

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20191205**

**Docket: A-164-19**

**Citation: 2019 FCA 298**

**CORAM: GAUTHIER J.A.  
DE MONTIGNY J.A.  
GLEASON J.A.**

**BETWEEN:**

**TARIQ RANA**

**Applicant**

**and**

**TEAMSTERS LOCAL 938**

**Respondent**

Heard at Toronto, Ontario, on December 3, 2019.

Judgment delivered at Toronto, Ontario, on December 5, 2019.

**REASONS FOR JUDGMENT BY:**

**GLEASON J.A.**

**CONCURRED IN BY:**

**GAUTHIER J.A.  
DE MONTIGNY J.A.**

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**BETWEEN:**

**TARIQ RANA**

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**TEAMSTERS LOCAL UNION 938**

**Respondent**

**REASONS FOR JUDGMENT**

**GLEASON J.A.**

[1] In this application for judicial review, the applicant seeks to set aside the April 25, 2019 decision of the Canada Industrial Relations Board (the CIRB or the Board), indexed as 2019 CIRB LD 4132. This decision is an interlocutory one. In it, the Board confirmed an earlier decision, granting counsel for the respondent additional time to file the respondent's response to

the applicant's request for reconsideration of another decision, summarily dismissing the applicant's duty of fair representation complaint.

[2] I agree with the respondent that this application for judicial review was premature, when it was filed, as it involves an interlocutory decision made in the context of a matter that was still ongoing before the Board when this application was filed. As this Court noted at paragraph 31 of *Canada (Border Services Agency) v. C.B. Powell Limited*, 2010 FCA 61, [2011] 2 F.C.R. 332, "absent exceptional circumstances, courts should not interfere with ongoing administrative processes until after they are completed, or until the available, effective remedies are exhausted". There were no exceptional circumstances that would have warranted departing from this general principle.

[3] The Board recently issued its final decision in respect of the applicant's request for reconsideration of its earlier decision, summarily dismissing the applicant's duty of fair representation complaint, in an unreported decision indexed as 2019 CIRB LD 4231. While the applicant claims he did not receive a copy of this decision from the Board and indicated in his letter sent to the Court after the hearing that he was not able to locate the decision on the Board's website, it is clear that the applicant was aware of the decision, a copy of it having been provided to him by counsel for the respondent prior to the hearing before this Court. The recent CIRB decision renders this application for judicial review without any possible impact as the issues that arise in this application are ones that now need to be addressed in the context of an application to judicially review the Board's final decision. This Court cannot set aside the Board's final decision in the context of this application for judicial review.

[4] While the foregoing is sufficient to dispose of this matter, it is worthwhile to underscore that contrary to what the applicant asserts, the mere fact that the same panel of the Board rendered the decision under review as had previously declined an earlier request by the applicant to overturn the extension does not amount to a denial of procedural fairness. Both the CIRB and the Federal Court have recognized that, in circumstances similar to the present, a panel may reconsider its own decisions without raising a reasonable apprehension of bias: *S.G.T. 2000 Inc.*, 2000 CIRB 60 at paragraph 24; *Perez v. Canada (Minister of Citizenship and Immigration)* (1998), 155 F.T.R. 131, 1998 CanLII 8521 (F.C.T.D.) at paragraphs 9-10.

[5] Further, there is no basis for a reasonable apprehension of bias with respect to the manner in which the CIRB dealt with the extension request. The Board's treatment of the request reflects the way in which requests to extend the time to file a response are frequently handled by the Board, especially where the party opposing the request can point to no prejudice arising from the extension.

[6] In addition, the Board's decision to grant the impugned extension cannot be said to be unreasonable, particularly in light of the broad authority granted to the CIRB under paragraphs 16(c) and (m) of the *Canada Labour Code*, R.S.C. 1985, c. L-2 to accept such evidence as it sees fit and to extend time limits for taking any step in proceedings. Thus, the grounds for challenging the Board's decision raised by the applicant in this application for judicial review are without merit.

[7] I would therefore dismiss this application for judicial review, with costs fixed in the all-inclusive amount of \$1500.00, it being the usual rule for costs to be awarded to the successful party in applications of this nature.

“Mary J.L. Gleason”

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J.A.

“I agree

Johanne Gauthier J.A.”

“I agree

Yves de Montigny J.A.”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-164-19

**STYLE OF CAUSE:** TARIQ RANA v. TEAMSTERS  
LOCAL 938

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** DECEMBER 3, 2019

**REASONS FOR JUDGMENT BY:** GLEASON J.A.

**CONCURRED IN BY:** GAUTHIER J.A.  
DE MONTIGNY J.A.

**DATED:** DECEMBER 5, 2019

**APPEARANCES:**

Tariq Rana FOR THE APPLICANT  
(on his own behalf)

Alex St. John FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Wright Henry LLP FOR THE RESPONDENT  
Toronto, Ontario