Federal Court  Cour fédérale

Date: 20180622

Docket: T-102-17

Citation: 2018 FC 652

Ottawa, Ontario, June 22, 2018

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

OURANIA GEORGOULAS

Applicant

and

ATTORNEY GENERAL OF CANADA (AGC)

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Ms. Georgoulas, seeks Judicial Review of two decisions of the Canadian Human Rights Commission [the Commission]. The first is the Commission's decision to deal with (i.e. investigate) her complaint against her employer, Transport Canada [TC], pursuant to section 41 of the *Canadian Human Rights Act*, RSC, 1985, c H-6 [the Act]. The second is the Commission's subsequent decision to dismiss her complaint, pursuant to subparagraph 44(3)(b)(i) of the Act.

[2] As a preliminary matter, the style of cause should reflect that the only Respondent is the Attorney General of Canada. The Commission is not the Respondent.

[3] The Applicant's complaint against TC relates to its conduct in addressing her request for accommodation upon her return to work, following a period of leave without pay due to an undisclosed medical condition or disability. The Applicant sincerely believes that she was treated in a harassing, discriminatory or retaliatory manner due to her disability, and that TC thwarted her return to work by placing obstacles in her path, rather than accommodating her. The Applicant takes a very rigid interpretation of Governmental human resource policies, Fact Sheets, "Qs and As" and other documents, which she contends were not precisely followed by TC or others. She regards the alleged failures to strictly adhere to particular policies as evidence of harassment, retaliation and/or discrimination (i.e. adverse differential treatment). The Applicant argues that the Commission erred in many ways, first with respect to its decision to deal with her complaint against TC, and second in its decision, following an Investigation Report, that further inquiry was not warranted. The Applicant also argues that the Commission breached its duty of procedural fairness in the manner in which it dealt with her and with her complaint.

[4] For the reasons elaborated on below, the Court finds that the Commission thoroughly addressed the Applicant's complaint, assessed all the evidence and reasonably concluded that the treatment or conduct alleged was not harassment, discrimination or retaliation. Where the Commission acknowledged "negative" treatment, it reasonably found that TC had a reasonable explanation for the treatment. Moreover, the Commission's preliminary decision to "deal with"

the Applicant's complaint – which, in any event, benefitted the Applicant – was also reasonable. Lastly, the Commission did not breach the duty of procedural fairness owed to the Applicant in the circumstances.

[5] The reasons for the Court's decision are lengthy in order to respond to the many arguments raised by the Applicant.

I. Background

A. *The Applicant's Leave Without Pay and Return to Work*

[6] The Applicant began her employment with TC in 2007 as a Policy Analyst in its Aviation Security Unit. On March 9, 2012, she began a period of sick leave without pay. On August 28, 2013, the Applicant's doctor mailed a medical form to TC, which advised TC that the Applicant would remain unable to work until, at least, March 2014. The medical form set out several conditions in order for the Applicant to return to work, including that she not return to the Aviation Security Unit.

[7] In response, Ms. Emilia Warriner (Director, Aviation Security Policy, TC) wrote to the Applicant on September 19, 2013. Ms. Warriner noted that TC had received the medical form from the Applicant's doctor. Ms. Warriner noted that because the Applicant had been on leave since March 2012, TC was providing her with "Information regarding the options that are available under the *Treasury Board's Directives on Leave and Special Working Arrangements. Appendix B - Leave without Pay*". A copy was provided with the letter. Ms. Warriner explained

that Leave without Pay cannot be granted indefinitely and, in accordance with the Directive, should be resolved within 24 months. She added that "all leave without pay is to be terminated through: a return to duty; resignation or retirement; or retirement on medical grounds (subject to Health Canada's approval)". Ms. Warriner provided additional information about the options and implications, noting that these were important issues requiring the Applicant's consideration. She also offered to set up meetings with the appropriate people to provide additional assistance to the Applicant. Ms. Warriner asked the Applicant to respond and indicate her intentions by October 31, 2013.

[8] On December 12, 2013, the Applicant replied to TC by email indicating that she intended to return to work on January 20, 2014. She attached a medical form, which set out several specific accommodation measures (for example, that she not return to her previous unit, or alternatively that she work from home, and that she report to one named supervisor). The form did not, however, explain the reason for the accommodations identified. Subsequently, a "Return to Work" [RTW] plan prepared by Sun Life Financial [Sun Life] was submitted, which also set out specific accommodation measures, including: to report to only one person, receive tasks in writing, not be given short deadlines, and, not have interaction with previous co-workers, along with specific requirements for her office location and set up. The RTW plan did not explain the reason for the required accommodations. TC followed up with a Sun Life representative who indicated that the specifics in the RTW plan were "preferences" rather than "medically required".

[9] TC found the information received from the Applicant regarding her accommodation measures to be insufficient. TC sought clarification regarding the Applicant's needs from her

doctor. TC noted that the proposed accommodations were very confusing and contradictory, and as a result, TC needed further information in order to understand how best to accommodate the Applicant.

[10] On December 18, 2013, Ms. Warriner wrote to the Applicant regarding her proposed return to work date. Ms. Warriner noted that the letter was for the purpose of providing information to the Applicant with respect to the next steps to take place before she returned to work. Ms. Warriner noted management's commitment to "finding ways to reintroduce you to work respecting your medical limitations" and explained that the role of the medical practitioner is to identify the disability related needs and restrictions, whereas the role of the employer is to take this information and determine, with appropriate consultation where necessary, whether and how to accommodate those needs. Ms. Warriner then requested additional and specific information from the Applicant's doctor about her medical limitations. She also noted that TC would seek a "Fitness to Work Evaluation", or FTWE (i.e. a medical assessment), from the Workplace Health and Public Safety Program (Health Canada) "with a view to determining the best options available in order to ensure a safe and sustained return to full time work". Ms. Warriner enclosed an Employee Guide regarding the assessment along with the consent form for the FTWE.

[11] TC continued to request that the Applicant's doctor provide further details of the limitations and accommodations identified. TC eventually received some additional information in June 2014. The Applicant ultimately returned to work in September 2014, without having undergone an FTWE. In March 2016, the Applicant went on medical leave again.

B. *The Complaint to the Commission*

[12] On April 11, 2014, the Applicant submitted a detailed complaint to the Commission alleging harassment, discrimination on the grounds of disability, and retaliation by TC. The Applicant broadly claimed that TC (and others):

- forced her to choose between resigning and retiring, thereby putting her in a "*de facto*" dismissal situation;
- refused to accept her doctor's medical recommendations regarding her accommodation and return to work plan, and forced her to submit to an FTWE;
- delayed the provision of her Record of Employment;
- delayed the provision of information to Sun Life when she was applying for Long-Term Disability [LTD] benefits;
- improperly disclosed to others that she was receiving LTD benefits;
- deducted money from her pay and benefits without explanation; and
- retaliated against her for filing an earlier complaint with the Commission (which is unrelated to this Application).

[13] The Applicant also made related allegations against her own union, the Canadian Association of Professional Employees [CAPE], as part of the same complaint. The Applicant had wanted to make two separate complaints against CAPE and TC, but was initially limited to

filing one complaint form. The matters were subsequently bifurcated, albeit with the same initiating complaint form. In its determination of the CAPE matter, the Commission determined, pursuant to section 41 of the Act, that no investigation of the complaint against CAPE was warranted. In *Georgoulas v Canada (Attorney General)*, 2017 FC 446, 27 Admin LR (6th) 266 [*Georgoulas #1*], Justice McVeigh found that the Applicant was denied procedural fairness when she was required to include her allegations against both TC and CAPE in one complaint form, with a three-page limit. Justice McVeigh allowed the application only on the basis that the one complaint form did not allow the Applicant to sufficiently present her case to the Commission, noting that the Applicant was either "not concise" or had a "lot of information to convey". Although Justice McVeigh found that the decision at issue was otherwise reasonable, she concluded that the complaint should be re-determined due to the breach of procedural fairness.

[14] In the present Application, the Applicant raises many of the same allegations raised in *Georgoulas #1*. For example, she submits that she should have been given more space, or the opportunity to make separate complaints, to allege misconduct against Sun Life and the Treasury Board [TB]. She also alleges, among other things, that the Commission failed to accommodate her, denied her the ability to communicate by email, and left "threatening" voicemail messages.

[15] In her oral submissions, the Applicant also alleged TC's retaliatory and harassing conduct continued upon her return to work and that she had attempted to add these incidents to her initial complaint, but was refused.

C. *The Decisions Under Review*

[16] The procedural history requires some elaboration given the many issues raised by the Applicant.

[17] Upon receipt of the complaint, the Commission first considered whether it should decline to deal with it for any one of the reasons set out in paragraph 41(1) of the Act. The Respondent argued that the Applicant could and should exhaust the grievance or review procedures otherwise reasonably available to her, and therefore paragraph 41(1)(a) applied. Specifically, the Respondent argued that the Applicant could file a grievance under the *Federal Public Sector Labour Relations Act*, SC 2003, c 22, s. 2, [FPSLRA] and/or file a grievance under TB's *Policy on Harassment Prevention and Resolution* [*Policy on Harassment*].

[18] The Commission directed that a section 40/41 Report be prepared to address the Respondent's argument.

D. *The Section 40/41 Report*

[19] The section 40/41 Report, dated January 29, 2015, identified the main issue as whether the Commission should refuse to deal with the complaint pursuant to paragraph 41(1)(a). However, the Report first began with a preliminary procedural matter relating to the contents of the Applicant's complaint. The Applicant had alleged harassment in her initial complaint, along with retaliation and discrimination. The Commission omitted harassment when it prepared its "Summary of Complaint". The Applicant requested that the Summary be amended to include

harassment. The section 40/41 Report recommended that her request be refused because, on a careful review of the complaint, the conduct alleged could not constitute harassment, even if presumed to be true. Accordingly, the section 40/41 Report only addressed whether the other alleged grounds of discrimination - retaliation and adverse differential treatment - should be dismissed under paragraph 41(1)(a).

[20] The Report noted that the Applicant's relationship with her union (CAPE) was acrimonious, as she was also pursuing a human rights complaint against them based on almost identical allegations. The Report stated that it would be unfair to require the Applicant to exhaust the grievance process under the FPSLRA in these circumstances. The Report also expressed doubt whether the Applicant could grieve the matter under the TB's *Policy on Harassment*, noting that it appeared to apply only to employees on active status, whereas the Applicant was on sick leave. Therefore, the Report recommended that the Commission deal with the Applicant's complaints of discrimination and retaliation.

[21] The section 40/41 Report was shared with the Applicant, who provided further submissions to the Commission before it rendered its final decision under paragraph 40(1)(a). In her submissions, the Applicant objected to the recommendation not to include harassment as a separate ground. She also argued that Sun Life and TB should be added as respondents to the complaint because they participated in discriminatory conduct, and that the complaint should be amended to add additional incidents.

[22] On May 20, 2015, the Commission rendered its decision to deal with the Applicant's complaint under subsection 41(1) of the Act. It accepted the section 40/41 Report's recommendation that it deal with the allegations of retaliation and adverse differential treatment. The Commission also stated that, contrary to the Report's recommendation, it had "further decided to accept the complainant's request to amend the complaint to include harassment in the alleged practices of discrimination". (The Applicant has clearly misread this aspect of the Commission's decision. She is of the view that the Commission decided to deal *only* with her harassment complaint, and to dismiss her allegations of retaliation and adverse differential treatment.)

[23] The Commission, having decided to proceed with the entire complaint, then appointed an Investigator to prepare an Investigation Report pursuant to section 43 of the Act.

E. *Application for Judicial Review of the Commission's Section 40/41 Decision to Deal With the Complaint*

[24] Despite the Commission's decision to deal with her complaint, the Applicant sought judicial review of this decision (T-1094-15). In her Notice of Application for Judicial Review, the Applicant alleged errors by the Commission and breaches of procedural fairness. The Applicant sought, among other things, to require the Commission to amend the complaint to add harassment, to add TB and Sun Life as respondents, to amend the complaint to challenge the constitutionality of TB's *Policy on Harassment*, and to add other incidents to the complaint. This is the first of two decisions under review in this Application.

F. *The Investigation Report*

[25] The Investigation Report, prepared pursuant to section 43 of the Act, notes at the outset that its purpose is to assist Commission members to determine whether a conciliator should be appointed to attempt to resolve the complaint, whether further inquiry of the complaint is warranted or whether the complaint should be dismissed.

[26] The Investigator recounted the Applicant's key allegations. The Investigator noted that she considered all of the parties' evidence and conducted several interviews, including with the Applicant. She then addressed each of the Applicant's three grounds: harassment; discrimination (also referred to as alleged differentiation in employment); and, retaliation. The Investigator noted that there was "overlap" in the Applicant's allegations under each ground.

[27] The Investigator found that the allegations of harassment could not reasonably be described as such, noting that harassment is defined as "any unwanted physical or verbal conduct that offends or humiliates an individual". The Investigator cited the jurisprudence that has interpreted the definition and provided examples of behaviour that may constitute harassment, including threats, unwelcome remarks or jokes, or unnecessary physical contact. The Applicant's allegations related to TC's conduct, including requesting her to attend a FTWE, refusing to accept her doctor's recommendations for accommodation, delaying her Record of Employment, and making deductions from her pay. The Investigator found that the allegations, even if they were true, did not fall within the definition of harassment. The Investigator also noted that all of

the allegations could be thoroughly addressed under the headings of adverse differentiation and retaliation.

[28] With respect to alleged adverse differentiation in employment, the Investigator considered the Applicant's allegation that she was faced with a "resign or retire" option. The Investigator found that this alleged treatment did not occur. Although TC sent the Applicant a letter which advised her that she was required to make a decision regarding her future employment, the Investigator noted that the Applicant ultimately indicated that she intended to return to work and, eventually, did return. Therefore, she was never forced to "resign or retire".

[29] With respect to the Applicant's claim that TC refused her doctor's recommendations and required a FTWE, the Investigator found that the alleged treatment did occur, because the Applicant was told that she would be required to undergo a FTWE before returning to work. The Investigator also found that this treatment was directly linked to the Applicant's disability.

[30] The Investigator concluded, however, that TC had a reasonable explanation for this treatment. The Investigator found that TC acted reasonably because: the information provided by the Applicant's doctor did not explain the Applicant's cognitive or functional limitations or restrictions; the doctor had not responded to repeated requests for clarification; the list of accommodations was contradictory and confusing; the RTW plan was unhelpful, and appeared to have been "significantly altered with handwritten notes"; TC tried to obtain clarification from the Applicant's doctor about her medical restrictions and limitations, but waited several months for a response, which was also not clear; and, accordingly, TC requested that the Applicant undergo

an independent exam. The Investigator added that TC acted reasonably in pursuing the FTWE given that TC only did so to develop a reasonable accommodation plan for the Applicant to return to work. The Investigator also noted that the Applicant did not undergo the FTWE assessment before returning to work. The Investigator concluded that TC's decision to request the Applicant to submit to a FTWE – which did not occur in any event – was not a pretext for discrimination.

[31] The Investigator then considered the Applicant's claim that TC discriminated against her by delaying the provision of her Record of Employment to her, and by delaying the provision of necessary information to Sun Life. The Investigator acknowledged that there were minor delays on the part of TC, but held that, apart from the Applicant's belief, there was no evidence that this treatment was a pretext for discrimination, or that this was done purposely for any reason. The Investigator noted that TC employees provided reasonable explanations for the short delay in these administrative processes.

[32] Although the Applicant alleged that TC discriminated against her by improperly disclosing that she was receiving LTD benefits and by deducting pay and benefits owed to her without explanation, she acknowledged that she had no evidence to support this. The Investigator concluded that there was insufficient evidence to conclude that the alleged treatment occurred.

[33] The Investigator found that there was no evidence of retaliation by TC against the Applicant due to her previous human rights complaint, as she had alleged. The alleged retaliatory conduct was the same conduct that the Applicant alleged with respect to harassment and adverse

differentiation in employment. The Investigator reiterated that there was no evidence to support most of these alleged instances of misconduct, and when there was such evidence, TC had reasonably explained that the conduct was not a pretext for discrimination. More importantly, the Investigator found that the Applicant had provided no evidence to link the alleged mistreatment to the fact that she had previously filed a human rights complaint.

[34] In conclusion, the Investigator recommended that the Commission dismiss the complaint pursuant to subparagraph 44(3)(b)(i) of the Act because, "having regard to all the circumstances of the complaint, further inquiry is not warranted".

G. *The Opportunity to Make Submissions in Response to the Investigator's Report*

[35] On August 19, 2016, the Investigator alerted the Applicant, by email, that she would be disclosing the Investigation Report the following Monday (August 22, 2016) and that it would be sent to the Applicant. The Applicant replied on August 26, 2016 advising that she was out of the country due to a death in her family and would return to Canada on September 21, 2016. The Applicant requested that the Investigation Report be sent to her electronically and that an extension of time be given to her to make submissions in response to the Report, adding "that has to take into consideration the different accommodations provided to me by the Federal Court regarding the files against the Commission".

[36] On August 29, 2016, the Investigator agreed to send the Report by email upon confirmation that the Applicant accepted the risks associated with email transmission, noting that it was not the Commission's practice to send confidential reports by email. The Investigator also

advised that she did not know what accommodations the Federal Court had provided and asked the Applicant what length of extension she was requesting and why.

[37] A lengthy exchange of email ensued between the Investigator and the Applicant with respect to the request for an extension of time. The Investigator repeatedly asked the Applicant about the length of the extension she required and for further information regarding the extenuating circumstances which could justify an extension. The Applicant took the position that the Investigator's request was insulting, that the Commission had failed to accommodate her, and that the accommodation provided by the Federal Court was on the Commission's file.

[38] On September 15, 2016, the Applicant emailed the Investigator stating that she required an extension until December 19, 2016 to make her submissions. The Investigator replied that she could grant an extension until October 21, 2016 (one month after the Applicant's return to Canada) but could not grant a further extension unless further information regarding the Applicant's extenuating circumstances was provided. On September 30, 2016, the Applicant replied by email stating that her circumstances had been ignored, her request for an extension had been refused, and as a result, she could not provide her submissions within the imposed time frame. The Applicant did not file any submissions in response to the Investigator's Report.

H. *The Commission's Decision*

[39] The Commission adopted the Investigator's recommendations, and dismissed the Applicant's complaint.

I. *Consolidation of Two Applications*

[40] As noted above, the Applicant sought Judicial Review of the decision of the Commission pursuant to section 40/41 to deal with (i.e. investigate) the complaint and to include harassment in the Summary of Complaint. The Applicant also sought Judicial Review of the Commission's decision, following the Investigation Report, to dismiss her complaint pursuant to subparagraph 44(3)(b)(i). By agreement, both Applications were consolidated given that they raise basically the same issues and, despite the Applicant's dissatisfaction with the section 40/41 Report, her complaint was, in fact, investigated.

II. The Applicant's Overall Position

[41] The Applicant has raised many issues and arguments in support of her overall contention that the decision is not reasonable and that the Commission breached procedural fairness, including by failing to accommodate her and by demonstrating a closed mind or bias.

[42] The Applicant submits that the section 40/41 Report was flawed and incomplete, because the Commission did not permit her to amend her complaint to add parties, or add allegations (including those occurring after the complaint was filed), and also because the Report did not include all the grounds for her complaint. With respect to the Commission's decision to dismiss her complaint pursuant to subparagraph 44(3)(b)(i), the Applicant submits that the Investigator's reasons are not adequate, including because they are inconsistent with the Act and with relevant policies, do not set out the principles relied on or refer to the relevant jurisprudence. She also

submits that the Commission did not permit her to make submissions in response to the Investigation Report.

[43] Although the Court will address the arguments under broader headings of procedural fairness and reasonableness, for the sake of completeness, all of the Applicant's arguments are briefly set out below.

[44] The Applicant submits that the Commission erred by:

- Refusing to exercise its jurisdiction to add TB and Sun Life as respondents to her complaint;
- Refusing to amend the complaint to allow her to add additional retaliatory, harassing and discriminatory incidents which occurred after she filed her complaint in April 2014;
- Refusing to include all the grounds set out in the Summary of Complaint in its final decision regarding the section 40/ 41 Report;
- Refusing to amend the complaint to challenge the constitutionality of TB's *Policy on Harassment*; and,
- Adopting the Investigator's finding that TC had made a genuine attempt to obtain the required medical information and that TC was justified in compelling her to submit to an independent medical examination.

[45] The Applicant also submits that the Commission breached procedural fairness by:

- Refusing to provide her with additional complaint kits to add CAPE, Sun Life and TB as parties;

- Refusing her request for an extension of time to make submissions in response to the Investigation Report;

- Failing to conduct a proper investigation;

- Issuing a decision based on the Investigator's Report with inadequate reasons, which hinders the ability to understand the decision and permit judicial review;

- Taking the witnesses' testimony at face value and disregarding the evidence she submitted during the investigation;

- Ignoring or misconstruing evidence she submitted during the investigation; and,

- Approaching the Investigation with a closed mind.

[46] The Court notes that the Applicant's allegations regarding the treatment of the evidence are best characterized as allegations that the investigation was not thorough. The thoroughness of the investigation is an issue of procedural fairness (*Joshi v Canadian Imperial Bank of Commerce*, 2015 FCA 92 at para 6, [2015] FCJ No 454 (QL) [*Joshi*]). The Applicant's allegation regarding the adequacy of the reasons is not an issue of procedural fairness, rather this relates to the reasonableness of the decision (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paras 14-15, [2011] 3 SCR 708 [*Newfoundland Nurses*]).

[47] The Court also notes that the Applicant has raised several of the same arguments with respect to both procedural fairness and the reasonableness of the decision.

III. The Respondent's Overall Position

[48] As a preliminary issue, the Respondent submits that parts of the Applicant's affidavits are improper as they contain argument and legal opinion, and include evidence about events that post-date the complaint period and that was not before the Investigator, as well as evidence that is irrelevant.

[49] The Respondent submits that the Commission's decision is thorough, the process was procedurally fair and the decision is reasonable. Perfection is not the standard.

[50] The Respondent notes that the Applicant submitted over 650 pages to the Commission. The Commission considered the key evidence and cannot be expected to mention every document, letter, email, or policy included. The Commission focussed on the elements of the complaint, many of which repeated the same allegations under different headings. The Applicant had an opportunity to make submissions, including to respond to the Investigation Report, but chose not to do so.

IV. The Issues

[51] Although the Applicant has raised many issues, the main issues are:

- Whether parts of the Applicant's three affidavits should be struck;

- Whether the investigation was thorough (which is an issue of procedural fairness);
- Whether the Commission otherwise breached the duty of procedural fairness; and,
- Whether the decision is reasonable.

V. The Standard of Review

[52] The parties agree that the issues of procedural fairness should be reviewed on the correctness standard.

[53] Although previous jurisprudence may have left some uncertainty regarding whether deference plays any role in issues of procedural fairness, the Federal Court of Appeal provided clarity in *Canadian Pacific Railway Co v Canada (Attorney General)*, 2018 FCA 69, [2018] FCJ No 382 (QL) [*CP Rail*]. In *CP Rail*, Justice Rennie confirmed, at para 34, that issues of procedural fairness are reviewed on the correctness standard.

[54] Of relevance to the issues in the present Application, Justice Rennie reiterated that the context and circumstances inform the duty, as do the five *Baker* factors (from *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at 837-841, 174 DLR (4th) 193 [*Baker*]), one of which is the deference paid to a tribunal's choice of procedure. At para 56, Justice Rennie emphasized that the fundamental question regarding procedural fairness is whether the applicant "knew the case to meet" and had "a full and fair chance to respond".

[55] Whether the investigation was thorough is characterized as an issue of procedural fairness (*Joshi* at para 6).

[56] The other issues raised by the Applicant are reviewable on the reasonableness standard.

[57] Decisions by the Commission whether or not to deal with a complaint pursuant to subsection 41(1), are discretionary and entitled to deference (*Zulkoskey v Canada (Minister of Employment and Social Development)*, 2016 FCA 268 at paras 14-15, [2016] FCJ No 1339 (QL)). The appropriate standard of review is reasonableness.

[58] Similarly, decisions by the Commission to dismiss a complaint under paragraph 44(3)(b) of the Act are reviewed on the standard of reasonableness.

[59] Where the standard of reasonableness applies, the Court determines whether the Commission's decision "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190 [*Dunsmuir*]. This requires the Court to consider "the existence of justification, transparency and intelligibility within the decision-making process" (*Dunsmuir* at para 47). Deference is owed to the decision-maker, in this case, the Commission. In the event that the Court were to find that the decision was not reasonable, the complaint would be referred back to the Commission for reconsideration.

[60] The inadequacy of the reasons is not an independent ground of judicial review. In *Newfoundland Nurses*, the Supreme Court of Canada elaborated on the requirements of *Dunsmuir*, noting at paras 14-16 that reasons are not required to set out all the arguments, statutory provisions, jurisprudence or other details that a reviewing Court might prefer. Nor is the decision-maker required to make an explicit finding on each element that leads to the final conclusion. The reasons are to "be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes" (at para 14). In addition, where necessary, courts may look to the record to assess the reasonableness of the outcome (at para 15). The Court summed up the key principle at para 16, noting that, "if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met".

[61] The role of the Commission in circumstances similar to this case has been the subject of considerable jurisprudence. For example, in *Tutty v Canada (Attorney General)*, 2011 FC 57, 382 FTR 227, Justice Barnes noted at paras 12-14:

> 12 The Commission's screening function under s 44 of the Act has been compared to the role of a judge presiding over a preliminary inquiry. The role was described by the Supreme Court of Canada in *Cooper v Canada (Human Rights Commission)*, [1996] 3 SCR 854, 140 DLR (4th) 193 at para 53 as follows:
>
> > 53 The Commission is not an adjudicative body; that is the role of a tribunal appointed under the Act. When deciding whether a complaint should proceed to be inquired into by a tribunal, the Commission fulfills a screening analysis somewhat analogous to that of a judge at a preliminary inquiry. It is not the job of the Commission to determine if the complaint is made out. Rather its duty is to decide if, under the provisions of the Act,

> an inquiry is warranted having regard to all the facts. The central component of the Commission's role, then, is that of assessing the sufficiency of the evidence before it. Justice Sopinka emphasized this point in *Syndicat des employés de production du Québec et de L'Acadie v. Canada (Canadian Human Rights Commission)*, [1989] 2 S.C.R. 879, at p. 899:
>
> > *The other course of action is to dismiss the complaint. In my opinion, it is the intention of s. 36(3)(b) that this occur where there is insufficient evidence to warrant appointment of a tribunal under s. 39. It is not intended that this be a determination where the evidence is weighed as in a judicial proceeding but rather the Commission must determine whether there is a reasonable basis in the evidence for proceeding to the next stage.*
>
> [Emphasis in original]

[62] Justice Barnes added, at para 13, that where the Commission's decision is consistent with the Investigator's Report and recommendations, the Report is considered to be part of the reasons (citing *Sketchley v Canada (Attorney General)*, 2005 FCA 404 at para 37, [2006] 3 FCR 392 [*Sketchley*]).

[63] In *Canadian Union of Public Employees (Airline Division) v Air Canada*, 2013 FC 184 at paras 60-63, 53 Admin LR (5th) 1 [*CUPE*], Justice Mactavish also explained the role of the Commission, the governing principles and the standard of review.

[64] As noted above, two decisions have been consolidated in this Application for Judicial Review. The Court has considered whether the decision to deal with (i.e. to investigate) the complaint is reasonable. In addition, the Court has considered whether the Commission's

decision to dismiss the complaint is reasonable. In doing so, the Court has considered whether the Commission's assessment of the evidence and conclusion that it was not sufficient to warrant further inquiry is reasonable; and, whether the Commission breached procedural fairness, which includes consideration of whether the Investigation was thorough.

[65] Given that the issues and arguments raised by the Applicant with respect to both decisions are related, the Court's reasons address several of the issues together.

VI. Preliminary Issues

A. *The Applicant's Affidavits*

[66] The Respondent argues that significant portions of the Applicant's three affidavits should not be considered because they include evidence about events which post-date the complaint period; include information that is irrelevant to any issue in this application, and which was not before the Investigator; and, include argument and legal opinion. The Respondent is not asking that the affidavits be struck, rather that the Court attributes the appropriate weight to their contents.

[67] The Applicant responds that her affidavits comply with rule 81 of the *Federal Courts Rules*, SOR/98-106. In her view, the content of her affidavits provides relevant background information, sheds light on the procedural defects she alleges and does not include argument or legal opinion.

[68] Contrary to the Applicant's submission, parts of the affidavits clearly contain opinion and argument, albeit arguments which are, to some extent, repeated in her Memorandum of Fact and Law. The affidavits also include information that post-dates the complaint and which was not part of the record before the Investigator. I have taken the same approach to these affidavits as Justice McVeigh did with respect to similar affidavits in *Georgoulas #1* at paras 21-22. The reasonableness of the decision will be based on the record that was before the Commission. The content of the affidavits which relate to allegations of a breach of procedural fairness by the Commission will be considered, where relevant.

B. *The Respondent's Memorandum of Fact and Law*

[69] At the hearing of this Application, the Applicant raised, as a preliminary matter, her concerns about the content of the Respondent's Memorandum of Fact and Law, which she argues: misstates some facts, is misleading in parts, and includes evidence given by the Respondent.

[70] I do not find any impropriety in the Respondent's Memorandum of Fact and Law. The Respondent is entitled to make arguments in response to the Applicant's allegations. The Applicant had the opportunity to reply to the Respondent's Memorandum and did so. The nature of pleadings is to set out the respective positions of the parties and the evidence and authorities relied on in support of their arguments.

VII. Did the Commission Breach its duty of Procedural Fairness?

[71] The Applicant alleges that the Commission breached procedural fairness by failing to conduct a thorough investigation and in the manner in which it dealt with her and with her complaint, including by: refusing to provide her with additional complaint kits; refusing to grant her a three-month extension of time to make submissions in response to the Investigation Report; refusing to correspond with her by email; and, addressing her complaint with a closed mind (in other words, showing bias or lack of neutrality).

A. *Was the Investigation Thorough?*

(1) The Applicant's Submissions

[72] The Applicant makes several allegations which are best characterized as allegations that the Investigation was not thorough.

[73] The Applicant continues to submit that the Commission erred by omitting "harassment" from its initial Summary of Complaint, and in its subsequent amendments to the summary. As noted above, at the section 40/41 stage, the Commission agreed to "amend the complaint to include harassment" given the Applicant's request, and despite the section 40/41 Report's recommendation. The Applicant mistakenly interprets the Commission's decision to "include harassment" as a decision to *exclude* the grounds of retaliation and discrimination, which she submits was unlawful. Based on the Applicant's view that the Commission decided to *only* proceed with an investigation into harassment, she submits that the Investigator had no authority

to consider the other two grounds and that she cannot understand how the Investigator considered discrimination and retaliation.

[74] The Applicant alternatively argues that her complaint of harassment was not properly investigated. While she appears to acknowledge that she relied on the same conduct to allege harassment, discrimination and retaliation, she objects to the Investigator's finding that the conduct which she alleged was harassing could be considered under the other two headings.

[75] The Applicant also argues that the Investigator erred by relying on the evidence of TC witnesses without corroboration and without making credibility findings. She submits that the Investigator was required to assess the credibility of all the witnesses before accepting their testimony (relying on *Canada (Attorney General) v Tran*, 2011 FC 1519 at paras 19-25, 402 FTR 304).

[76] The Applicant adds that the Investigator failed to address key evidence that she provided to support her complaint. She points to "probable applicable policies" governing the FTWE and her RTW plan, which she submits TC did not follow. She also points to the medical information that she submitted to TC, as well as letters and emails between herself and TC staff. She submits that the Investigator ignored all of this information in reaching her decision that TC acted properly. For example, the Applicant submits that Part 12 of the Occupational Health Evaluation Standard established a complaint process that was not offered to her or complied with.

[77] The Applicant also argues that the Investigator erred by accepting evidence which contradicted her own evidence, which was ignored. She adds that the Investigator did not refer to any legal principles or jurisprudence.

(2) The Respondent's Submissions

[78] The Respondent submits that the Investigator was not required to refer to every allegation or incident, particularly given the volume of information (649 pages) provided by the Applicant. The Investigation Report deals with the central allegations.

[79] The Respondent notes that the Applicant's belief that TC employees harassed, discriminated, and retaliated against her is not evidence, and the Investigator was not obliged to accept it.

[80] The Respondent disagrees that the Investigator preferred TC's evidence over the Applicant's based on credibility. Instead, the Investigator accepted most of the evidence, but found it was insufficient to warrant further inquiry. The issue is whether the Commission reasonably found that TC's conduct did not constitute harassment, retaliation, or discrimination.

[81] Further, the Respondent contests the notion that the Commission was required to explicitly assess the credibility of each witness. The Respondent adds that the Commission was entitled to consider the evidence of the witnesses who candidly noted that some details were lacking due to the passage of time.

[82] The Respondent emphasizes that the issue before the Commission was not whether various policies were followed but whether the conduct alleged was harassing, discriminatory or retaliatory. The Respondent submits that it was not and the Commission reasonably found as such. The Respondent also notes that, even if some applicable policies were not followed by TC (which the Respondent denies), this would not prove the Applicant's claim that she experienced discrimination on the basis of her disability. Nor would it prove harassment or retaliation.

[83] Lastly, the Respondent points out that the Investigator had discretion over the manner in which the investigation was conducted, so long as it addressed crucial evidence and fundamental issues. The Respondent submits that the standard was clearly met in this case.

(3) Principles from the Jurisprudence – Thoroughness

[84] The principles governing the Commission's role under paragraph 44(3)(b), including the duty of procedural fairness and the duty of thoroughness, were addressed by Justice Mactavish in *Hughes v Canada (Attorney General)*, 2010 FC 837 at paras 30-34, 323 DLR (4th) 699 [*Hughes*] and in *CUPE* at paras 60-73. Justice Mactavish considered the governing jurisprudence, including *Cooper v Canada (Human Rights Commission)*, [1996] 3 SCR 854, 140 DLR (4th) 193; *Mercier v Canada (Human Rights Commission)*, [1994] 3 FC 3, [1994] FCJ No 361 (QL) (FCA); *Slattery v Canada (Human Rights Commission)*, [1994] 2 FC 574, 73 FTR 161, aff'd 205 NR 383, FCJ No 385 (QL); and *Sketchley*.

[85] More recently in *Bergeron v Canada (Attorney General)*, 2015 FCA 160, 99 Admin LR (5th) 1, the Federal Court of Appeal addressed the parameters of thoroughness in the context of

an Investigation of a complaint pursuant to the Act, and provided a summary of key principles at para 74.

[86] Recent jurisprudence has also reiterated the well-established principle that perfection is not the standard applied to the Commission (*Ritchie v Canada (Attorney General)*, 2017 FCA 114, 19 Admin LR (6th) 177 at para 30).

[87] To summarize the relevant principles from the jurisprudence which have been applied in the present case:

- The role of the Commission is not adjudicative, rather the Commission's role is to decide if an inquiry into the complaint is warranted. The Commission's role is to assess the "sufficiency of the evidence before it" – in other words, it plays a screening role;

- The Commission has broad discretion to determine whether further inquiry is warranted in the circumstances;

- The duty of procedural fairness requires that the process followed by the Commission to determine whether further inquiry is warranted must be fair, neutral and thorough;

- In assessing the thoroughness of the investigation, deference is owed to the decision-maker to assess the probative value of evidence and to decide whether to further investigate. Only fundamental issues need to be investigated; the Investigator need not refer to everything;

- The Commission has considerable latitude in the way that it conducts its investigations; and,

- An investigation into a human rights complaint cannot be held to a standard of perfection.

(4) The Investigation was Thorough

[88] The Applicant submitted 649 pages of material, some of which was included several times as attachments to other documents or in relation to different allegations. The Investigator's decision, which addressed the key allegations and the evidence relevant to the allegations in a methodical way, was clearly thorough. As noted in the jurisprudence, the decision need not refer to everything. There were no fundamental omissions. The Investigator's role was to determine if there was sufficient evidence to refer the complaint to an inquiry. The Investigator fulfilled her role.

[89] Contrary to the Applicant's mistaken interpretation, when it decided to deal with the Applicant's complaint under paragraph 41(1)(a), the Commission amended the Summary of Complaint to include harassment, without deleting anything else. As a result, the Investigator considered the entire complaint and the Investigation Report confirms that *all* allegations were included and addressed.

[90] Further, while the Investigator decided not to deal with the Applicant's allegations under the harassment framework, the Applicant's submission that there is no analysis to justify this approach is without merit. As explained by the Investigator at para 21 of her report, the

allegations, even if true, did not meet the definition of harassment, and the conduct was better investigated under the other two grounds which were more applicable. Further, given that the Applicant relied on the same conduct to base her allegations of harassment, discrimination, and retaliation, nothing was missed.

[91] The Applicant's argument that the Investigator erred in accepting uncorroborated evidence and in preferring the evidence of TC witnesses is also without merit. It is apparent from the reasons that the Investigator considered all the evidence from the TC witnesses as well as the Applicant's evidence. The Investigator did not reject any evidence as not being credible, rather she attributed the appropriate weight to the evidence. Moreover, as the Respondent notes, there is really no dispute about the evidence presented; rather the Applicant's argument is about how the evidence was interpreted. The Applicant simply does not agree that the explanations offered by TC were reasonable or that TC's conduct toward her was not because of her undisclosed disability.

[92] With respect to the Applicant's argument that the Investigator failed to address her allegation that TC officials violated their "Policy and Guidelines on Job Accommodation" policy by disclosing her leave status, there is no evidence to support the allegation. The Investigator also noted that there was no evidence to support the related allegation that TC improperly disclosed that she was receiving LTD benefits.

[93] The Applicant also submits that Part 12 of the Occupational Health Evaluation Standard establishes a complaint process that was not offered to her or complied with and is, therefore,

evidence of TC's misconduct, which the Investigator ignored. However, the Applicant misinterprets the Standard. The Standard provides that TB will monitor its effectiveness, including by "examining complaints from employees, departments, PSOHP, the Canadian Human Rights Commission and the Office of the Privacy Commissioner of Canada". In my view, when the Standard is read in context, Part 12 does not set up a complaints process for TB to resolve individual complaints, but to evaluate more generally whether the Standard is effective. Contrary to the Applicant's submissions, Sun Life and TB – while not respondents to this Application or to the complaint – do not appear to have any obligation to advance a complaint from an employee, nor does TB have a role in resolving individual complaints.

[94] Moreover, the jurisprudence has clearly established that the Investigator does not have to refer to each and every allegation, so long as the key allegations are dealt with. The Investigator did not miss anything that was fundamental to the Applicant's overall complaint regarding the conduct of TC.

B. *Did the Commission Otherwise Breach Procedural Fairness?*

(1) The Applicant's Submissions

[95] The Applicant alleges that the Commission breached procedural fairness in the manner in which it dealt with her, including by: refusing to use email; leaving threatening voicemail messages; failing to provide her with information which she requested; and refusing her a three-month extension to provide her submissions in response to the Investigation Report, which she argues denied her the right to respond.

[96] The Applicant submits that the Commission staff refused to correspond with her by email, which was her preferred manner of communication and was required as part of her accommodation measures. The Applicant points to an email dated February 3, 2015, where an Early Resolution Officer advised her that the Officer would respond to "general" inquiries via email, but not "case-specific" ones, citing the Officer's obligations as a public servant under privacy and access to information laws. The Applicant claims that this message was repeated by other Commission staff on February 18, 2015, in a voicemail which she found to be threatening, and on several other occasions. She argues that this was discriminatory and contrary to Commission policy and to the *Communications Policy of the Government of Canada*, which she interprets as requiring the use of email.

[97] The Applicant also argues that the Investigator's refusal to grant her a three-month extension to provide her submissions in response to the Investigation Report violated the Commission's duty to accommodate her and deprived her of her right to make submissions in response to the Investigation Report.

[98] She argues that she had advised the Investigator that there had been a death in her family, which was an "extenuating circumstance", and that no further explanation should have been required. She also points to a Direction from the Federal Court with respect to a Case Management Conference in March 2017 as evidence of accommodations provided to her by this Court.

(2) The Respondent's Submissions

[99] The Respondent submits that the Early Resolution Officer's reluctance to communicate with the Applicant by email was explained to her and does not demonstrate unfairness or a refusal to accommodate her. The Respondent submits that the policy relied on by the Applicant applies more generally to publicly available information, such as Government programs. Moreover, while that policy permits the use of electronic mail – it does not require it.

[100] With respect to the Applicant's claim that she should have been given an extension of time, the Respondent submits that the Applicant had a reasonable opportunity to make submissions in response to the Investigation Report. This opportunity met the duty of procedural fairness owed in the circumstances. The Applicant did not avail herself of the opportunity despite that she was granted an extension of time, albeit not the extension of three months she requested. The Respondent submits that the Commission is not obliged to submit to timelines dictated by the parties, adding that decisions regarding extensions of time are discretionary (*Sauvé v Canada (Attorney General)*, 2017 FC 453 at para 77, [2017] FCJ No 674 (QL)).

[101] The Respondent suggests that the Applicant did not act reasonably in failing to provide the additional information requested to permit the Investigator to determine if a further extension based on extenuating circumstances could be granted.

[102] The Respondent submits that the Applicant did not make her best efforts to provide her submissions in the extension of time she was granted. The Respondent adds that the Applicant

has not provided any explanation why the extension of time she was granted was insufficient for her to provide submissions. Therefore, the Applicant should not be permitted to claim a breach of procedural fairness.

(3) The Commission Did Not Breach the Duty of Procedural Fairness Owed in the Circumstances

[103] As noted recently by Justice Rennie in *CP Rail*, the context and circumstances inform the content of the duty of procedural fairness owed in the circumstances. Justice Rennie emphasized that the fundamental question regarding procedural fairness is whether the applicant "knew the case to meet" and had "a full and fair chance to respond" at para 56. In the present case, the Applicant was provided first with the section 40/41 Report, which she objected to and which was amended, and then with the Investigation Report before it was submitted to the Commission. At each stage, she was aware of the "case to be met" and she had the opportunity to make submissions in response.

[104] The extensive email exchange between the Applicant and the Investigator demonstrates that the Investigator repeatedly and respectfully asked the Applicant for more information to justify the three-month extension she requested. Although the Applicant now argues that the Investigator did not consider her personal family circumstances – that she did not have access to necessary resources while out of the country and that she was also engaged in three other proceedings in the Court – these possible justifications for a longer extension period were not provided to the Investigator. Rather, the Applicant regarded the request for further information to

be insulting, and suggested that the Investigator should be aware of and bound by accommodation measures provided by the Court, without explaining what these measures were.

[105] Although the Applicant's position is that the extenuating circumstances were obvious because she was out of the country due to a death in her husband's family, the Applicant did not explain why an additional month following her return was still not sufficient.

[106] In my view, given the Applicant's responses to the Investigator, the extension granted, which was an additional month from the date the Applicant returned to Canada (i.e. October 21, 2016), was a reasonable extension, bearing in mind that the Investigator first alerted the Applicant to the draft Report on August 19, 2016 and advised her that she could provide submissions. The Applicant cannot argue that she was denied the right to make submissions. She had a full and fair opportunity to do so (*CP Rail*), but she did not avail herself of that opportunity.

[107] The Applicant did not advise the Investigator of the accommodations that had been provided by the Court, but assumed that the Investigator should have known and followed suit. The Applicant appears to rely on the accommodations provided by the Court on one or more specific occasions as a benchmark for the Commission. However, she pointed only to one Direction issued by Justice Mactavish with respect to a specific Case Management Conference in March 2017, which addressed the location, time allocation and other logistical considerations, as evidence of her accepted accommodation measures. This Direction does not apply to all proceedings involving the Applicant in this Court or beyond. I note that I also issued a Direction

with respect to the hearing of this Application for Judicial Review, which also only applied to the hearing of the Application. The Commission is not bound by Directions of this Court with respect to particular matters in this Court. Moreover, the Commission is not expected to refer to the Court record to search out the accommodation measures provided for specific proceedings.

[108] With respect to the allegations regarding how the Commission interacted with the Applicant, there is no evidence of procedural unfairness. The record reveals that the Commission provided the Applicant with extensive information and provided explanations why it did not customarily communicate about individual cases by email. The Applicant's argument that the Commission violated the applicable Government policy is based on her own unique interpretation of the policy. The *Policy on Communications and Federal Identity* appears to encourage the use of a wide range of communication technology to reach a wide range of Canadians and inform them about Government programs and services. It does not require that individual Government departments or agencies or public servants communicate *only* by email. Although the Applicant may prefer to communicate by email, the issue is whether she was being provided with necessary information – and it is clear that she was.

[109] Even if there were a policy *encouraging* the use of email, it would simply be a policy and not a rigid requirement, given the need for many exceptions, including the need to protect personal information. It would not constitute a breach of procedural fairness to communicate in other ways.

[110] The Applicant's allegation that Commission staff left threatening voicemail messages is based on the Applicant's interpretation of the message. The Applicant's transcription of the messages is in the Record. In my view, assuming these transcriptions are accurate, the message is informative and direct and does not include anything that can be regarded as a threat. The voicemail message dated February 17, 2015 notes that a two-week extension for submissions on two files could be provided, and that the Commission Analyst was willing to discuss why certain amendments would not be made, but only by phone. The voicemail message dated February 18, 2015 reiterated that communication could not occur by email and requested that the Applicant cease from doing so. Although the February 18, 2017 voicemail message suggests some frustration on the part of the Commission Analyst in repeating the same explanations (for example, in stating "the Commission is a master of its own process and that you are in no position to be telling us how to conduct our business nor are you in any position to tell us how to do our work", the message is certainly not threatening. It does not amount to a breach of procedural fairness.

VIII. Did the Commission Breach Procedural Fairness by Demonstrating a Closed Mind?

A. *The Applicant's Submissions*

[111] The Applicant alleges that the Commission, including the Investigator and all staff, have not been impartial and have shown a closed mind. In support of this argument, the Applicant reiterates many of the same allegations she has made regarding breaches of procedural fairness, the lack of thoroughness of the investigation, and the unreasonableness of the Commission's findings.

[112] For example, the Applicant again submits that the Commission failed to accommodate her in the processing of her complaint, including by not granting her a three-month extension, and that this is evidence of a closed mind. The Applicant argues that the Commission has become an interested party because of the allegations directed at it.

[113] The Applicant also argues that the Investigator's reasons are based on submissions made by the Respondent's Counsel. She submits that Counsel for the Respondent gave evidence, which the Commission improperly relied on.

B. *The Respondent's Submissions*

[114] The Respondent refutes the Applicant's specific allegations of breaches of procedural fairness and adds that none demonstrate that the Commission was biased or had a closed mind. The Commission has considerable latitude over all procedural matters, as it is the "master of its own procedure" (citing *Tahmourpour v Canada (Solicitor General)*, 2005 FCA 113 at para 39, 27 Admin LR (4th) 315). The Respondent notes, for example, that the Commission's refusal to communicate via email does not raise issues of procedural fairness or the neutrality of the investigation.

C. *Principles from the Jurisprudence*

[115] In *Hughes*, Justice Mactavish addressed the law governing allegations of bias against the Commission, noting at paras 20-24 that the test for bias established in *Committee for Justice and Liberty v Canada (National Energy Board)*, [1978] 1 SCR 369 at p 394, 68 DLR (3d) 716, which

applies to the Courts, does not apply to the Commission. Justice Mactavish explained how and why the test differs:

> 22 The Canadian Human Rights Commission is clearly subject to the duty of fairness when it is exercising its statutory powers to investigate human rights complaints: *Syndicat des employés de production du Québec et de l'Acadie v. Canada (Human Rights Commission)*, [1989] 2 S.C.R. 879 ("SEPQA"). This requires that the Commission and its investigators be free from bias.
>
> 23 That said, because of the non-adjudicative nature of the Commission's responsibilities, it has been held that the standard of impartiality required of a Commission investigator is something less than that required of the Courts. That is, the question is not whether there exists a reasonable apprehension of bias on the part of the investigator, but rather, whether the investigator approached the case with a "closed mind": see *Zündel v. Canada (Attorney General)* (1999), 175 D.L.R. (4th) 512, at paras. 17-22.
>
> 24 As the Court stated in *Broadcasting Corp. v. Canada (Canadian Human Rights Commission)*, (1993), 71 F.T.R. 214 (F.C.T.D.), the test in cases such as this:
>
> > *[I]s not whether bias can reasonably be apprehended, but whether, as a matter of fact, the standard of open-mindedness has been lost to a point where it can reasonably be said that the issue before the investigative body has been predetermined.*
>
> [My emphasis]

[116] As found above, the decision was thorough and was procedurally fair. The Investigator considered every allegation related to the original complaint and the decision reveals the methodical approach followed. The fact that the Investigator did not find that the conduct amounted to discrimination or retaliation does not demonstrate a closed mind. Rather, the decision demonstrates that the Commission was fulfilling its screening role in determining whether there was sufficient evidence upon which to refer the complaint for further inquiry.

[117] The more specific allegations made by the Applicant have all been addressed above.

[118] The Applicant did not provide any examples where the Investigator relied on evidence given by the Respondent as she alleged.

[119] Nothing in the Commission's approach or process suggests that "the standard of open-mindedness has been lost to a point where it can reasonably be said that the issue before the investigative body has been predetermined".

IX. Is the Commission's Decision Reasonable?

A. *The Applicant's Submissions*

[120] The Applicant argues that the Commission erred in accepting both the section 40/41 Report (despite that it resulted in her complaint being investigated, albeit without additional parties and allegations) and the Investigation Report, and that the decision is, therefore, unreasonable.

[121] Although the Applicant points to many of the same arguments noted above to support her view that the decision is not reasonable, her key argument is that TC had predetermined that a FTWE was required, regardless of the information provided by her doctor, and that this predetermination violated TC's own policies. She submits that the Investigator's finding that TC made genuine efforts to get information from her doctor before requesting the FTWE was unreasonable.

[122] The Applicant submits that human rights legislation protects individuals against interference with their dignity and that the Commission's decision that TC's conduct in "forcing" her to submit to a FTWE was reasonable is contrary to the Commission's obligation to respect human rights. She submits that the relevant law, policies, and a "Q and A" document prepared by CAPE all indicate that a FTWE is an exceptional request to be pursued only after other less coercive options have been exhausted (citing *Lafrenière v Via Rail Canada Inc.*, 2017 CHRT 29 (CanLII) at paras 10-11, 13-16 [*Lafrenière*]). She adds that all TC needed to know is what Sun Life told TC regarding her RTW plan.

[123] The Applicant further submits that TC rejected the RTW plan submitted by Sun Life. She characterizes this as an obstacle by TC to prevent her from returning to work.

[124] The Applicant also argues that both the section 40/41 Report and the Investigation Report are unintelligible and do not allow her to understand the basis for the decision under review. She submits that the reasons are inadequate because: there is no summary of the evidence, noting that she had submitted 649 pages of material; there is no explanation why the Respondent's uncorroborated evidence was preferred over her own evidence; there is no meaningful analysis; and, there is no reference to the legal principles applied.

[125] The Applicant also makes a number of related arguments about the Commission's refusal to amend her complaint to add additional parties and additional allegations, which she submits was unreasonable.

[126] First, the Applicant argues that the Commission erred by not amending her complaint to add the allegations against Sun Life and TB, as she had requested in her submissions in response to the section 40/41 Report. She alleges that Sun Life and TB also participated in discrimination against her. This allegation is based on her view that Sun Life had a responsibility to pursue her RTW plan and accommodation measures with TB, and that the TB's Occupational Health Evaluation Standard provided a process to address her complaint which it did not follow. She states that Sun Life told her that such a process existed, but did not take further steps. TB then denied that this process existed. The Applicant submits that the failure of Sun Life and TB to pursue her RTW plan and complaint was a further obstacle in her return to work.

[127] Second, the Applicant argues that the Commission erred by not providing her with additional complaint forms to permit her to file separate complaints against Sun Life and TB. She argues that this limited her opportunity to present her case against TC, because she was forced to include all her complaints in one complaint kit.

[128] Third, the Applicant argues that the Commission erred by not amending her complaint to add allegations of conduct which occurred after she had filed the complaint. She notes that she had anticipated such conduct in her original complaint which stated, "I fear more harm will come to me".

[129] Fourth, the Applicant submits that she should have been permitted to either amend her complaint to challenge the constitutionality of the TB's *Policy on Harassment*, which the Commission relied on in its section 40/41 Report or, alternatively (if the Court properly

understands the Applicant's position) that TB should have challenged the constitutionality of the Policy. The Applicant's proposed challenge arises from the Commission's initial view and comment that the Policy may not apply to employees who are not on "active status" and that this would be discriminatory. As noted above, the Commission's comment was made in support of its decision to deal with the Applicant's complaint under paragraph 41(1)(a), rather than dismissing it at the preliminary stage in light of an internal and informal review process, as the Respondent had requested.

B. *The Respondent's Submissions*

[130] The Respondent submits that the decision is reasonable; the Commission did not err in its findings or in refusing to add new parties or new allegations.

[131] The Respondent submits that the Investigator clearly explained the evidence she was relying on and the reasons that further inquiry was not warranted. The Respondent notes that there is absolutely no evidence to support the Applicant's allegations that TC's explanations were "designed to conceal the true purpose" behind their request. The Investigator was not required to accept the Applicant's belief that she was the victim of discrimination, harassment, or retaliation, which was not corroborated by any actual evidence.

[132] The Respondent submits that the Commission reasonably found that TC had provided a reasonable explanation for requesting the FTWE. The Respondent notes that it is the role of the employer to accommodate an employee based on the restrictions and limitations identified by a medical practitioner. It is not the role of the medical practitioner or employee to dictate particular

accommodation measures. TC's request for further information and for the Applicant to undergo a FTWE was justified given the lack of clear information regarding the Applicant's limitations. This information was needed to ensure that TC could put accommodation measures in place which addressed any such limitations and facilitated the Applicant's return to work.

[133] The Respondent submits that the Commission was not required to amend the Applicant's complaint to add additional parties or additional allegations unrelated to the central issues in the complaint against TC. The Respondent is unaware of any jurisprudence which establishes a *requirement* for the Commission to amend a complaint to include new parties or new information. The Respondent notes that in *Tiwana v Canada (Human Rights Commission),* (2000) 197 FTR 282, 2000 CanLII 16568 (FC) [*Tiwana*], relied on by the Applicant, the Court found only that the Commission may amend a complaint, not that it must do so.

[134] The Respondent submits the conduct underlying the complaint was that of TC, not Sun Life or TB. The Applicant has not explained why her allegations against TB and Sun Life are necessary or relevant to the determination of her complaint against TC, or why the Applicant could not simply initiate separate complaints against those entities.

[135] In addition, the Commission did not err by not amending the complaint to add incidents that post-date the complaint. The alleged incidents raised by the Applicant at the hearing are not related to the conduct described in the complaint and could be the subject of separate complaints.

[136] The Respondent adds that requiring the Commission to include new allegations would result in an ongoing inquiry into the relationship between the parties, which would be impossible.

[137] The Respondent submits that the Commission did not err by not amending the complaint or by not bringing a constitutional challenge to the *Policy on Harassment*. This policy is not relevant to the complaint.

[138] The Respondent also submits that the Commission did not err by allegedly refusing to provide the Applicant with multiple complaint kits. The Respondent notes that the Applicant's complaint proceeded to an investigation and, as a result, she was able to submit 649 pages of further information, in addition to being interviewed by the Investigator. Unlike *Georgoulas #1*, where the Applicant's complaint did not proceed to an investigation, here the Investigator's thorough investigation addresses any concerns which may have resulted from a lack of space on the complaint form. The Respondent notes that the Applicant has not pointed to any allegations against TC which she was unable to include due to space constraints.

X. The Decision is Reasonable

[139] As noted above, a reasonable decision is one that arises from a process that is justified, transparent and intelligible and yields a decision that "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *Dunsmuir* at para 47.

[140] The adequacy of reasons is not a stand-alone ground of judicial review, rather the reasons are read bearing in mind the outcome reached and, where necessary, along with the record, in order to assess the reasonableness of the decision. In the present case, the Investigator's reasons demonstrate that the decision is intelligible and transparent and that it is justified based on the facts and the law. It reflects the principles noted above with respect to the role of the Commission and the thoroughness of the investigation. Although not required to address every single issue, the Investigator addressed all the key issues and evidence. Also as noted above, the decision need not be perfect to be thorough or to be reasonable.

[141] Moreover, deference is owed to the Commission. In *Canada (Attorney General) v Davis*, 2010 FCA 134 at para 5, 403 NR 355, the Federal Court of Appeal reiterated that "the Commission enjoys considerable latitude when performing its screening function on receipt of an investigator's report and that the courts must not intervene lightly in its decisions at this stage".

[142] In the present case, the Commission fulfilled its screening function and reasonably found that further inquiry was not warranted. In reaching this decision, the Commission clearly had regard to all of the circumstances.

[143] The Commission's finding that TC's reference to the FTWE was reasonably explained to the Applicant and was not a pretext for discrimination is an entirely reasonable finding.

[144] I have reviewed the record, including the extensive correspondence with TC, which responded to the Applicant's many requests for information and sought information and

clarification of the Applicant's restrictions and limitations underlying her specific accommodation measures. The correspondence does not support the Applicant's view that the FTWE was predetermined or was intended to put an obstacle in her path to return to work. The extensive correspondence between Ms. Warriner and the Applicant by mail and by email, demonstrates that Ms. Warriner repeatedly explained the options and respectfully asked for more information regarding the Applicant's limitations and restrictions.

[145] Although the Applicant relies on *Lafrenière*, this case is not analogous. In *Lafrenière*, the Canadian Human Rights Tribunal dismissed a motion to order a psychological assessment. The Tribunal noted that the complaint had nothing to do with the complainant's medical condition. In this context, the Tribunal noted that ordering a medical assessment would be intrusive. The facts of the present case differ; the Applicant's allegations stem from her request for specific accommodation measures due to a disability, of which little is known or has been disclosed. TC's request that the Applicant undergo a FTWE by a Health Canada doctor was due to TC's need to better understand the restrictions and limitations of the Applicant and to then determine the accommodation measures to permit her to return to work. Unlike *Lafrenière*, the request was linked to her complaint. She was repeatedly advised that her consent would be required for the FTWE, and the applicable guidelines were provided to her.

[146] In this case, the Applicant did not consent to the FTWE and in fact returned to work in January 2014, earlier than she had advised TC and without any FTWE. The Applicant's repeated reference to being "forced" to undergo a FTWE defies reality. The Applicant was *not* forced to submit to the FTWE and she did not undergo the FTWE.

[147] The “Q and A” document from CAPE which the Applicant relies on to argue that a FTWE is only appropriate in very specific circumstances, and can only be used as a last resort, does not support the Applicant’s position. The document explains, among other things, that an employee has obligations with respect to seeking accommodations, including providing sufficient medical information where necessary. The Applicant did not do this. Moreover, this “Q and A” appears to be intended to provide general information to union members and is not binding on TC, nor would its breach be evidence of discrimination, harassment or retaliation.

[148] The Applicant notes that the Investigator found that the request for the FTWE was “negative treatment” due to a disability. She argues that given this finding, it was an error for the Commission to then find that this was not harassment, discrimination or retaliation. She submits that the Investigator did not provide any reasons for this finding.

[149] The Applicant’s submission that the Investigator did not provide reasons for finding that TC’s explanation was reasonable is not supported by the clear words of the decision. The Investigator addressed the issue of the FTWE request under the heading “adverse differentiation in employment” from paras 51-74 of the decision. The Investigator summarised all the evidence on this issue. At para 72, the Investigator noted that the evidence indicated that in 2012, 2013 and 2014 the Respondent received similarly unhelpful information from the Applicant’s doctor, which dictated the accommodation measures needed without providing information about her limitations or restrictions. The Respondent tried to obtain clarification from the doctor which was not provided. The Investigator noted that an employer may request an independent medical examination when genuine attempts to obtain medical information from the employee’s “chosen

source" has not been provided. The Investigator also noted that information on the restrictions and limitations is necessary so that the employer can accommodate the employee safely. Therefore, the Investigator reasonably concluded that the explanation provided by TC as to why it engaged in the "negative treatment" (i.e. requesting the FTWE) was reasonable, and was not a pretext for discrimination.

[150] In my view, the Investigator's acknowledgment that requesting a FTWE even amounted to "*negative* treatment" is questionable. The request was simply that – a request – arising from the Applicant's failure to provide the necessary medical information regarding the restrictions and limitations which required accommodation. But whether this was "*negative* treatment" or simply "treatment" makes no difference, given that the request was fully explained by TC and the Investigator's finding that the explanation was reasonable is justified by the evidence. The Investigator's reasons clearly explained the finding.

[151] The Commission's decision to focus on the complaint against TC and to not amend the complaint to add additional parties or additional allegations is also reasonable.

[152] The complaint was about the conduct of TC. As addressed above, the Applicant's interpretation of the Occupational Health Evaluation Standard as a process to address her complaint is misplaced. In my view, the Standard provides that TB will evaluate its operation, not that TB will provide a mechanism to resolve specific complaints. It was reasonable for the Commission to not add Sun Life or TB in order for the Applicant to advance this view of the Standard.

[153] The Commission did not err in not adding incidents that post-date the complaint. I note that the Applicant could not point to the evidence on the record to demonstrate that she had even asked the Commission to add specific new allegations. Her oral submissions disclose that her expectations upon her return to work were not met – but this does not necessarily amount to discrimination.

[154] Whether the Applicant "felt" that the incidents she described constituted discrimination or whether there are reasonable explanations is not the issue.

[155] Moreover, even if there was evidence on the record indicating that the Applicant sought to amend her complaint to add new allegations post-dating the complaint, the Applicant cannot expect to continually add new incidents to her complaint, as it would prevent the timely resolution of these matters. As the Respondent notes, there must be some finality to the complaint so it can be considered and/or investigated with a view to resolving the complaint.

[156] In *Tiwana* at paras 32-33, the Court noted that there was no statutory provision governing the amendment of a complaint, adding that the jurisprudence has recognized that claims can be amended in some circumstances. However, this does not suggest that claims *must* be amended upon request.

[157] The Commission did not err in refusing to provide the Applicant with additional complaint kits, if this even occurred. I note that the complaint involving CAPE was bifurcated in any event. In addition, the circumstances of this case differ from those in *Georgoulas #1*, where

Justice McVeigh found that the failure of the Commission to provide additional complaint kits with respect to the complaint against CAPE was a breach of procedural fairness. Unlike the present case, in *Georgoulas #1*, the Applicant's complaint was dismissed at the section 40/41 Report stage and it did not proceed to be dealt with and investigated. Rather it was screened out on the basis of the complaint forms. In the present case, the complaint was not screened out and was investigated. The Applicant submitted a voluminous record of 649 pages to the Investigator, all of which was considered. Therefore, she was not disadvantaged in any way by lack of space to set out her allegations.

[158] The Applicant's argument that the Commission erred in not amending the complaint to include a constitutional challenge of the *Policy on Harassment*, or in not instituting such a challenge, makes no sense. The *Policy on Harassment* is an internal process to informally address complaints of harassment, which would have applied if the Applicant had instituted an internal complaint to TC. At the initial stage of the complaint, the Respondent asked that it not be dealt with, pursuant to paragraph 41(1)(a), because the Applicant had access to other recourse mechanisms, including the *Policy on Harassment*. The Commission staff questioned whether the *Policy on Harassment* applied to those on leave, and ultimately rejected the Respondent's request. The Commission's decision does not give rise to an issue regarding the constitutionality of the Policy vis-à-vis the Applicant.

[159] Moreover, the Commission's decision to consider the complaint, due to the Applicant's acrimonious relationship with her union, was to the Applicant's apparent advantage, since the result was that her complaint proceeded to the investigation stage.

XI. Conclusion

[160] The jurisprudence has firmly established that the duty to accommodate is a "two way street" and that the person seeking accommodation cannot dictate what that accommodation should be. Some "give and take" to address the restrictions and limitations is expected. The "Q and A" document prepared by CAPE, which the Applicant cited in part, conveys this very notion.

[161] In *Central Okanagan School District No 23 v Renaud*, [1992] 2 SCR 970, 1992 CanLII 81 [*Renaud*], the Supreme Court of Canada considered the duty to accommodate, including whether the employee had been too inflexible in the accommodation process. The Court explained that accommodation entails compromise and cooperation on the part of an employee, noting at pages 994-995,

> The search for accommodation is a multi-party inquiry. Along with the employer and the union, there is also a duty on the complainant to assist in securing an appropriate accommodation…
>
> …
>
> This does not mean that, in addition to bringing to the attention of the employer the facts relating to discrimination, the complainant has a duty to originate a solution. While the complainant may be in a position to make suggestions, the employer is in the best position to determine how the complainant can be accommodated without undue interference in the operation of the employer's business. When an employer has initiated a proposal that is reasonable and would, if implemented, fulfil the duty to accommodate, the complainant has a duty to facilitate the implementation of the proposal. If failure to take reasonable steps on the part of the complainant causes the proposal to founder, the complaint will be dismissed. The other aspect of this duty is the obligation to accept reasonable accommodation. This is the aspect referred to by McIntyre J. in *O'Malley*. The complainant cannot expect a perfect solution. If a proposal that would be reasonable in

> all the circumstances is turned down, the employer's duty is discharged.
>
> [My emphasis]

[162] The principles set out in *Renaud* continue to be applied (see for example, *Guibord v Canada*, [1997] 2 FC 17, 1996 CanLII 3880 (FC), *Holm v Canada (Attorney General)*, 2006 FC 1170).

[163] The Commission's decision to first "deal with" (i.e. investigate) the complaint is reasonable. The Summary of Complaint was amended and the entire complaint moved on to the investigation stage, where it was thoroughly and neutrally dealt with. The law has established, among other relevant principles, that the investigation need not be perfect. The Applicant had very high expectations of the Commission process and of its outcome, as she did of TC's response to her RTW plan. However, the Applicant's expectations are not the standard against which the decision is reviewed. The Commission's conclusion that, having regard to all the circumstances, further inquiry of the complaint was not warranted, is reasonable and the process engaged by the Commission was procedurally fair.

JUDGMENT in T-102-17

THIS COURT'S JUDGMENT is that:

1. The Application for Judicial Review is dismissed.
2. The style of cause is hereby amended to reflect the Attorney General of Canada as the sole Respondent.
3. There is no order for costs.

"Catherine M. Kane"
Judge

Annex

Relevant provisions of the *Canadian Human Rights Act*, RSC, 1985, c H-6 - sections 40 and 41(1):

40 (1) Subject to subsections (5) and (7), any individual or group of individuals having reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice may file with the Commission a complaint in a form acceptable to the Commission.	**40 (1)** Sous réserve des paragraphes (5) et (7), un individu ou un groupe d'individus ayant des motifs raisonnables de croire qu'une personne a commis un acte discriminatoire peut déposer une plainte devant la Commission en la forme acceptable pour cette dernière.
(2) If a complaint is made by someone other than the individual who is alleged to be the victim of the discriminatory practice to which the complaint relates, the Commission may refuse to deal with the complaint unless the alleged victim consents thereto.	**(2)** La Commission peut assujettir la recevabilité d'une plainte au consentement préalable de l'individu présenté comme la victime de l'acte discriminatoire.
(3) Where the Commission has reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice, the Commission may initiate a complaint.	**(3)** La Commission peut prendre l'initiative de la plainte dans les cas où elle a des motifs raisonnables de croire qu'une personne a commis un acte discriminatoire.
(3.1) No complaint may be initiated under subsection (3) as a result of information obtained by the Commission in the course of the administration of the *Employment Equity Act*.	**(3.1)** La Commission ne peut prendre l'initiative d'une plainte qui serait fondée sur des renseignements qu'elle aurait obtenus dans le cadre de l'application de la *Loi sur l'équité en matière d'emploi.*
(4) If complaints are filed jointly or separately by more than one individual or group alleging that a particular person is engaging or has engaged in a discriminatory practice or a series of similar discriminatory practices and the Commission is satisfied that the complaints involve substantially the same issues of fact and law, it may deal with the complaints together under this Part and may request the Chairperson of the Tribunal to institute a single inquiry into the complaints under section 49.	**(4)** En cas de dépôt, conjoint ou distinct, par plusieurs individus ou groupes de plaintes dénonçant la perpétration par une personne donnée d'actes discriminatoires ou d'une série d'actes discriminatoires de même nature, la Commission peut, pour l'application de la présente partie, joindre celles qui, à son avis, soulèvent pour l'essentiel les mêmes questions de fait et de droit et demander au président du Tribunal d'ordonner, conformément à l'article 49, une instruction commune.
(5) No complaint in relation to a discriminatory practice may be dealt with by	**(5)** Pour l'application de la présente partie, la Commission n'est validement

the Commission under this Part unless the act or omission that constitutes the practice

(a) occurred in Canada and the victim of the practice was at the time of the act or omission either lawfully present in Canada or, if temporarily absent from Canada, entitled to return to Canada;

(b) occurred in Canada and was a discriminatory practice within the meaning of section 5, 8, 10 or 12 in respect of which no particular individual is identifiable as the victim;

(c) occurred outside Canada and the victim of the practice was at the time of the act or omission a Canadian citizen or an individual lawfully admitted to Canada for permanent residence.

saisie d'une plainte que si l'acte discriminatoire :

a) a eu lieu au Canada alors que la victime y était légalement présente ou qu'elle avait le droit d'y revenir;

b) a eu lieu au Canada sans qu'il soit possible d'en identifier la victime, mais tombe sous le coup des articles 5, 8, 10 ou 12;

c) a eu lieu à l'étranger alors que la victime était un citoyen canadien ou qu'elle avait été légalement admise au Canada à titre de résident permanent.

(6) Where a question arises under subsection (5) as to the status of an individual in relation to a complaint, the Commission shall refer the question of status to the appropriate Minister and shall not proceed with the complaint unless the question of status is resolved thereby in favour of the complainant.

(6) En cas de doute sur la situation d'un individu par rapport à une plainte dans les cas prévus au paragraphe (5), la Commission renvoie la question au ministre compétent et elle ne peut procéder à l'instruction de la plainte que si la question est tranchée en faveur du plaignant.

(7) No complaint may be dealt with by the Commission pursuant to subsection (1) that relates to the terms and conditions of a superannuation or pension fund or plan, if the relief sought would require action to be taken that would deprive any contributor to, participant in or member of, the fund or plan of any rights acquired under the fund or plan before March 1, 1978 or of any pension or other benefits accrued under the fund or plan to that date, including

(a) any rights and benefits based on a particular age of retirement; and

(b) any accrued survivor's benefits.

(7) La Commission ne peut connaître, au titre du paragraphe (1), d'une plainte qui porte sur les conditions et les modalités d'une caisse ou d'un régime de pensions, lorsque le redressement demandé aurait pour effet de priver un participant de droits acquis avant le 1er mars 1978 ou de prestations de pension ou autres accumulées jusqu'à cette date, notamment :

a) de droits ou de prestations attachés à un âge déterminé de retraite;

b) de prestations de réversion.

41 (1) Subject to section 40, the Commission

41 (1) Sous réserve de l'article 40, la

shall deal with any complaint filed with it unless in respect of that complaint it appears to the Commission that

(a) the alleged victim of the discriminatory practice to which the complaint relates ought to exhaust grievance or review procedures otherwise reasonably available;

(b) the complaint is one that could more appropriately be dealt with, initially or completely, according to a procedure provided for under an Act of Parliament other than this Act;

(c) the complaint is beyond the jurisdiction of the Commission;

(d) the complaint is trivial, frivolous, vexatious or made in bad faith; or

(e) the complaint is based on acts or omissions the last of which occurred more than one year, or such longer period of time as the Commission considers appropriate in the circumstances, before receipt of the complaint.

(2) The Commission may decline to deal with a complaint referred to in paragraph 10(a) in respect of an employer where it is of the opinion that the matter has been adequately dealt with in the employer's employment equity plan prepared pursuant to section 10 of the *Employment Equity Act*.

(3) In this section, ***employer*** means a person who or organization that discharges the obligations of an employer under the *Employment Equity Act*.

Commission statue sur toute plainte dont elle est saisie à moins qu'elle estime celle-ci irrecevable pour un des motifs suivants :

a) la victime présumée de l'acte discriminatoire devrait épuiser d'abord les recours internes ou les procédures d'appel ou de règlement des griefs qui lui sont normalement ouverts;

b) la plainte pourrait avantageusement être instruite, dans un premier temps ou à toutes les étapes, selon des procédures prévues par une autre loi fédérale;

c) la plainte n'est pas de sa compétence;

d) la plainte est frivole, vexatoire ou entachée de mauvaise foi;

e) la plainte a été déposée après l'expiration d'un délai d'un an après le dernier des faits sur lesquels elle est fondée, ou de tout délai supérieur que la Commission estime indiqué dans les circonstances.

(2) La Commission peut refuser d'examiner une plainte de discrimination fondée sur l'alinéa 10a) et dirigée contre un employeur si elle estime que l'objet de la plainte est traité de façon adéquate dans le plan d'équité en matière d'emploi que l'employeur prépare en conformité avec l'article 10 de la *Loi sur l'équité en matière d'emploi*.

(3) Au présent article, ***employeur*** désigne toute personne ou organisation chargée de l'exécution des obligations de l'employeur prévues par la *Loi sur l'équité en matière d'emploi*.

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Ourania Georgoulas	ON HER OWN BEHALF
Mathew Johnson	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT