

Date: 20080312

Docket: A-84-07

Citation: 2008 FCA 97

**CORAM: RICHARD C.J.
SEXTON J.A.
RYER J.A.**

BETWEEN:

ATTORNEY GENERAL OF CANADA

Appellant

and

CHANDER P. GROVER

Respondent

Heard at Ottawa, Ontario, on March 12, 2008.

Judgment delivered from the Bench at Ottawa, Ontario, on March 12, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

RICHARD C.J.

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RICHARD C.J.

[1] This is an appeal from a decision of the Federal Court (*Canada (Attorney General) v. Grover*, 2007 FC 28), dismissing an application for judicial review of a decision of an adjudicator of the Public Service Labour Relations Board (*Grover v. National Research Council of Canada*), 2005 PSLRB 150.

[2] The nature of the question is whether the employer had reasonable grounds to request that the grievor attend a medical assessment by a physician other than his own personal physician and to

further instruct him to refrain from presenting himself to work until he complied with the request, or whether these were unwarranted disciplinary measures imposed on the grievor.

[3] The adjudicator found that these measures were clearly disciplinary in nature, as appears from the correspondence with the grievor and the overall context and attitude of the employer.

[4] The adjudicator concluded, based on the evidence and jurisprudence, that the actions of the employer are to be characterized as disciplinary and that such discipline was unwarranted since the grievor was not provided with reasonable justification for such a request and, accordingly, the adjudicator allowed the grievances.

[5] In *Dunsmuir v. New Brunswick*, 2008 SCC 9, dated March 7, 2008, the Supreme Court of Canada has determined that there ought to be only two standards of review in judicial review proceedings: correctness and reasonableness.

[6] A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable and in particular whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law. The decision of the adjudicator does fall within that range.

[7] Accordingly, the appeal will be dismissed with costs.

"J. Richard"
Chief Justice

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-84-07

**(APPEAL FROM A JUDGMENT OF THE FEDERAL COURT DATED
JANUARY 16, 2007 (DOCKET NUMBER: T-1975-05))**

STYLE OF CAUSE: ATTORNEY GENERAL OF
CANADA v. CHANDER P.
GROVER

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: March 12, 2008

REASONS FOR JUDGMENT OF THE COURT BY: RICHARD C.J.

DELIVERED FROM THE BENCH BY: RICHARD C.J.

APPEARANCES:

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Mr. Paul Champ FOR THE RESPONDENT

SOLICITORS OF RECORD:

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