgment of the Tax Court of Canada (Docket: 2023-1210 (GST) APP) dated January 11, 2024, by which the Honourable Eugene P. Rossiter, Chief Justice dismissed the appellant's application regarding the filing of notices of objection with the Canada Revenue Agency.

THE APPELLANT ASKS that this Honourable Court:

1. Set aside the decision of the Honourable Eugene P. Rossiter, Chief Justice, dated January 11, 2024 (Docket: 2023-1210 (GST) APP) and declare that that the documents filed by the Appellant in 2017 and 2018 with the CRA regarding Notices of Reassessment are deemed Notices of Objection, and
2. Such further and other Order as this Honourable Court may deem just.

THE GROUNDS OF APPEAL are as follows:

3. This Honourable Court has jurisdiction pursuant to the Federal Court Act, including sections 27 as follows:

27. (1.1) An appeal lies to the Federal Court of Appeal from **Appeals from Tax Court of Canada, except from informal procedure**

...

(a) a final judgment of the Tax Court of Canada, other than one in respect of which section 18, 18.29, 18.3 or 18.3001 of the [Tax Court of Canada Act](#) applies.

4. None of the prohibited sections of the *Tax Court of Canada Act* apply to the herein appeal.
5. On September 2015 the Appellant purchased subject property "A" known as 311-1328 Birchmount Rd (HST # 765 281 324).

6. From the period of September 2015 to January 2017 the Appellant's son resided in the property.
7. In January 2017, the Appellant sold subject property "A".
8. In July 2016 the Appellant Purchased subject Property "B" known as 878 Wingarden Cres (HST # 721 509 925).
9. In February 2017, the Appellant closed on subject property "B".
10. In April 2017, the Appellant was contacted by CRA about missing information from the builder for the HST Rebate for subject property "B". The Appellant followed up with the Builder and was advised that all paperwork relating to the rebate had been filed with the CRA.
11. In July 2017 the Appellant received a Notice of Re-assessment for subject property "B".
12. In August 2017, the Appellant received information from CRA Agent Derrick (ID 512 445 PRA) advising to file documentation relating to the Statement of Adjustments for subject property "B".
13. As instructed the Appellant filed the requested paperwork relating to her objection to the Notice of Reassessment. The documents requested by CRA were filed well within the 90-day timeline for filing a Notice of Objection.
14. In October 2017, the Appellant was contacted by a second CRA agent, Charlene Maxfield, who advised that she took over the file of subject property "B". At no time did Ms. Maxfield indicate that the information provided in August 2017 was insufficient to be considered a notice of objection. Instead, Ms. Maxfield requested further documentation related to the objection filed in August 2017.
15. In January 2018, the Appellant received a Notice of Re-assessment for subject property "A", for which the HST rebate had been previously approved. The Appellant was instructed by CRA

to resubmit documents for both subject property "A" and "B" in order to object to the reassessment.

16. In February 2018, the Appellant provided documentation objecting to reassessment and showing that her son lived at both subject property "A" and subject property "B" and the relevant time periods.

17. The Appellant repeatedly followed up with CRA between 2018-2019 regarding the status of the objections. At no time was the Appellant ever advised that CRA did not consider the paperwork filed by the Appellant in August 2017 and February 2018 as proper notices of objection.

18. At all times the Appellant relied on the information provided by CRA relating to the information needed to object to the reassessment.

19. The Application Judge erred in law in the following:

- a) failing to properly consider the evidence that the documents filed in August 2017 and February 2018 were in fact notices of objection filed within the required 90-day period;
- b) failing to properly consider that the Appellant followed the requests and instructions provided to her by CRA agents in respect of what information they required for an objection to the Notice of Reassessment and to permit the CRA to argue that no objection was filed in a timely manner is a breach of a principle of natural justice, procedural fairness or other procedure that it was required by law to observe; and
- c) such further and other grounds as counsel may advise and this Honourable Court permit.

20. The Appellant requests that this appeal be heard at the Toronto Registry Office: 180 Queen Street West.

AuthentiSIGN

Nichola Antrobus

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Court File #:

FEDERAL COURT OF APPEAL

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(February 7, 2024)

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Appellant