Federal Court of Appeal | Cour d'appel fédérale

Date: 20120522

Docket: A-69-12

Citation: 2012 FCA 147

CORAM: **SHARLOW J.A.**
PELLETIER J.A.
MAINVILLE J.A.

BETWEEN:

THE PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Appellant

and

IRENE J. BREMSAK

Respondent

Heard at Vancouver, British Columbia, on May 14, 2012.

Judgment delivered at Ottawa, Ontario, on May 22, 2012.

REASONS FOR JUDGMENT BY: SHARLOW J.A.

CONCURRED IN BY: PELLETIER, J.A.
MAINVILLE, J.A.

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REASONS FOR JUDGMENT

SHARLOW J.A.

[1] In a judgment dated February 16, 2012 (2012 FC 213), Justice Lemieux found the Professional Institute of the Public Service of Canada guilty of contempt of an order (the "Reinstatement Order") made by the Public Service Labour Relations Board on August 26, 2009 (2009 PSLRB 103) which, among other things, ordered the reinstatement of the respondent Irene Bremsak to elected and appointed positions from which she had been wrongfully removed. For the reasons that follow, I would dismiss the appeal.

Proceedings before the Public Service Labour Relations Board

[2] This matter originally involved two unfair labour practice complaints Ms. Bremsak filed with the Board pursuant to the *Public Service Labour Relations Act*, S.C. 2003, c. 22. The first

complaint was made on November 16, 2007. In that complaint Ms. Bremsak alleged that the Institute had breached paragraph 188(*c*) of the Act when it apologized on Ms. Bremsak's behalf for certain comments she had made following a local election.

[3] The second complaint was filed on July 8, 2008. It related to the Institute's response to Ms. Bremsak's first complaint. The Institute had adopted a policy that any member who referred to an "outside body" (including the Board) a matter that has been or ought to be referred to the Institute's internal procedure would automatically be subject to temporary suspension from elected or appointed office. When Ms. Bremsak filed her first complaint to the Board, the Institute applied that policy and suspended Ms. Bremsak from the positions she then held (shop steward, member-at-large of the SP Vancouver Sub-Group, president of the Vancouver Branch, member-at-large of the B.C./Yukon Regional Executive, and sub-group coordinator of the SP Group Executive). In Ms. Bremsak's second complaint to the Board, she alleged that the Institute had breached subparagraph 118(*e*)(ii) of the Act when it adopted the policy.

[4] In the Reinstatement Order, the Board dismissed the first complaint, allowed the second complaint, and made a number of orders as a remedy in respect of the second complaint, including the following (at paragraphs 143 to 145 of the Board's reasons):

> **143.** The [Institute] is directed to rescind the application of its "Policy Relating to Members and Complaints to Outside Bodies" to [Ms. Bremsak].
>
> **144.** The [Institute] is directed to amend its "Policy Relating to Members and Complaints to Outside Bodies" to ensure that it complies with the Act.

> **145**. The [Institute] is directed to restore [Ms. Bremsak's] status as an elected official of the bargaining unit and to advise its members and officials, in the form described in paragraph 131 of this decision, that she has been reinstated to all of her elected and appointed positions subject to the normal operation of the constitution and by-laws of the [Institute].

[5] The reference in paragraph 145 of the Reinstatement Order to paragraph 131 of the decision is somewhat unclear. It seems to have been intended as a reference to paragraph 132, which sets out the text of the notice to be given to the Institute's members and officials. This is implicitly acknowledged by the parties in a statement of agreed facts filed in the Federal Court. Paragraphs 131 and 132 of the Board's decision read as follows:

> **131.** Finally, I consider that the real harm in this case has to be the complainant's suspension from her elected positions and that the objective of any remedy must be, as much as practicable, to correct that harm and to restore her to the situation she was in before her suspension. Therefore, I direct that the suspensions of the complainant from elected and appointed offices be rescinded. Furthermore, the fact that the membership and officials of the bargaining agent were told of the complainant's suspension is significant, and I conclude that it is appropriate to direct that the membership and officials be told the suspensions have been rescinded. Unlike in *Veillette* 2, I find that I have the authority to intervene in the bargaining agent's internal affairs to fashion a remedy that relates to the matters set out in subparagraph 188(*e*)(ii) of the *Act*. These include penalties imposed by a bargaining agent because a person has made an application to the Board and, in this case, the penalty was suspension from office. This Order is not intended to override the normal operation of the constitution and by-laws of the bargaining agent in matters such as the usual expiry of the terms of elected or appointed offices.
>
> **132** For these reasons, I consider it necessary in the circumstances of this case to direct the bargaining agent to publish the following announcement in a prominent place in the next edition of one of its regular and significant publications to the membership (this may be an online announcement):

Announcement to all members and officials of the Institute

> On April 9, 2008, Ms. Irene Bremsak was temporarily suspended from her positions of Member-at-Large, SP Vancouver Sub-Group, President, Vancouver Branch; Member-at-Large, B.C./Yukon Regional Executive; and Sub-Group Coordinator, SP Group Executive. This suspension was a result of the Institute's "Policy Relating to Members and Complaints to Outside Bodies" and a complaint filed by Ms. Bremsak with the Public Service Labour Relations Board.
>
> The Public Service Labour Relations Board has recently directed, pursuant to subparagraph 188(e)(ii) and section 192 of the *Public Service Labour Relations Act*, that the Institute rescind this policy as it applies to the circumstances of Ms. Bremsak and to amend the policy to ensure that it complies with the *Public Service Labour Relations Act*. The Board also concluded that there may be different circumstances when it is appropriate to suspend a member from elected or appointed office. Finally, the Board directed that this announcement be made to members and officials of the Institute.
>
> Therefore, Ms. Bremsak is reinstated to all her elected and appointed positions effective immediately, subject to the normal operation of the Institute's by-laws.

The Institute’s challenge to the Reinstatement Order

[6] On September 2, 2009, the Institute applied to this Court for judicial review of the Reinstatement Order, and subsequently filed two motions to stay the Board’s order. Both stay motions were dismissed on October 28, 2009 (2009 FCA 312). On April 28, 2010, the Institute discontinued its judicial review application.

The Institute’s failure to comply with the Reinstatement Order

[7] The Institute did not comply with the Reinstatement Order when it was made on August 26, 2009, or soon afterward. For reasons that will become apparent, there is no evidence in the record

explaining why the Institute did not comply with the Reinstatement Order soon after it was made although, as explained below, the Institute claims to have a lawful excuse for its non-compliance on and after October 20, 2009.

[8] The Institute has also asserted that it would be unreasonable to hold it in contempt of the Reinstatement Order before October 28, 2009, the date on which its two stay applications were determined by this Court. It is convenient to deal with that submission at the outset because it is so obviously devoid of merit. As a matter of law, merely taking proceedings to stay an order cannot excuse non-compliance with the order, although in certain circumstances non-compliance with an order while a stay application is pending may be a mitigating factor in determining the consequences of non-compliance.

Enforcement proceedings

[9] On September 1, 2009, Ms. Bremsak submitted a request to the Board that the Reinstatement Order be filed with the Federal Court pursuant to section 52 of the Act so that it could be enforced as an order of the Federal Court. Section 52 reads as follows:

52. (1) The Board must, on the request in writing of any person or organization affected by any order of the Board, file a certified copy of the order, exclusive of the reasons for the order, in the Federal Court, unless, in its opinion,	**52.** (1) Sur demande écrite de la personne ou de l'organisation touchée, la Commission dépose à la Cour fédérale une copie certifiée conforme du dispositif de l'ordonnance sauf si, à son avis :
(*a*) there is no indication of failure or likelihood of failure to comply with the order; or	*a*) soit rien ne laisse croire qu'elle n'a pas été exécutée ou ne le sera pas;

(*b*) there is other good reason why the filing of the order in the Federal Court would serve no useful purpose.	*b*) soit, pour d'autres motifs valables, le dépôt ne serait d'aucune utilité.
(2) An order of the Board becomes an order of the Federal Court when a certified copy of the order is filed in that court, and it may subsequently be enforced as such.	(2) En vue de son exécution, l'ordonnance rendue par la Commission, dès le dépôt à la Cour fédérale de la copie certifiée conforme, est assimilée à une ordonnance rendue par celle-ci.

[10] The Institute opposed the request for the filing of the Reinstatement Order in the Federal Court. By order dated December 4, 2009 (2009 PSLRB 159), the Board determined that the Institute had not complied with paragraph 143 and 145 of the Reinstatement Order, and rejected the submission of the Institute that no useful purpose would be served by filing it in the Federal Court. The Board made an order accordingly, and the Reinstatement Order was filed on December 8, 2009. Ms. Bremsak immediately commenced contempt proceedings.

Other proceedings by the Institute against Ms. Bremsak

[11] As these events were unfolding, the Institute was taking further steps against Ms. Bremsak in connection with harassment complaints made against her by five members of the Executive Branch of the Institute in April and June of 2009. On October 20, 2009, the Institute informed Ms. Bremsak that following an investigation, her membership in the Institute had been suspended for a period of five years effective immediately. The Institute informed Ms. Bremsak that she could not be a candidate for office, or vote for officers, or otherwise participate in the affairs of the Institute.

[12] The October 20, 2009 decision of the Institute is the subject of a further unfair labour practice complaint filed with the Board by Ms. Bremsak. The Institute disputes the complaint. That matter is still pending before the Board.

The show cause proceedings in the Federal Court

[13] In show cause proceedings before a prothonotary on March 26, 2010, the Institute admitted in a statement of agreed facts that by December 8, 2009 when the Reinstatement Order was filed in the Federal Court, it had not rescinded any of Ms. Bremsak's suspensions, it had not restored her to any of her elected or appointed positions, and it had not advised the members and officials of the Institute in the form described in paragraphs 131 and 132 of the Reinstatement Order that Ms. Bremsak had been reinstated to all of her elected and appointed positions.

[14] A show cause order was made by a prothonotary on June 17, 2010 (2010 FC 661) on the basis that Ms. Bremsak had made out a *prima facie* case of contempt by the Institute. The allegation of contempt as set out in the prothonotary's order reads as follows:

> The acts with which the Institute is charged is that the Institute breached the Order of this Court filed on December 8, 2009 by failing , in a timely manner, to restore the status of [Ms. Bremsak] as shop steward, and member on the British Columbia Yukon Regional Executive and SP Vancouver Sub-Group Executive, and to advise its members and officials, in the form described in paragraph 131 of [the Board's] decision, that [Ms. Bremsak] has been reinstated to all of her elected and appointed positions subject to the normal operation of the constitution and by-laws of the [Institute].

[15] In the show cause order, the recitation of the offices held by Ms. Bremsak excludes two of the positions from which Ms. Bremsak had been suspended, namely her positions with the National SP Group Executive and the Greater Vancouver Branch Executive. That is because Ms. Bremsak's terms on those two positions expired before December 8, 2009.

[16] The prothonotary had concluded (at paragraph 33 of his reasons) that "a *prima facie* case of contempt has not been made out with respect to reinstatement of Ms. Bremsak to the two positions whose terms had expired at the time the Board decision was filed with this Court." That conclusion was based on the premise, stated at paragraph 30 of his reasons, that the requirement to comply with the Reinstatement Order crystallized on December 8, 2009, when it was filed with the Federal Court and became a court order.

Warman v. Tremaine

[17] The show cause order was made without the benefit of the decision of this Court in *Warman v. Tremaine*, 2011 FCA 297 (leave to appeal to the Supreme Court of Canada denied: *Tremaine v. Canada (Canadian Human Rights Commission)*, [2011] S.C.C.A. No. 510). The narrow issue determined in *Warman* is that an order of a tribunal that is filed in the Federal Court pursuant to a provision similar to section 52 of the Act may be the subject of contempt proceedings in the Federal Court if the alleged contemnor has knowledge of the tribunal's order whether or not it has knowledge that the order is filed in the Federal Court.

[18] More broadly, *Warman* stands for the proposition that in enforcement proceedings following the filing of a tribunal order in the Federal Court, what is being enforced is the tribunal order. This is well explained in the following excerpt from the reasons of Justice Noël, writing for the majority:

> **38**. In my view, the issue raised in this appeal turns on the registration provision set out in section 57 of the [*Canadian Human Rights Act*], and in particular whether the order enforced under the authority of that provision is the order of the Tribunal or the order of the Court.
>
> **39**. The answer to that question is relatively straight forward when one considers that the only order being enforced under this scheme is that of the Tribunal and that there is to-day no legal principle that restricts the use of contempt powers to orders issued by superior Courts.
>
> **40**. This last proposition flows from the decision of the Supreme Court in *United Nurses of Alberta v. Alberta (Attorney General)*, [1992] S.C.J. No. 37; [1992] 1 S.C.R. 901 [*United Nurses*]. The issue in that case turned on subsection 142(7) of the *Labour Relations Act of Alb*erta, R.S.A. 1980, c. L-1.1, a provision analogous to section 57 of the Act:
>
> > 142. (7) If any directive made by the Board pursuant to subsection (5) or (6) is not complied with, the Board may, ..., file a copy of the directive with the clerk of the Court [of Queen's Bench] ... and thereupon the directive is enforceable as a judgment or order of the Court.
>
> **41**. At issue was whether criminal contempt proceedings could validly be initiated further to the filing of a Board directive under that provision with the Alberta Court of Queen's Bench. One of the arguments made was that at common law, the power to punish for criminal contempt is available only in relation to orders of superior Courts, and since the directive sought to be enforced was that of a lower Tribunal, the Court did not have the jurisdiction to invoke its contempt powers in support of it (*United Nurses*, para. 70).
>
> **42**. McLachlin J. (as she then was) writing for the majority, rejected this argument. She explained that although Board orders are not the same as Court orders, that does not mean that they are any less enforceable by superior Courts through contempt proceedings (*United Nurses*, para. 71). In so holding, she adopted the reasoning of Blair J.A. in *Ajax and Pickering General Hospital v. Canadian Union of Public Employees, Local 906*, 132 D.L.R. (3d) 270; [1981] O.J. No. 1121 [*Ajax*], who held that a Board order issued pursuant to the equivalent provision of the *Ontario Labour Relations Act*, R.S.O. 1980, c. 228,

was enforceable as such from the time it was filed in the Court (*Ajax*, paras. 63 to 83).

43. Earlier on in her reasons, McLachlin J. explained that there was a time when only orders of superior Courts were considered to be deserving of the respect which contempt proceedings are intended to secure. However, that time has passed; the question whether criminal contempt powers should be available with respect to orders of lower tribunals no longer raises an issue of jurisdiction but one of policy (*United Nurses*, para. 69):

> It questions whether the legislature should enact that breach of a tribunal order is subject to the same consequences as breach of a court order. The power of the legislature to do this cannot be questioned; legislatures routinely make changes in the law which empower or require federally appointed judges to impose certain remedies. Thus the question is one of policy; policy moreover, which can be debated. Against the argument that the contempt power is so serious that it should only be available for breaches of orders actually made by s. 96 judges, can be raised the argument that in reality important portions of our law are administered not by s. 96 judges but by inferior tribunals, and that these decisions, like court decisions, form part of the law and deserve respect and consequently the support of the contempt power.

44. It is now settled law that decisions of lower Tribunals can be enforced on their own account through contempt proceedings because they, like decisions of the superior Courts, are considered by the legislator to be deserving of the respect which the contempt powers are intended to impose. This is what section 57 achieves with respect to orders made by the Tribunal under sections 53 and 54 of the Act.

45. It follows that in the present case, there is only one order - the Tribunal order - which is enforced by the Federal Court pursuant to section 57 as though it was an order of that Court. This intent is best reflected by the French text according to which: "les ordonnances rendues en vertu des articles 53 et 54 [...] peuvent [...] <u>être assimilées</u> aux ordonnances rendues par celle-ci [*i.e.*, la Cour fédérale] ".

[19] In my view, the same reasoning necessarily leads to the conclusion that the contempt proceedings in this case must focus on the alleged breach of the Reinstatement Order from the date on which it was made, August 26, 2009, and not from the date on which it was filed in the Federal Court. It follows that the prothonotary erred in concluding that the Institute could not, as a matter of law, be found to be in contempt of the Reinstatement Order in respect of the period between August 26, 2009 and December 8, 2009.

[20] Justice Lemieux concluded, as have I, that the *Warman* case demonstrated that the prothonotary's order was based on an incorrect legal principle, and he proceeded to determine the merits of the contempt charge on the basis of the Institute's failure to comply with the Reinstatement Order at any time after it was made.

[21] In this appeal, the Institute makes two submissions on the effect of *Warman*. First, the Institute argues that regardless of what contempt it could have been charged with under the principle in *Warman*, the actual charge set out in the show cause order relates only to events after December 8, 2009 and therefore, the determination of whether it had a lawful excuse for failing to comply with the Reinstatement Order must be determined on the basis of the state of affairs on and after December 8, 2009. Second, the Institute argues that to find it in contempt in relation to events that occurred before December 8, 2009 is a breach of procedural fairness because it was not given an opportunity to defend itself from a contempt charge based on earlier events.

[22] In the unusual circumstances of this case, I see no merit to either of these arguments. The *Warman* decision of this Court was rendered on October 26, 2011, after the trial of the contempt charge in relation to the Reinstatement Order (October 20 and 21, 2010), and while the matter was under reserve. Justice Lemieux provided the parties with a copy of *Warman* and invited their submissions. Both parties filed written submissions within the deadline stipulated by Justice Lemieux. In making those submissions, the parties knew that because of *Warman* it would be open to Justice Lemieux to conclude that events prior to December 8, 2009 could be the subject of contempt proceedings in relation to the Reinstatement Order, and that Justice Lemieux was proposing to consider whether those prior events should be taken into account.

[23] In its submissions to Justice Lemieux, the Institute argued that despite *Warman*, the events prior to December 8, 2009 were not legally relevant given the language of the charge. The Institute also argued in the alternative that even if the relevant date was August 26, 2009, its failure to comply was justified by the fact that its stay applications in this Court were not determined until October 28, 2009 (an argument that I have already rejected).

[24] And yet the Institute made no request to reopen the trial to adduce evidence relating to the period from August 26, 2009 to December 8, 2009, a course of action that clearly was open to it. Nor did the Institute suggest to Justice Lemieux that there is evidence it could have adduced to establish a lawful excuse for failing to comply with the Reinstatement Order before December 8,

2009 (apart from the evidence it had already submitted in support of its argument that it had a lawful excuse after December 8, 2009).

[25] It would have been preferable as a matter of procedure if Justice Lemieux had formally amended the show cause order to reflect the principle in *Warman*, effectively restarting the contempt proceedings. However, the record discloses no basis upon which this Court can reasonably conclude that the failure to formally amend the charge caused prejudice to the Institute.

The merits of the contempt charges

[26] The Institute does not challenge the conclusion of Justice Lemieux that the Institute did not restore Ms. Bremsak to her elected and appointed positions or give the required notification of her reinstatement to its members and officials. The issue on appeal is whether Justice Lemieux erred in concluding that the Institute had no lawful justification for failing to restore Ms. Bremsak to her elected and appointed positions.

[27] It is convenient to consider the question of justification in two stages. I will discuss first the period from August 26, 2009 (the date of the Reinstatement Order) to October 20, 2009 (the date on which the Institute suspended Ms. Bremsak's membership for five years). I will then discuss the period after October 20, 2009 when the suspension was in place.

August 26 to October 20, 2009

[28] As indicated above, by December 8, 2009 when the Reinstatement Order was filed in the Federal Court, the Institute had not restored Ms. Bremsak to any of her elected or appointed positions. Nor had it done so by the time of the hearing before Justice Lemieux. The Institute submitted to Justice Lemieux that it had a lawful excuse for failing to reinstate Ms. Bremsak to her elected and appointed positions before December 8, 2009 because on October 20, 2009, the Institute had suspended Ms. Bremsak as a member for a five year period and so she could not hold office during that period.

[29] Justice Lemieux concluded that the suspension of Ms. Bremsak on October 20, 2009 did not excuse the Institute from its obligation to reinstate her prior to that date. He interpreted the Reinstatement Order to require her reinstatement "immediately in order that her term of office not expire and the real harm she suffered not be repaired" (paragraph 78 of his reasons). That interpretation of the Reinstatement Order was based on a careful consideration of the Board's reasons, and in my view it is the correct interpretation. I conclude that Justice Lemieux made no error in finding the Institute in contempt of the Reinstatement Order when it failed to reinstate Ms. Bremsak after August 26, 2009 and before October 20, 2009.

After October 20, 2009

[30] Justice Lemieux also concluded that even after the October 20, 2009 suspension, the defence of justification was not made out. In reaching that conclusion, he acknowledged that Ms. Bremsak's complaints about the suspension would be decided by the Board and not by him. However, he also

noted that he had been directed by this Court that he was not obliged to assume that the suspension was valid.

[31] The direction of this Court to which Justice Lemieux referred arose this way. On March 31, 2011, after the hearing on October 20 and 21, 2010, and while the matter was under reserve, Justice Lemieux convened the parties by telephone to discuss his concern about determining the contempt proceedings without the benefit of a decision by the Board as to the merits of Ms. Bremsak's unfair labour practice complaint in relation to the five year suspension imposed on October 20, 2009. On April 1, 2011, Justice Lemieux ordered a stay of the contempt proceedings pending the outcome of the Board proceedings. His reason for ordering the stay is summarized in paragraph 10 of his reasons (2011 FC 406):

> **10** Clearly a central aspect of the Institute's defence to a finding of contempt is lawful excuse. During the hearing in Vancouver I had ruled out any evidence by either party on the issue of whether the Executive Committee's decision to suspend her from membership on the basis of the harassment complaint could not be entertained by the Court because the matter of the validity of the Executive Committee's decision was before the [Board] and it would be improper for me to adjudicate on the issue which Parliament had mandated the [Board], a specialized tribunal in labour matters, to deal with. In my view, success or failure by Ms. Bremsak before that tribunal is material to her success or failure in the contempt hearing. In the interest of justice, I expressed, yesterday, my opinion to the parties that I should stay the proceedings before me until the [Board] adjudicated on her complains [sic] on her membership suspension or until a judicial review of that decision was determined, a matter which must be dealt with by the Federal Court of Appeal.

[32] Ms. Bremsak appealed the stay order to this Court. Both parties submitted to this Court that the stay order should be set aside and that Justice Lemieux should be required to determine the

contempt matter. The appeal was allowed on September 19, 2011 (2011 FCA 258) on the basis that the Institute was entitled to a prompt resolution of the allegations based on the evidence the parties had chosen to submit to the Federal Court.

[33] The Institute argues that Justice Lemieux erred in relying on Ms. Bremsak's challenges to the October 20, 2009 suspensions because he had ruled in the course of the hearing that the parties would not be permitted to adduce evidence going to the merits of the suspensions, which was a question before the Board. I do not accept that argument. By virtue of the September 19, 2011 judgment of this Court allowing the appeal from Justice Lemieux's stay order, he was obliged to determine the contempt charge based on the evidence then before him. At that time, the record included properly admitted documentary evidence of the allegations made by Ms. Bremsak in support of her complaint about the October 20, 2009 suspensions, and the grounds upon which the Institute alleged that her complaint was unfounded. The only excluded evidence was the oral testimony of the witnesses at the contempt hearing to explain why the suspensions were imposed.

[34] In my view, Justice Lemieux made no error in considering the documentary evidence of Ms. Bremsak's allegations (although disputed and unproven), against the documentary evidence of the Institute's responses (also unproven) in order to determine whether the suspension decision should justify the failure to comply with the Reinstatement Order. The factual conclusions he reached upon considering that evidence were reasonably open to him.

[35] Justice Lemieux noted particularly that the suspensions were ordered to take place immediately and that the Executive Committee received no submissions from Ms. Bremsak in determining that a five year suspension was an appropriate remedy for the alleged harassment. The Institute had submitted to the Board that Ms. Bremsak had an opportunity to respond to the report of the person who investigated the harassment allegations. However, the investigator's report, which is in the record, makes no recommendations as to remedy. There is no evidence that Ms. Bremsak was afforded an opportunity to make submissions to the Executive Committee as to what an appropriate remedy might be.

[36] I conclude that Justice Lemieux made no error in law or fact when he found that the October 20, 2009 suspensions did not excuse the Institute from complying with the Reinstatement Order, or when he found the Institute to be in contempt of the Reinstatement Order after October 20, 2009.

Conclusion

[37] I would dismiss the appeal.

[38] Ms. Bremsak has asked for special costs to cover the costs of this appeal, the contempt trial, the show cause hearing, and the cost of the proceedings before the Board to have the Reinstatement Order filed in the Federal Court. This Court has no authority to grant costs in respect of proceedings before the Board. As to the request for costs in the Federal Court, I note that the matter of costs has not yet been considered by Justice Lemieux. In my view, it would not be appropriate in the context

of this appeal for the Court to award costs in the Federal Court. However, I would award Ms. Bremsak her costs of this appeal. I am satisfied that Ms. Bremsak should receive costs on a higher than normal scale. I would award her costs in this Court in the amount of $7,000 inclusive of disbursements and tax.

"K. Sharlow"
J.A.

"I agree
J.D. Denis Pelletier J.A."

"I agree
Robert M. Mainville J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-69-12
APPEAL FROM THE JUDGMENT OF JUSTICE LEMIEUX OF THE FEDERAL COURT DATED FEBRUARY 16, 2012, DOCKET NO. (T-2049-09)	
STYLE OF CAUSE:	The Professional Institute of the Public Service of Canada v. Irene J. Bremsak
PLACE OF HEARING:	Vancouver
DATE OF HEARING:	May 14, 2012
REASONS FOR JUDGMENT BY:	Sharlow J.A.
CONCURRED IN BY:	Pelletier, Mainville JJ.A.
DATED:	May 22, 2012

APPEARANCES:

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