

representing the appellant before the Minister, conceded at the hearing that there was no evidence that the leftover material had any merchantable value. In the circumstances, even if we did agree that paragraph 110(b) applies to merchantable leftover material, the Appellant's claim for refund under that paragraph fails for lack of evidence.

[9] In the end we come to the same conclusion as the Federal Court Judge, but through different reasoning. We will dismiss the appeal with costs.

"Robert Décary"

J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

<b>DOCKET:</b>	A-232-05
<b>STYLE OF CAUSE:</b>	A & R DRESS CO. INC. -and- THE MINISTER OF NATIONAL REVENUE
<b>PLACE OF HEARING:</b>	Montréal, Quebec
<b>DATES OF HEARING:</b>	September 11, 2006
<b>REASONS FOR JUDGMENT OF THE COURT BY:</b>	DÉCARY J.A. LÉTOURNEAU J.A. NADON J.A.
<b>DELIVERED FROM THE BENCH BY:</b>	DÉCARY J.A.
<b>DATE OF REASONS FROM THE BENCH:</b>	September 11, 2006

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