

CANADA / JUDGMENT

Canadian Pacific Railway Co. v. Canada (Attorney General)

2016 SCC 1

COURT

Supreme Court of Canada

DECIDED

15 January 2016

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Canadian Pacific Railway Co. v. Canada (Attorney General) Collection Supreme Court Judgments
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- [2016] 1 SCR 6 Case number 36223 Judges McLachlin, Beverley; Abella, Rosalie Silberman; Cromwell, Thomas Albert; Moldaver, Michael J.; Karakatsanis, Andromache; Wagner, Richard; Gascon, Clément; Côté, Suzanne; Brown, Russell On appeal from Federal Court of Appeal Subjects Administrative law Notes SCC Case Information: 36223 Decision Content SUPREME COURT OF CANADA Citation: Canadian Pacific Railway Co. v. Canada (Attorney General), 2016 SCC 1, [2016] 1 S.C.R. 6 Appeal heard: December 9, 2015 Judgment rendered: January 15, 2016 Docket: 36223 Between: Canadian Pacific Railway Company Appellant and Attorney General of Canada and Canadian Transportation Agency Respondents
- and – Railway Association of Canada Intervener Coram: McLachlin C.J. and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ. Reasons for Judgment: (paras. 1 to 4) The Court Canadian Pacific Railway Co. v. Canada (Attorney General), 2016 SCC 1, [2016] 1 S.C.R. 6 Canadian Pacific Railway Company Appellant v. Attorney General of Canada and Canadian Transportation Agency Respondents and Railway Association of Canada Intervener Indexed as: Canadian Pacific Railway Co. v. Canada (Attorney General) 2016 SCC 1 File No.: 36223. 2015: December 9; 2016: January 15. Present: McLachlin C.J. and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ. on appeal from the federal court of appeal Administrative law — Boards and tribunals — Regulatory boards — Canadian Transportation Agency — Transportation law — Railways — Regulatory process — Presumption Agency acted properly in amending rail regulations — No facts adduced rebutting presumption — Regulations Amending the Railway Interswitching Regulations, SOR/2014-193. Held: The appeal should be dismissed. Statutes and Regulations Cited Canada Transportation Act, S.C. 1996, c. 10 . Fair Rail for Grain Farmers Act, S.C. 2014, c. 8 . Regulations Amending the Railway Interswitching Regulations, SOR/2014-193. APPEAL from a judgment of the Federal Court of Appeal (Noël C.J. and Dawson and Webb JJ.A.), No. 14-A-56, dated October 28, 2014, dismissing an application for

leave to appeal, pursuant to s. 41 of the Canada Transportation Act , the Regulations Amending the Railway Interswitching Regulations issued by the Canadian Transportation Agency. Appeal dismissed. Douglas C. Hodson, Q.C., and Kristen A. MacDonald, for the appellant. Mark R. Kindrachuk, Q.C., and Alexander Pless, for the respondent the Attorney General of Canada. Valérie Lagacé, for the respondent the Canadian Transportation Agency. Nadia Effendi and Guy J. Pratte, for the intervener. The following is the judgment delivered by

- [1] The Court — On August 1, 2014, Regulations Amending the Railway Interswitching Regulations, SOR/2014-193 (the “amending Regulations”), came into force. The amending Regulations were issued by the Canadian Transportation Agency, pursuant to its powers under the Canada Transportation Act, S.C. 1996, c. 10 , and following passage by Parliament of the Fair Rail for Grain Farmers Act, S.C. 2014, c. 8 . The amending Regulations extend the interswitching distance limit from 30 km to 160 km for all commodities in the three Prairie Provinces, and prescribe new rates for interswitching rail traffic within that zone.
- [2] The appellant, Canadian Pacific Railway Company, asks this Court to declare the amending Regulations to be null and void, on the ground that the Agency acted improperly in issuing them by following government directives to expand the interswitching distance limit in the Prairie Provinces. The appellant concedes that the Agency was empowered to issue the amending Regulations; its complaint is not with the content of the amending Regulations, but with the process followed by the Agency.
- [3] The appellant also concedes that the Agency is presumed to have acted properly in making its decision to issue the amending Regulations. The question, therefore, is whether the appellant has adduced facts rebutting this presumption. In our view, it has not done so.
- [4] The appeal is dismissed, with costs to the Attorney General of Canada. Appeal dismissed with costs to the Attorney General of Canada. Solicitors for the appellant: MacPherson Leslie & Tyerman, Saskatoon. Solicitor for the respondent the Attorney General of Canada: Attorney General of Canada, Saskatoon. Solicitor for the respondent the Canadian Transportation Agency: Canadian Transportation Agency, Gatineau. Solicitors for the intervener: Borden Ladner Gervais, Toronto.

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