

Federal Court of Appeal



Cour d'appel fédérale

Date: 20191202

Docket: A-42-19

Citation: 2019 FCA 297

[ENGLISH TRANSLATION]

**CORAM: NADON J.A.
BOIVIN J.A.
LOCKE J.A.**

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Appellant

and

ANIKE MÉNARD

Respondent

Heard at Montréal, Quebec, on December 2, 2019.

Judgment delivered from the bench at Montréal, Quebec, on December 2, 2019.

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

NADON J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Montréal, Quebec, on December 2, 2019.)

NADON J.A.

[1] While we are unable to fully endorse the reasoning of Justice Bell of the Federal Court, we are of the opinion that the Commissioner of the Royal Canadian Mounted Police (the Commissioner) erred in confirming the May 21, 2013 decision of the discharge and demotion board (the Board), in which the Board stated that it had to defer [TRANSLATION] “to the

supervisors and evaluators of the member [the respondent] who were in the field and who had particular knowledge of the day-to-day work of the RCMP officers assigned to general services in New Brunswick” (Decision at paragraph 89).

[2] Since the Board’s role was to objectively assess the evidence before it (section 45.21 of the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10), there was no question of its deferring with regard to the evidence and testimony from the respondent’s supervisors and evaluators.

[3] In our view, the Commissioner should have intervened and corrected the Board’s error. Consequently, the Judge’s decision to set aside the Commissioner’s decision will be upheld.

[4] Furthermore, since the Judge could not set aside the Board’s decision, as it was not the subject of the application for judicial review before him, the appeal will be allowed in part, with costs to the respondent, in order to correct the Federal Court’s judgment (2018 FC 1260), which will read as follows:

1. The application for judicial review is allowed with costs;
2. The decision of the Commissioner is quashed;
3. The Commissioner shall reconsider the issue of Constable Ménard’s suitability;

4. The style of cause for the case is amended to strike the name of the ROYAL CANADIAN MOUNTED POLICE as a respondent;

“M. Nadon”

J.A.

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-42-19

STYLE OF CAUSE: ATTORNEY GENERAL OF
CANADA v. ANIKE MÉNARD

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: DECEMBER 2, 2019

**REASONS FOR JUDGMENT OF THE COURT
BY:** NADON J.A.
BOIVIN J.A.
LOCKE J.A.

DELIVERED FROM THE BENCH BY: NADON J.A.

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