

**Date: 20081021**

**Docket: A-58-08**

**Citation: 2008 FCA 317**

**CORAM: NOËL J.A.  
NADON J.A.  
TRUDEL J.A.**

**BETWEEN:**

**NATIONAL BANK OF CANADA**

**Appellant**

**and**

**SANDRA SIGOUIN**

**Respondent**

Hearing held at Montréal, Quebec, on October 21, 2008.

Judgment delivered from the bench at Montréal, Quebec, on October 21, 2008.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**TRUDEL J.A.**

**Date: 20081021**

**Docket: A-58-08**

**Citation: 2008 FCA 317**

**CORAM: NOËL J.A.  
NADON J.A.  
TRUDEL J.A.**

**BETWEEN:**

**NATIONAL BANK OF CANADA**

**Appellant**

**and**

**SANDRA SIGOUIN**

**Respondent**

**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the bench at Montréal, Quebec, on October 21, 2008)**

**TRUDEL J.A.**

[1] This is an appeal from a decision of Justice de Montigny (the judge) of the Federal Court (T-1177-07) dated January 24, 2008, that allowed the respondent's application for judicial review of an adjudicator's decision (YM2707-7204) dated May 30, 2007, and in which the adjudicator

concluded that the respondent had been dismissed for incompetence and that the employer had respected the requirements with which it had to comply.

[2] While acknowledging that it was not up to him to rule on the appropriateness of the dismissal, the judge however was of the opinion that the adjudicator was at least obliged to consider the fact that no objection had ever been made against the respondent in her 20 years of service.

[3] In addition, the judge made a link between the duration of the employment and the necessity for an employer to show that sufficient efforts were made to reassign the employee to some other employment in its organization.

[4] In the judge's view, it was hard to conclude that a decision which did not take those factors into account was reasonable. However, in her complaint, the respondent had invoked her 20 years of loyal service, and nothing shows that the adjudicator did not take this into consideration in his order.

[5] By concluding as he did, we are of the opinion that the judge substituted his own assessment of the evidence for that of the adjudicator, which he could not do unless the adjudicator's decision could be considered to be unreasonable on the basis of the evidence on record.

[6] In addition, the judge's criticism to the effect that the adjudicator's decision was not supported by sufficient reasons on these points is no more acceptable, considering the reasons given by the adjudicator.

[7] Accordingly, the appeal will be allowed with costs, the judgment of the Federal Court will be set aside, and the application for judicial review of the adjudicator's decision will be dismissed.

“Johanne Trudel”

---

J.A.

Certified true translation  
Michael Palles

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-58-08

**(APPEAL FROM AN ORDER OF THE HONOURABLE JUSTICE DE MONTIGNY OF THE FEDERAL COURT, DATED JANUARY 24, 2008, DOCKET NUMBER T-1177-07).**

**STYLE OF CAUSE:** NATIONAL BANK OF CANADA  
CANADA v. SANDRA SIGOUIN

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** October 21, 2008

**REASONS FOR JUDGMENT OF THE COURT BY:** NOËL J.A.  
NADON J.A.  
TRUDEL J.A.

**DELIVERED FROM THE BENCH BY:** TRUDEL J.A.

**APPEARANCES:**

Lukasz Granosik FOR THE APPELLANT

Irving Gaul FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Ogilvy Renault FOR THE APPELLANT  
Montréal, Quebec

Irving Gaul FOR THE RESPONDENT  
Boucherville, Quebec