Federal Court of Appeal | Cour d'appel fédérale

Date: 20170526

Docket: A-190-16

Citation: 2017 FCA 114

CORAM: **SCOTT J.A.**
DE MONTIGNY J.A.
WOODS J.A.

BETWEEN:

PAUL RITCHIE

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Halifax, Nova Scotia, on March 8, 2017.

Judgment delivered at Ottawa, Ontario, on May 26, 2017.

REASONS FOR JUDGMENT BY: SCOTT J.A.

CONCURRED IN BY: DE MONTIGNY J.A.
WOODS J.A.

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REASONS FOR JUDGMENT

SCOTT J.A.

[1] Mr. Paul Ritchie (the appellant) is appealing from a Federal Court decision rendered by McDonald J. on May 11, 2016 (2016 FC 527) dismissing his application for judicial review against a decision of the Canadian Human Rights Commission (the CHRC) dated March 10, 2015. The CHRC dismissed the appellant's human rights complaint against the respondent, the Canadian Armed Forces (the CF), and declined to refer it to the Canadian Human Rights

Tribunal (the Tribunal) on the basis that an inquiry into the complaint was not warranted pursuant to subparagraph 44(3)(*b*)(i) of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 (the Act).

[2] The hearing of this appeal was set for March 8, 2017. On February 23, 2017, the respondent wrote to this Court seeking directions with respect to its intention to file a second confidentiality motion. By Order dated December 20, 2016, Webb J.A. of this Court had dismissed a motion for a confidentiality order on the ground that, absent an identical order from the Federal Court protecting the same documents, the respondent's motion was premature. Consequently, the respondent sought, and obtained, a Confidentiality Order from the Federal Court. By Order dated February 17, 2017, Gagné J. granted the relief sought and issued an Order protecting 29 documents attached as individually numbered tabs to exhibit "A" of the confidential affidavit of Major Philip Nicholson found in Federal Court of Appeal File No. A-190-16. On February 22, 2017, the Attorney General's office in Halifax and the Federal Court Registry received an anonymous letter threatening the digital release of the 29 documents protected by the Confidentiality Order issued by the Federal Court.

[3] As a result of the request for directions, this Court held a telephone conference with both parties and issued a Direction to the effect that the respondent's motion for a confidentiality order would be addressed as part of the hearing on the merits of this appeal set for March 8, 2017. On March 7, 2017, the appellant sent an email to this Court and the respondent, amongst other recipients, indicating that he would not participate in the hearing set for the next day because he understood that the time set aside for the hearing of March 8, would be devoted

exclusively to the motion for a confidentiality order rather than the hearing of the merits of his appeal. This Court then issued a second Direction to dispel any misunderstanding and reiterated that it intended to examine the motion for a confidentiality order as part of the hearing of the appeal on the merits, which was set for the next day, on March 8, 2017.

[4] On March 8, 2017, the appellant failed to appear. The Court suspended the hearing and attempts were made to reach the appellant, but without success. As is the practice in such circumstances (*Forner v. Canada (Attorney General)*, 2016 FCA 136, [2016] F.C.J. No. 450 (QL)), the Court decided that this appeal would be examined on the basis of the written submissions filed by the parties and took the matter under reserve, including the appellant's motion to introduce fresh evidence under Rule 351 of the *Federal Court Rules* S.O.R./98-106 (the Rules) and the respondent's motion for a confidentiality order pursuant to Rules 151 and 152 of the Rules.

I. Summary of Facts

A. *The allegations of differential treatment*

[5] The appellant served in the CF between August 22, 2008, and August 22, 2012, under the Royal Canadian Navy. He submits that, during his four years of service, he was discriminated against and harassed on several occasions on account of his homosexuality, mainly in the context of his training at the Naval Engineering School in Halifax, Nova Scotia. More specifically, he recounts the following events: i) bigoted remarks and unpunished "gay bashing" incidents; ii) an instance when he was referred to as a "faggot" by a Commanding Officer; iii) disparities in

training support and assessments; iv) patterns of differential treatment and duty assignments and; v) number of denials of opportunities in the course of his military service, and incorrect course evaluations.

B. *The investigation and the decision of the CHRC*

[6] The appellant filed a complaint with the CHRC on January 23, 2012, on the ground that he had been discriminated against by the CF on the basis of his sexual orientation. Because of a pending grievance with the CF on a related matter, the CHRC initially decided not to address his complaint. Upon the appellant's request to do so, after the grievance was granted in part, the complaint was reactivated and was reassigned to an investigator in September 2014.

[7] After reviewing the evidence provided by both parties, the investigator interviewed the appellant four times, and conducted further interviews with nine members of the CF, including officers, instructors and a peer from his training course. After a two-month-long investigation, the investigator issued a report on December 11, 2014, recommending that the CHRC dismiss the complaint. The investigator concluded that there were reasonable explanations for allegations of differential treatment and that incidents of alleged discrimination and harassment were "not very serious" and remained isolated events that did not warrant further inquiry by the Tribunal.

[8] The CHRC forwarded the report to both parties, specifying that each party could respond with written submissions limited to ten pages. The CF provided its submissions endorsing the investigator's findings and recommendation, while the appellant provided a 7-page response,

disagreeing with the report on several issues. When invited to submit replies, the CF did so, the appellant did not.

[9] Following its analysis of the parties' submissions, the evidence and the report, the CHRC informed the appellant that his complaint would not be referred to the Tribunal for further inquiry.

C. *The decision under appeal—the Federal Court Judgment*

[10] The appellant filed an application for judicial review in the Federal Court, challenging the decision of the CHRC not to refer his complaint to the Tribunal. The Judge dismissed the application for judicial review, ruling that the appellant had failed to show a breach of procedural fairness or unreasonable findings.

[11] The Judge concluded that the investigator's findings were reasonable, as they were supported by the evidence and an adequate analysis. Although the investigation and the report were not flawless, the Judge concluded that the decision of the CHRC to endorse the investigator's recommendation was entitled to a broad margin of appreciation given the factual and policy-based nature of the mandate of the CHRC to determine whether or not a complaint should be referred to the Tribunal for further inquiry.

[12] The Judge also concluded that there had been no breach of the appellant's procedural rights on the part of the CHRC. She held that the ten-page limit imposed by the CHRC for written submissions was not unfair. Secondly, and with respect to the appellant's argument that

he had been prejudiced by not having personally received a copy of the CF's submissions and replies, the Judge determined that it was appropriate for the CHRC to send the CF's submissions to the attorney who was presumed to represent the appellant and to assume that he would forward those submissions to the appellant. The appellant knew the case he had to meet and had a fair opportunity to respond to the issues before the CHRC rendered its final decision. Moreover, the Judge also rejected the appellant's claim that the investigator was biased in the conduct of her investigation.

[13] The appellant, in the course of the hearing before the Judge, referred to unsupported factual assertions and exhibits. As this evidence was not before the CHRC when it analyzed his complaint and was not relevant to his submissions before the Federal Court, the Judge rejected the inclusion of these documents.

II. Issues

[14] This appeal raises three issues:

i) Should this Court allow the appellant to introduce fresh evidence?

ii) Did the Judge err in finding the decision of the CHRC to be reasonable?

iii) Did the Judge err in finding that the CHRC had not violated the appellant's procedural rights?

III. Standard of Review

[15] On appeal from a Federal Court decision in a judicial review proceeding, this Court must determine whether the judge of first instance chose the appropriate standard of review and

whether it was applied correctly (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 at paragraphs 45–47). This Court must effectively step into the shoes of the applications judge and direct its attention to the underlying decision, in this case, the decision of the CHRC.

[16] I am of the view that the Judge did not err by adopting and applying the standard of reasonableness to the decision of the CHRC to dismiss the appellant's complaint, and the standard of correctness as for the issues of procedural fairness raised by the appellant (*Gandhi c. Canada (Procureur général)*, 2017 CAF 26 at paragraph 10 [*Gandhi*]).

IV. Positions of the parties

A. *The Appellant*

(1) The introduction of fresh evidence

[17] The appellant submits that he was never represented by counsel during the CHRC proceedings. He seeks to introduce in evidence a chain of emails he exchanged with the respondent's counsel, arguing that they would show that he was not represented by counsel during the proceedings before the CHRC. He submits that this evidence would support his allegation of perjury against the respondent's counsel and prove factual errors in the Judge's decision. A previous order by Stratas J.A. dated July 6, 2016, referred the issue of whether this new evidence should be accepted to this panel.

(2) The decision of the CHRC was unreasonable

[18] The appellant submits that the decision of the CHRC was unreasonable since it relied on a report that shows a fundamentally flawed investigation. According to the appellant, the investigator made numerous factual errors in her analysis of his complaint, namely disregarding important aspects of his complaint, such as his grievance with the CF, and did not crosscheck witness statements with the evidence. He submits that these mistakes reveal the fundamental imperfections of the investigation. Therefore, the CHRC's reliance on the investigator's report led it to render an unreasonable decision. The appellant takes issue with the Judge's conclusion that he was not owed a perfect investigation; he submits that such a conclusion results in denying him and the Lesbian, Gay, Transgender, Bisexual and Queer community (the LGTBQ) of the full protection they are entitled to under the Act and, consequently, he submits it is contrary to s.15 of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (the Charter).

(3) The appellant's procedural rights

[19] The appellant submits that his procedural rights were violated as the investigator failed to conduct a thorough and impartial investigation of his complaint. In addition, he submits that a breach of procedural fairness is also shown by the documented flaws of the investigation. In that respect, he points to: i) the lack of adequate opportunity to respond to the CHRC's findings, namely the 10-page limit imposed on his written response to the investigation report; ii) the investigator's inability to adequately examine his complaint due to her travels abroad in the course of her investigation; iii) the investigator's partiality given her alleged ill motives during

what he calls a restrictive investigation and the report's conclusion that the CHRC did not have to determine whether he had been actually discriminated against; and iv) the investigator's allegedly inadequate qualifications to conduct an investigation involving CF and LGBTQ human rights matters. Moreover, he questions the Judge's knowledge and expertise to review the decision of the CHRC and argues that she used a stereotype when he was referred to as a "homosexual" in her judgment.

[20] The appellant also submits that email exchanges between the investigator and a military official over unsecured public email servers jeopardized the confidentiality of his personal information and constitute a serious breach of his privacy rights. He alleges that the respondent's counsel was disingenuous and committed perjury when she mentioned that he had been represented by counsel. He asserts that the respondent's counsel intentionally caused the public disclosure of his personal information when it was filed into the Court's registry under Rule 318 of the Rules, instead of redacting the personal information he had previously sought through confidential access to information requests.

B. *The Respondent*

[21] The respondent takes the position that this Court should dismiss this appeal.

(1) The fresh evidence

[22] The respondent submits that the appellant failed to meet his onus with respect to the admission of fresh evidence, given that the evidence that he seeks to adduce is irrelevant to any

issue on appeal or to the appeal's outcome, reflects unsupported allegations and is inadmissible in a judicial review proceeding.

(2) The decision of the CHRC was reasonable

[23] The respondent argues that the CHRC exercised its discretion in a reasonable manner when it declined to refer the complaint for further inquiry. In the absence of fundamental flaws in the investigation and its subsequent report, deference is owed to the CHRC's determination, given its policy-based mandate and the factual context of this case. It submits that, although the investigator's report was not flawless, reasonableness is the applicable standard. That standard does not require absolute perfection in relation to every step of the CHRC's investigation, as a neutral and thorough analysis of the complaint suffices.

(3) There was no breach of procedural fairness

[24] The respondent emphasizes that the CHRC's investigation was neutral and thorough, and the appellant was aware of the case he had to meet, having been informed and given the opportunity to respond on two occasions to the investigation report and to the respondent's submissions. The respondent submits that allegations of improper conduct against the Federal Court Judge, the respondent and its counsel, are unsupported by the evidence; they are vexatious and solely reflect the appellant's personal opinion. In the respondent's view, there is no evidence supporting the appellant's allegations that the investigator was biased or lacked expertise to conduct her investigation, as these are unsupported personal attacks.

[25] Moreover, the respondent asks this Court to dismiss the appellant's allegations pertaining to an alleged breach of privacy as that issue is not dispositive of this case, was not raised before the CHRC and the Federal Court, and should not be entertained now by this Court. It is the respondent's view that in the course of his complaint, the appellant consented to the disclosure of his personal information to concerned parties.

V. Analysis

A. *Should this Court consider the fresh evidence that the appellant wants to introduce pursuant to Rule 351 of the Federal Courts Rules?*

[26] The appellant seeks to introduce a chain of emails exchanged with the respondent's counsel as new evidence in an attempt to demonstrate that the respondent's counsel committed perjury by stating that he was represented by counsel. He submits that it would show that he did not retain counsel during the CHRC's proceedings, and that the Judge imported these factual errors into her judgment.

[27] Under Rule 351 of the Rules, this Court can grant leave to introduce fresh evidence on appeal only in limited circumstances. To meet this onus, the appellant must demonstrate that the new evidence "could not have been discovered earlier through reasonable diligence, is practically conclusive of an issue on appeal and, of course, is credible." (*Gap Adventures Inc. v. Gap, Inc.*, 2012 FCA 101, 433 N.R. 267 at paragraphs 6-11; *Assessor for Seabird Island Indian Band v. BC Tel*, 2002 FCA 288, [2003] 1 F.C.R. 475 at paragraph 28; *Amchem Products Inc. v. British Columbia (Workers' Compensation Board)*, [1992] S.C.J. No. 110 (QL), 192 N.R. 390).

[28] The evidence the appellant seeks to introduce has no bearing on the outcome of this case, neither as for the issue of reasonableness of the decision nor as for procedural fairness. Since the fresh evidence is not practically conclusive for any issue under appeal, the appellant has not met the onus to introduce new evidence before this Court (*Canada (Attorney General) v. Baltruweit*, 2003 FCA 324 at paragraph 10).

[29] Therefore, that evidence will not be accepted.

B. *Did the Judge err in finding the decision of the CHRC to be reasonable?*

(1) The alleged errors in the investigation report are not determinative

[30] I must reject the appellant's submission that the decision of the CHRC is unreasonable. Incorrect or vague facts, which are inconsequential to a determination of whether discriminatory acts actually occurred, cannot, on their own, result in a finding that a decision is unreasonable (*Slattery v. Canada (Human Rights Commission)*, 1994 CanLII 3463 (FC), [1994] 2 F.C. 574 (T.D.), affirmed (1996), 205 N.R. 383 (F.C.A.); *Phipps v. Canada Post Corporation*, 2016 FCA 117, 484 N.R. 7 at paragraph 7 [*Phipps*]). Absent the demonstration that a decision under review was essentially based on incorrect facts, there is no reviewable error warranting this Court's intervention. As this Court has previously stated in *Tahmourpour v. Canada (Solicitor General)*, 2005 FCA 113, 332 N.R. 60 [*Tahmourpour*], minor imperfections in an investigation and its report are not sufficient grounds to overturn a decision:

> [39] Any judicial review of the Commission's procedure must recognize that the agency is master of its own process and must be afforded considerable latitude in the way that it conducts its investigations. An investigation into a human rights complaint cannot be held to a standard of perfection; it is not required to turn

> every stone. The Commission's resources are limited and its case load is heavy. It must therefore balance the interests of complainants in the fullest possible investigation and the demands of administrative efficacy: see, for example, *Slattery v. Canada (Human Rights Commission)* at para. 55; Canadian Human Rights Commission, *Annual Report for 2001* (Ottawa: Minister of Public Works and Government Services, 2002), p. 33.

[31] The investigator was required to conduct a thorough and neutral investigation. Absolute perfection is not the standard. The investigator's efforts in assessing the appellant's complaint met this standard and the appellant has failed to demonstrate that the investigator's impartiality and methodology are questionable.

[32] I accept that the investigation report contains factual mistakes, but these are not material and they did not lead to fundamentally flawed conclusions. For instance, the report mistakenly states that the appellant was posted in British Columbia for training (Appeal Book, Vol. 2 p. 510, Investigation Report p. 4), when he was in fact based in Halifax.

[33] As a second example of an alleged error, the appellant's submission that the investigator erred in finding that he was "released from service at his own request in 2012" (*ibidem*). According to the appellant, he was released from the CF because of his homosexuality. This could be a significant error if the record supported such a finding. The evidence of record, however, tells a different story.

[34] The record reveals that the appellant was, in fact, released at the end of his mandatory service period in 2012. The documents of record show that, in June 2011, the appellant submitted a request for a voluntary release from the CF, signalling a wish to terminate his service. Shortly

thereafter, on July 27, 2011, the appellant attempted to withdraw that request, but he was nonetheless eventually released as per his initial request for a voluntary release.

[35] Given that the appellant had sought to leave the CF of his own initiative a year earlier, it can reasonably be asserted that the CF's decision to release him at the expiration of his mandatory service period relates not to discrimination, but to his own earlier request to terminate his service. Consequently, when read in this context, the investigator's statement that the appellant was released in 2012 at "his own request" does not constitute a factual error *per se*.

[36] Other alleged errors are summarized in paragraph 32 of the Judge's decision. In my view, these factual errors are not fundamental errors that make the decision of the CHRC unreasonable, as the allegedly erroneous factual findings cannot affect the outcome of the decision of the CHRC decision even if the facts were proven to be incorrect.

[37] In any event, the pleading process afforded the appellant an opportunity to raise and eventually correct these alleged factual errors before the CHRC made its final determination. The investigation report is but one element of the record. The submissions and additional evidence of the parties were also considered by the CHRC when it made its final determination. Ultimately, the CHRC took into account the reasonable explanations provided by the CF regarding the various allegations of harassment and discrimination, exercised its discretion and followed the investigator's recommendation not to refer the complaint for further inquiry before the Tribunal. Deference must be afforded to the CHRC in the absence of tangible evidence pointing towards

an unreasonable outcome (*Sketchley v. Canada (Attorney General)*, 2005 FCA 404, [2006] 3 F.C.R. 392 at paragraph 38 [*Sketchley*]).

(2) The reliance of the CHRC on the investigation report was reasonable

[38] In the early stages of a complaint, the investigative role of the CHRC is not to determine whether discrimination has occurred. Rather, its role upon assigning a complaint to an investigator is to determine if further inquiry by the Tribunal is called for. This is a highly fact- and policy-driven process. A broad margin of appreciation and a high degree of deference must be afforded to the CHRC when this kind of decision is reviewed (*Bergeron v. Canada (Attorney General)*, 2015 FCA 160, [2015] F.C.J. No 834 (QL) at paragraph 45; *Canada (Minister of Transport, Infrastructure and Communities) v. Jagjit Singh Farwaha*, 2014 FCA 56, 455 N.R. 157 at paragraphs 90–99; *Sketchley*).

[39] Deference must be afforded to the CHRC when it assesses whether the probative value of the evidence gathered by the investigator and whether the submissions of the parties warrant further inquiry before the Tribunal (*Colwell v. Canada (Attorney General)*, 2009 FCA 5, 387 N.R. 183 at paragraph 14 [*Colwell*]). In contradistinction to what happened in *Tahmourpour* at paragraph 40, a case cited by the appellant, the investigator did not fail to investigate "obviously crucial evidence". On the contrary, the investigator's findings reflect a thorough and detailed analysis. When considering the investigator's report as a whole, there is no justification for this Court to revisit the Judge's determinations, as the record supports the reasons and the outcome of the decision of the CHRC (*Colwell* at paragraph 15).

[40] Having carefully examined each of the conclusions set out in the investigator's 22-page report, I have not been able to identify a single reviewable error. Reasonable explanations were provided by the CF for each incident where discrimination was alleged by the appellant or as to findings of differential treatment. According to the investigator, these acts did not relate to the appellant's sexual orientation or could not be viewed as a pretext for discrimination. In other instances where harassing and discriminatory acts were documented, the investigator found that these events were not serious enough to warrant further inquiry and were isolated events (see summary of findings: Appeal Book, Vol. 2 pp. 527–528, Investigation Report pp. 21–22 at paragraphs 197–198).

[41] The investigator's recommendation was made in the light of "all the circumstances of the complaint" (Appeal Book, Vol. 2 p. 528, Investigation Report p. 22 at paragraph 203) and reflects an overall consideration of potential patterns of discrimination or harassment. Since it was not the role of the investigator to determine if there had been actual instances of discrimination, but rather if further inquiry was warranted, she was not required to determine, on the basis of a careful application of a legal test, whether a *prima facie* case of discrimination had been made out in view of the relevant case law of the Tribunal. While each alleged incident was analyzed separately and treated as an innocuous event, the investigator's report summary and recommendation justify a conclusion determining that, taken together, the overall effect of these incidents did not reflect a pattern of discrimination and/or harassment.

[42] The decision of the CHRC reflects a justifiable, transparent and intelligible conclusion which is defensible in the light of the applicable facts and law (*Dunsmuir v. New Brunswick*,

2008 SCC 9, [2008] 1 S.C.R. 190 at paragraph 47). Moreover, it is not this Court's role to reweigh the probative value of the evidence or crosscheck witness statements with other pieces of evidence as argued by the appellant. Rather, this Court must determine whether the CHRC committed a reviewable error (*Phipps*, at paragraph 7). Consequently, the decision of the CHRC to rely on the investigation report and to decline to refer the appellant's complaint to the Tribunal for further inquiry was reasonable, as it fell within the possible and acceptable outcomes.

C. *Did the Judge err in finding that the CHRC had not violated the appellant's procedural rights?*

[43] This Court very recently reiterated that it is not a breach of procedural fairness for the CHRC to limit the written submissions of a party to ten pages (*Gandhi*).

[44] The law is well settled; an administrative decision maker is the master of its own procedure (*Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817, 174 D.L.R. (4th) 193 at paragraph 27; *Sketchley* at paragraph 119).

[45] The appellant was afforded two opportunities to present his submissions, once after the investigator released her report and a second time, during the pleading phase. He opted to only provide submissions on the first of these occasions. Furthermore, he submitted a 7-page response, even though he was entitled to a total of 10 pages. These choices made by the appellant contradict his assertion that the page restriction limited his ability to respond to the report, as he failed to make full use of the 10-page limit and respond with another 10-page response during the pleading phase. I cannot conclude that the appellant suffered a prejudice as he had the

opportunity to present his most compelling arguments in his submissions. Moreover, it was reasonable to forward correspondence to Mr. Ritchie's counsel, as he had indicated that he was represented. The CF's submission was not only brief but merely agreed with the investigator's findings and was not sufficient to vitiate the Commission's decision. Furthermore, the appellant was well aware of the case to be met and had sufficient opportunities to respond to the investigator's report before a final decision was rendered.

[46] The appellant also raises a number of allegations of bad faith or ill motives on the part of the respondent's counsel that constitute, in his view, breaches of procedural fairness. However, I concur with the respondent that zealous advocacy does not constitute wrongful conduct (*Dove v. Canada*, 2016 FCA 231). Nothing in the record supports the appellant's allegations. The same holds for the appellant's allegation that the investigator was biased and unqualified to conduct her investigation, or even that she and the Judge did not possess the necessary expertise to handle this case. The appellant has failed to produce any evidence of improper qualifications or expertise in this regard. In view of the record, no reasonable person would suspect bias on the part of the investigator. Unless proven otherwise, it is also assumed that investigators appointed by the CHRC and judges have the necessary knowledge, experience and qualifications to examine matters covered by the Act.

[47] As for the appellant's allegation that his personal information was intentionally disclosed publicly by the respondent's counsel, the appellant seems to confuse the confidentiality afforded to access to information requests under the *Access to Information Act*, R.S.C. 1985, c. A-1, and the disclosure of evidence in the normal course of litigation. For instance, in the absence of a

confidentiality order, no party involved in public litigation has an expectation of privacy in relation to Court documents (see paragraphs 8(2)(*b*),(*c*), and (*e*) of the *Privacy Act*, R.S.C. 1985, c. P-21).

[48] A last ground raised by the appellant in the context of his procedural fairness argument is that the email communications between the investigator and the CF constitute a breach of his privacy rights. If the appellant wishes to argue, as he attempts to do in his Memorandum of Fact and Law, that the investigator's email communications with the CF are not in accordance with the *Privacy Act*, he must present this argument through appropriate legal avenues. That issue cannot now be entertained by this Court since it was not raised before the CHRC.

[49] For the foregoing reasons, I propose that this appeal be dismissed with costs.

"A.F. Scott"

J.A.

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

"I agree.
J. Woods J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

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APPEARANCES:

Melissa A. Grant	FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney Deputy Attorney General of Canada	FOR THE RESPONDENT ATTORNEY GENERAL OF CANADA