Date: 20080122

Docket: T-2166-06

Citation: 2008 FC 79

Ottawa, Ontario, the 22nd day of January 2008

Present: the Honourable Mr. Justice de Montigny

BETWEEN:

CAROLE GAUTHIER

Applicant

and

NATIONAL BANK OF CANADA

Respondent

REASONS FOR ORDER AND ORDER

[1] This is an application for judicial review of a decision by an adjudicator on November 15, 2006, by Gilles Brunet (the adjudicator) pursuant to Division XIV of Part III of the *Canada Labour Code*, R.S.C. 1985, c. L-2 (the Code). Following the dismissal of Ms. Gauthier (the applicant) by the National Bank of Canada, the adjudicator awarded her the sum of $12,928.05 as compensation for loss of salary and loss of vacation and to reimburse premiums paid to the retirement plan.

FACTS

[2] The applicant was employed by the National Bank of Canada (the respondent) from 1986 to the date of her dismissal, February 9, 2005. The last position held by her was that of student loans clerk at the Centre d'assistance Rive-Sud in St-Hubert.

[3] In early June 2003 the applicant had to undergo surgery at the Hôpital Pierre Boucher. She subsequently received disability benefits under the respondent's employee disability program, which is managed by the Manulife Financial insurance company (the insurer).

[4] The applicant received disability benefits from the company until September 22, 2003, the date on which the insurer considered that she was fit to return to work. The applicant challenged this decision by the insurer, exercising her rights of appeal. Following several reviews of its decision, on December 15, 2004, the insurer confirmed its decision that the applicant was in fact fit to return to work.

[5] In view of this decision by the insurer, on February 2, 2005, the respondent required that the applicant resume her duties and report to work on February 7, 2005; otherwise, it was specified that the respondent would terminate her employment. As the applicant did not report for work on the date mentioned and had not contacted the respondent following the letter of February 2, the respondent terminated the applicant's employment on February 9, 2005. In fact, it appeared that the applicant had not reported to work on February 7 on account of the hearing of her case against the insurer in the Court of Quebec, civil side, small claims division (small claims court) on that day.

[6] On April 18, 2005 the applicant filed a complaint of unjust dismissal with the Labour Branch of the Department of Human Resources Development Canada against the National Bank of Canada, pursuant to section 240 of Part III of the Code. The adjudicator appointed on March 1, 2006 proceeded to hear the complaint on July 12 and 13, 2006 and on September 19, 2006.

[7] Shortly before the hearing of her complaint before the adjudicator, on May 2, 2006, the small claims court ruled in favour of Ms. Gauthier and allowed her claim against the insurer for the period from September 2003 to July 2004. After learning of this judgment the respondent reconsidered the applicant's case, reviewed its position and decided to cancel the dismissal. The respondent accordingly offered to reinstate the applicant in the position held by her at the time her employment ended on the same pay conditions, and claimed it also offered to compensate her financially for the loss of salary resulting from the termination of her employment.

[8] This offer was made known to the applicant before the hearing of July 12, 2006. The applicant rejected this offer as she had lost confidence in her employer's good faith and on account of the problems with the insurer. The terms of this offer were submitted to the adjudicator by counsel for the Bank at the start of the hearing of July 12, 2006. The adjudicator reviewed it and noted the applicant's rejection of this offer of reinstatement.

ADJUDICATOR'S DECISION

[9] As the respondent had decided to cancel the applicant's dismissal, the adjudicator simply proceeded to assess the compensation to be awarded to the applicant. This is what he explained in the very first paragraphs of his analysis:

> [TRANSLATION]
>
> [222] I no longer have to rule on the dismissal complaint as such. The employer has reviewed its decision and offered to reinstate the complainant in her position with the same benefits and conditions as before her dismissal on February 9, 2005.
>
> [223] The only point still outstanding is to determine the amount of the compensation payable to the complainant following her refusal to accept the reinstatement.

[10] In an elaborate decision of 42 pages the adjudicator first considered the applicant's claim, as supported by the oral as well as documentary evidence, then the assessment of damages submitted by the respondent, once again indicating the details of testimony heard and explaining the breakdown of the amounts which the respondent admitted owing the applicant. Following this review, the adjudicator finally concluded that the respondent had not acted in bad faith and that the amounts it admitted owing the applicant were fair and reasonable.

[11] The adjudicator accordingly concluded that the applicant was entitled to be compensated for the loss of salary between the time she became able to work once again and the time she rejected the offer of reinstatement made to her by the respondent, namely from September 7, 2005 to July 12, 2006. However, the adjudicator deducted from this amount the salary earned by the applicant with another employer to take into account her duty to mitigate her damages.

[12] The adjudicator also took into consideration the money claimed as loss of vacation and salary reduction in determining the compensation to be paid for the period from September 7, 2005 to July 12, 2006. However, he refused to take into account losses alleged and claimed by the applicant in this regard for the period subsequent to the applicant's refusal to be reinstated in her employment. Accordingly, he refused to award the applicant the sum of $192,400 as loss for salary reduction incurred in the next 20 years, as well as the sum of $25,312.50 for loss of vacation in the 15 years following the termination of her employment, as claimed by the applicant.

[13] The adjudicator also accepted the applicant's claim for the loss suffered in connection with her retirement savings plan, which was not disputed by the respondent. At the same time, the adjudicator refused to compensate the applicant for correspondence costs, since these costs related to the correspondence with the insurer, not her termination of employment. He also refused to award reimbursement of bank charges which she received when she was employed by the respondent, as she received the same benefits with her new employer.

[14] The applicant further claimed severance pay corresponding to one month's salary for each year of service. This compensation was denied by the adjudicator on the ground that it is well-settled law that such a claim cannot be made when the non-reinstatement is due to the employee.

[15] On the question of "moral" damages, the adjudicator carefully considered each of the charges made against the respondent and concluded there had been no abuse of right, bad faith or

malice toward the applicant by the respondent. Consequently, the sum of $150,000 claimed by the applicant on this head was not awarded.

[16] Finally, the adjudicator refused to award compensation of $25,000 in exemplary damages on the ground that there was no unlawful breach of a right protected by the *Charter of Human Rights and Freedoms*, R.S.Q. c. C-12 (the Quebec Charter).

[17] In conclusion, the adjudicator noted the cancellation of the dismissal by the employer and the applicant's refusal to accept the offer of reinstatement in her duties, allowed the applicant's unjust dismissal complaint in part and directed the respondent to pay her the sum of $12,928.05, less applicable deductions.

ISSUE

[18] The only issue in the case at bar is whether the adjudicator erred in his assessment of the evidence when he concluded that the applicant was only entitled to compensation of $12,928.05.

LEGISLATIVE PROVISIONS

[19] Sections 242 and 243 of the Code are central to this case, so they should be set out in full at the outset:

Reference to adjudicator	Renvoi à un arbitre
242. (1) The Minister may, on receipt of a report pursuant to subsection 241(3), appoint any person that the Minister	**242.** (1) Sur réception du rapport visé au paragraphe 241(3), le ministre peut désigner en qualité d'arbitre la

considers appropriate as an adjudicator to hear and adjudicate on the complaint in respect of which the report was made, and refer the complaint to the adjudicator along with any statement provided pursuant to subsection 241(1).

personne qu'il juge qualifiée pour entendre et trancher l'affaire et lui transmettre la plainte ainsi que l'éventuelle déclaration de l'employeur sur les motifs du congédiement.

Powers of adjudicator

(2) An adjudicator to whom a complaint has been referred under subsection (1)

(*a*) shall consider the complaint within such time as the Governor in Council may by regulation prescribe;

(*b*) shall determine the procedure to be followed, but shall give full opportunity to the parties to the complaint to present evidence and make submissions to the adjudicator and shall consider the information relating to the complaint; and

(*c*) has, in relation to any complaint before the adjudicator, the powers conferred on the Canada Industrial Relations Board, in relation to any proceeding before the Board, under paragraphs 16(*a*), (*b*) and (*c*).

Pouvoirs de l'arbitre

(2) Pour l'examen du cas dont il est saisi, l'arbitre :

a) dispose du délai fixé par règlement du gouverneur en conseil;

b) fixe lui-même sa procédure, sous réserve de la double obligation de donner à chaque partie toute possibilité de lui présenter des éléments de preuve et des observations, d'une part, et de tenir compte de l'information contenue dans le dossier, d'autre part;

c) est investi des pouvoirs conférés au Conseil canadien des relations industrielles par les alinéas 16*a*), *b*) et *c*).

Decision of adjudicator

(3) Subject to subsection (3.1), an adjudicator to whom a complaint has been referred under subsection (1) shall

(*a*) consider whether the dismissal of the person who made the complaint was unjust and render a decision thereon; and

(*b*) send a copy of the decision

Décision de l'arbitre

(3) Sous réserve du paragraphe (3.1), l'arbitre :

a) décide si le congédiement était injuste;

b) transmet une copie de sa

with the reasons therefor to each party to the complaint and to the Minister.

Limitation on complaints

(3.1) No complaint shall be considered by an adjudicator under subsection (3) in respect of a person where

(*a*) that person has been laid off because of lack of work or because of the discontinuance of a function; or

(*b*) a procedure for redress has been provided elsewhere in or under this or any other Act of Parliament.

Where unjust dismissal

(4) Where an adjudicator decides pursuant to subsection (3) that a person has been unjustly dismissed, the adjudicator may, by order, require the employer who dismissed the person to

(*a*) pay the person compensation not exceeding the amount of money that is equivalent to the remuneration that would, but for the dismissal, have been paid by the employer to the person;

(*b*) reinstate the person in his employ; and

(*c*) do any other like thing that it is equitable to require the employer to do in order to remedy or counteract any consequence of the dismissal.

R.S., 1985, c. L-2, s. 242; R.S., 1985, c. 9 (1st Supp.), s. 16; 1998, c. 26, s. 58.

Decisions not to be reviewed by court

décision, motifs à l'appui, à chaque partie ainsi qu'au ministre.

Restriction

(3.1) L'arbitre ne peut procéder à l'instruction de la plainte dans l'un ou l'autre des cas suivants :

a) le plaignant a été licencié en raison du manque de travail ou de la suppression d'un poste;

b) la présente loi ou une autre loi fédérale prévoit un autre recours.

Cas de congédiement injuste

(4) S'il décide que le congédiement était injuste, l'arbitre peut, par ordonnance, enjoindre à l'employeur :

a) de payer au plaignant une indemnité équivalant, au maximum, au salaire qu'il aurait normalement gagné s'il n'avait pas été congédié;

b) de réintégrer le plaignant dans son emploi;

c) de prendre toute autre mesure qu'il juge équitable de lui imposer et de nature à contrebalancer les effets du congédiement ou à y remédier.

L.R. (1985), ch. L-2, art. 242; L.R. (1985), ch. 9 (1er suppl.), art. 16; 1998, ch. 26, art. 58.

Caractère définitif des décisions

243. (1) Every order of an adjudicator appointed under subsection 242(1) is final and shall not be questioned or reviewed in any court.

No review by *certiorari*, etc.

(2) No order shall be made, process entered or proceeding taken in any court, whether by way of injunction, *certiorari*, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain an adjudicator in any proceedings of the adjudicator under section 242.

1977-78, c. 27, s. 21.

243. (1) Les ordonnances de l'arbitre désigné en vertu du paragraphe 242(1) sont définitives et non susceptibles de recours judiciaires.

Interdiction de recours extraordinaires

(2) Il n'est admis aucun recours ou décision judiciaire — notamment par voie d'injonction, de *certiorari*, de prohibition ou de *quo warranto* — visant à contester, réviser, empêcher ou limiter l'action d'un arbitre exercée dans le cadre de l'article 242.

1977-78, ch. 27, art. 21.

ANALYSIS

(*A) Applicable standard of review*

[20] It is now well settled that courts of law sitting in judicial review of a decision by an adjudicator in the field of labour relations must exercise great restraint. This is so because the field of labour relations is of great importance for society as a whole, conflicts may be costly not only for the persons immediately involved but for the entire economy of the country, and issues are often complex and require a thorough understanding of the internal dynamics of a business and what is actually at stake. The Supreme Court of Canada has several times restated this position, and an illustration is provided by *Toronto (City) Board of Education v. O.S.S.T.F., District 15*, [1997] 1 S.C.R. 487. Although relating to a grievance arbitration arising out of a collective agreement, the comments made by Cory J. for the majority in that case may also be applicable when an adjudicator has to give effect to the Code as in the case at bar (paras. 35 to 37):

> *Canada (Attorney General) v. Public Service Alliance of Canada*, [1993] 1 S.C.R. 941 (*PSAC No. 2*), emphasized the essential importance of curial deference in the context of labour relations where the decision of the tribunal, like the Board of Arbitration in the instant appeal, is protected by a broad privative clause. There are a great many reasons why curial deference must be observed in such decisions. The field of labour relations is sensitive and volatile. It is essential that there be a means of providing speedy decisions by experts in the field who are sensitive to the situation, and which can be considered by both sides to be final and binding.
>
> In particular, it has been held that the whole purpose of a system of grievance arbitration is to secure prompt, final and binding settlement of disputes arising out of the interpretation or application of collective agreements and the disciplinary actions taken by an employer. This is a basic requirement for peace in industrial relations which is important to the parties and to society as a whole . . .
>
> It was for these reasons that *PSAC No. 2* stressed that decisions of labour relations tribunals acting within their jurisdiction can only be

> set aside if they are patently unreasonable. That is very properly an extremely high standard, and there must not be any retreat from this position. Anything else would give rise to the endless protraction of labour disputes resulting in unrest and discontent. Indeed the principle of judicial deference is no more than the recognition by courts that legislators have determined that members of an arbitration board with their experience and expert knowledge should be those who resolve labour disputes arising under a collective agreement.
>
> See also *Parry Sound (District), Social Services Administration Board v. O.P.S.E.U., Local 324*, [2003] 2 S.C.R. 157.

[21] The Federal Court of Appeal recently applied the four criteria of the pragmatic and functional analysis and concluded that the standard of review applicable to an application for review of compensation awarded by an adjudicator appointed pursuant to section 242 of the Code was the standard of patent unreasonableness: see *Bauer v. Seaspan International Ltd.*, 2005 FCA 292 (*Bauer*). That decision only upheld a number of other decisions rendered by the Federal Court to the same effect: see e.g. *Bank of Nova Scotia v. Fraser* (2000), 186 F.T.R. 225; *Gauthier v. Fortier* (2000), 191 F.T.R. 219; *Roe v. Rogers Cablesystems Ltd.* (2000), 4 C.C.E.L. (3d) 170; *Lac La Ronge Indian Band v. Laliberté* (2000), 192 F.T.R. 100; *Wayzhushk Onigum Nation v. Kakeway*, 2001 FCT 819.

[22] In the case at bar the respondent's arguments were limited to challenging the adjudicator's findings of fact in the exercise of his power to award compensation within the meaning of section 242(4) of the Code. Thus, as in *Bauer*, the four background factors support application of the standard of patent unreasonableness. Section 243 of the Code sets out a very watertight privative clause. On the other hand, there is no question that the legislature intended the courts to exercise restraint when it made adjudicators with special expertise in labour relations responsible for

deciding disputes resulting from an unjust dismissal. The aim of settling such disputes quickly also calls for an attitude of deference by the courts. Finally, the point at issue is purely factual in nature since it involves determining whether the adjudicator correctly assessed the evidence before ruling on adequate compensation. In short, the four factors of the pragmatic and functional analysis very clearly indicate that this Court should exercise deference toward the decision by the adjudicator.

[23] The courts have very strictly defined the conditions under which a finding of fact will be treated as patently unreasonable. Even when a superior court considers that the factual findings of an administrative tribunal are based on insufficient evidence, it should not intervene to revise the tribunal's decision. Findings of fact subject to the patent unreasonableness standard may only be revised if they are not based on any evidence. As my colleague Snider J. wrote in a case also involving a complaint of unjust dismissal (*Jennings v. Shaw Cablesystems Ltd.*, 2003 FC 1206):

> [28] A privative clause of this nature [section 243 of the Code] means that a decision of an Adjudicator is not subject to judicial review unless it is so patently unreasonable that it cannot be rationally supported by its enabling legislation and justice requires the intervention of the Court . . .
>
> [29] Thus, as long as there was evidence on the record that supports the Adjudicator's conclusions, this Court should not intervene. It is not the role of the Court in a judicial review to re-weigh the evidence before the Adjudicator.

[24] In other words, this Court will not intervene solely because it might have come to a different conclusion from that reached by the adjudicator or been more or less generous than the latter in determining the compensation the applicant could obtain: see *Atomic Energy of Canada Ltd. v. Sheikholeslami*, [1998] 3 F.C. 349 (F.C.A.). Thus, the Federal Court of Appeal has already upheld a

decision by an adjudicator ordering reinstatement of the employee but awarding nothing to cover the period elapsing between the time of the unjust dismissal and the employee's reinstatement: see *Murphy v. Canada (Adjudicator, Labour Code)*, [1994] 1 F.C. 710. It is only in a case where the decision is clearly unreasonable, obviously irrational and not supported by the evidence that this Court would be justified in intervening: *C.L. c. Nlha'7kapmx Child and Family Services*, 2002 FCTD 348.

(B) Did adjudicator err in assessing evidence?

[25] The applicant objected that the adjudicator had made several errors in interpreting the facts and failed to take other facts into account. To begin with, she maintained that he did not take into consideration the fact that the respondent lacked sufficient grounds for dismissing the applicant.

[26] However, it seems clear to the Court that the adjudicator noted the respondent's admission in this regard and from the outset recognized that the applicant's dismissal was unjust, that is, without good and sufficient cause. Further, he would not have had jurisdiction to order relief within the meaning of subsection 242(4) of the Code if he had not considered the dismissal unjust. This Court has several times held that the adjudicator could not exercise the powers of granting relief set out in subsection 242(4) without concluding that the dismissal was unjust: see *inter alia Teleglobe Canada Inc. v. Larouche* (1999), 170 F.T.R. 300; *Bégin v. Radio Basse-Ville Inc.*, 2006 FC 1143 (aff. by 2007 FCA 238).

[27] That said, and contrary to what the applicant argued, the fact that her dismissal was unjust has no bearing on determining the compensation to which the applicant was entitled, at least for the period subsequent to her refusal. From the moment she rejected the respondent's offer of reinstatement, she could not claim any compensation whatever for loss of employment. The precedents cited by the adjudicator in this regard seem to the Court to be entirely valid.

[28] However, the employer's actions were relevant in determining whether awarding "moral" damages to the applicant was warranted. Contrary to what was alleged by the applicant, the adjudicator considered the respondent's actions, analysed the evidence before him and finally concluded that the respondent had not engaged in malice, bad faith or conspiracy, requirements for an award of "moral" damages.

[29] The case law clearly establishes that an employer may make a mistake and dismiss an employee unjustly without the latter necessarily being entitled to "moral" damages. For an employee to be entitled to such damages, he or she must show that the employer acted maliciously or in bad faith, so as to commit an abuse of right. This rule has been upheld on several occasions, and a clear statement of it is provided in *Wallace v. United Grain Growers Ltd.*, [1997] 3 S.C.R. 701. Speaking for the majority, Iacobucci J. wrote (at paras. 103-104):

> It has long been accepted that a dismissed employee is not entitled to compensation for injuries flowing from the fact of the dismissal itself: see e.g. *Addis*, *supra.* Thus, although the loss of a job is very often the cause of injured feelings and emotional upset, the law does not recognize these as compensable losses. However, where an employee can establish that an employer engaged in bad faith conduct or unfair dealing in the course of dismissal, injuries such as humiliation, embarrassment and damage to one's sense of self-worth

> and self-esteem might all be worthy of compensation depending upon the circumstances of the case. In these situations, compensation does not flow from the fact of dismissal itself, but rather from the manner in which the dismissal was effected by the employer.
>
> Often the intangible injuries caused by bad faith conduct or unfair dealing on dismissal will lead to difficulties in finding alternative employment, a tangible loss which the Court of Appeal rightly recognized as warranting an addition to the notice period. It is likely that the more unfair or in bad faith the manner of dismissal is the more this will have an effect on the ability of the dismissed employee to find new employment. However, in my view the intangible injuries are sufficient to merit compensation in and of themselves. I recognize that bad faith conduct which affects employment prospects may be worthy of considerably more compensation than that which does not, but in both cases damage has resulted that should be compensable.
>
> See also to the same effect: *Banque Nationale du Canada v. Gignac*, D.T.E. 96T-31 (C.A.); *Salvaggio v. Information Communication Service (ICS) Inc.*, [2004] C.L.A.D. No. 206 (QL).

[30] In the case at bar, the adjudicator weighed the evidence and concluded that the respondent had not acted in bad faith. Several points of evidence support this finding by the adjudicator. First, the respondent ensured that the processing of the disability claims was correctly carried out by the insurer. It encouraged the applicant to participate in the assessments of her health requested by the insurer and made sure that the latter had received the applicant's medical reports. From the time the medical assessment of the applicant's case became exclusively a matter for the insurer, it is hard to see how the respondent could have done anything more in handling the matter. Further, the adjudicator properly concluded that the insurer's actions were not relevant for the purposes of the case at bar. The adjudicator could not hold the respondent responsible for the insurer's actions.

[31] Moreover, the respondent did not act hastily in this matter, as the applicant was no longer receiving disability benefits after September 22, 2003. Although the insurer reached its final decision to reject the applicant's claim in December 2004, the respondent waited until February 2005 to require that the applicant report for work. Additionally, it was not shown that the respondent demonstrated any bad faith in setting the date for return to work as the same day the applicant's claim against the insurer was being heard in the small claims court.

[32] Finally, as soon as it was informed of the conclusions by the small claims court, the respondent reacted promptly by deciding to cancel the applicant's dismissal and reinstate her in her duties. In view of all these facts, the adjudicator could reasonably conclude that the respondent had not acted in bad faith. Consequently, he was justified in awarding no compensation for "moral" damages.

[33] The applicant also sought to argue that in the circumstances the decision not to accept the respondent's offer of reinstatement could not be held against her. In her affidavit of March 20, 2007 she maintained that she had never received any offer of monetary compensation: in her view, such an offer would have demonstrated the employer's good faith and would certainly have encouraged her to resume her duties.

[34] It appears that the applicant never made this argument before the adjudicator to explain her refusal to return to work: although the evidence is not completely clear in this regard, she apparently indicated instead to the adjudicator that she was claiming nearly $415,000 in damages and had

completely ceased to trust the respondent. Further, the labour relations advisor responsible for the applicant's case, Diane McKenzie, stated in her affidavit that an offer of monetary compensation accompanied the offer of reinstatement made to the applicant.

[35] Ultimately, it does not really matter whether a monetary offer was made to the applicant. Based on the evidence before him the adjudicator could conclude that the applicant was responsible for the non-reinstatement. He noted at paragraphs 242 and 243 of his decision that the refusal to return to her former employment could be explained by the fact that the applicant had found a new job. He added that the applicant said she no longer trusted her former employer, whom she considered responsible for all the hardships she had endured and wrongs she had suffered, and the adjudicator disagreed with this. In these circumstances, he could conclude that the applicant had rejected the offer of reinstatement.

[36] Additionally, the adjudicator did not have jurisdiction to award exemplary damages to the applicant. Sections 240 *et seq.* of the Code do not give him this power, nor does any other federal legislation. The Quebec Charter cannot be applied in the case at bar since the latter is governed exclusively by federal legislation. Without any legislative support for awarding such damages, the adjudicator thus could not allow this point in the claim.

[37] The applicant did try to challenge the assessment of the amount of her damages made by the adjudicator. After weighing the proposals of each party, the adjudicator decided to rely primarily on the calculations submitted by the respondent. He found that these calculations were fair and

reasonable, unlike the applicant's claim, which he considered to be [TRANSLATION] "exaggerated and completely disproportionate". This is a finding of fact which he based on the evidence before him and which was not shown to be patently unreasonable.

[38] Finally, the applicant objected that the adjudicator did not admit in evidence the decision by the small claims court which recognized the applicant's disabled condition for the period from September 22, 2003 to July 9, 2004. As to this, I will simply make the following two comments. First, the adjudicator was clearly aware of that decision since he mentioned it several times in his judgment. Additionally, and more importantly, the decision was not relevant to the case at bar. As mentioned before, the respondent cannot be blamed for any wrongs which the insurer may have committed. The adjudicator in any case explained this at paragraphs 229 to 236 of his decision, and in the circumstances it was open to him to exclude this evidence from the record.

[39] For all the foregoing reasons I consider that the adjudicator made no error that would justify this Court's intervention and revision of his decision. Despite all the sympathy which one may feel for the difficult situation in which the applicant was placed, it was not shown that the adjudicator "based [his] decision or order on an erroneous finding of fact that [he] made in a perverse or capricious manner or without regard for the material before [him]", to use the language of paragraph 18.1(4)(*d*) of the *Federal Courts Act*, R.S.C. 1985, c. F-7. Consequently, the application for judicial review is dismissed without costs.

ORDER

THE COURT ORDERS that the application for judicial review be dismissed without costs.

"Yves de Montigny"
Judge

Certified true translation

Brian McCordick, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2166-06
STYLE OF CAUSE:	Carole Gauthier v. National Bank of Canada
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	January 9, 2008
REASONS FOR ORDER AND ORDER BY:	the Honourable Mr. Justice de Montigny
DATED:	January 22, 2008

APPEARANCES:

Carole Gauthier	FOR THE APPLICANT(S)
Manon Savard	FOR THE RESPONDENT(S)

SOLICITORS OF RECORD:

No one	FOR THE APPLICANT(S)
Ogilvy, Renault Suite 1100 1981 McGill College Avenue Montréal, Quebec H3A 3C1	FOR THE RESPONDENT(S)