

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160218

Docket: A-430-15

Citation: 2016 FCA 54

[ENGLISH TRANSLATION]

**CORAM: CHIEF JUSTICE NOËL
SCOTT J.A.
DE MONTIGNY J.A.**

BETWEEN:

JENNIFER POULIOT

appellant

and

**DEPUTY HEAD
(Military Grievances External Review Committee
[formerly Canadian Forces Grievance Board])**

respondent

Hearing held at Ottawa, Ontario, on February 16, 2016.

Judgment delivered at Ottawa, Ontario, on February 18, 2016.

REASONS FOR JUDGMENT:

SCOTT J.A.

CONCURRING:

**CHIEF JUSTICE NOËL
DE MONTIGNY J.A.**

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REASONS FOR JUDGMENT

SCOTT J.A.

[1] In a decision rendered on October 31, 2014, an adjudicator from the Public Service Labour Relations Board (PSLRB) dismissed the grievances filed under paragraph 209(1)*b*) of the *Public Service Labour Relations Act*, S.C. 2003, c. 22, s. 2 (the Act) by Jennifer Pouliot (the appellant) concerning decisions made by her employer, the Military Grievances External Review

Committee (the Committee) resulting in her suspension and subsequent termination. The adjudicator's decision is reported as 2014 PSLRB 94.

[2] The appellant filed an application for judicial review of this decision before the Court. She submits that the adjudicator committed multiple errors in assessing the facts warranting our attention.

[3] Based on the doctrine of this Court, the standard of review applicable to a decision of a PSLRB adjudicator concerning a grievance filed following suspension or termination is the standard of reasonableness (*Payne v. Bank of Montréal*, 2013 FCA 33, 2013 FCJ no. 123; *King v. Canada (Attorney General)*, 2013 FCA 131, 2013 FCJ no. 551).

[4] This Court may intervene only to the extent that the adjudicator's decision is contrary to clearly established principles of transparency and intelligibility within the decision-making process and of whether the 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, [2008] 1 S.C.R. 190, paragraph 47).

[5] I am not convinced that the adjudicator's decision in this matter is unreasonable. Contrary to the appellant's submissions, I conclude that the adjudicator did not commit any errors in her assessment of the facts presented and arguments made to her. In my view, the adjudicator's conclusion that the appellant's conduct broke the relationship of trust with her employer, due to her lack of transparency, is justified in view of the evidence of record.

[6] I do not see any errors in the adjudicator's determination that the appellant's use of the Committee's DWAN account for her reserve work creates confusion as to the Committee's real independence (paragraph 215 of adjudicator's decision). The same applies to the appellant's work hours for the reserve during time periods when she should have been performing Committee work. Lastly, the conclusion that the appellant never submitted an accommodation request does not appear unreasonable.

[7] Having reviewed the entire record, I conclude that the adjudicator's decision falls within the range of possible outcomes in the present matter (see *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador Treasury Board*, 2011 SCC 62, [2011] 3 S.C.R. 708). In this context, it is not for this Court to substitute its own decision or to make its own evaluation of the evidence.

[8] Consequently, I would propose that the application for judicial review be dismissed with costs.

"A.F. Scott"

J.A.

"I Agree.
Marc Noël C.J."

"I Agree.
Yves de Montigny J.A."

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-430-15

STYLE OF CAUSE: JENNIFER POULIOT v. DEPUTY
HEAD (Military Grievances
External Review Committee
[formerly Canadian Forces
Grievance Board])

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: FEBRUARY 16, 2016

REASONS FOR JUDGMENT: SCOTT J.A.

CONCURRING: CHIEF JUSTICE NOËL
DE MONTIGNY J.A.

DATE OF REASONS: FEBRUARY 18, 2016

APPEARANCES:

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Martin Desmeules

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JENNIFER POULIOT

FOR THE RESPONDENT
DEPUTY HEAD (Military
Grievances External Review
Committee [formerly Canadian
Forces Grievance Board])

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Committee [formerly Canadian
Forces Grievance Board])