

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20240925**

**Docket: A-164-23**

**Citation: 2024 FCA 154**

[ENGLISH TRANSLATION]

**CORAM: LEBLANC J.A.  
ROUSSEL J.A.  
HECKMAN J.A.**

**BETWEEN:**

**MARIO LONGO, ET AL.**

**Applicants**

**and**

**INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE  
WORKERS, TRANSPORTATION  
DISTRICT 140, AND AIR CANADA**

**Respondents**

Heard at Montréal, Quebec, on September 25, 2024.

Judgment delivered from the bench at Montréal, Quebec, on September 25, 2024.

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

**ROUSSEL J.A.**

Federal Court of Appeal



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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the bench at Montréal, Quebec, on September 25, 2024.)**

**ROUSSEL J.A.**

[1] The applicants are seeking judicial review of a decision of the Canada Industrial Relations Board (the Board) rendered on May 23, 2023 (2023 CIRB LD 5018). In this decision,

the Board dismisses the applicants' complaints that the International Association of Machinists and Aerospace Workers, Transportation District 140 (IAMAW), breached its duty of fair representation under section 37 of the *Canada Labour Code*, R.S.C. 1985, c. L-2 (the Code).

[2] As former employees of Air Canada Technical Services and, subsequently, AVEOS Fleet Performance Inc., the applicants criticize IAMAW for acting arbitrarily and in bad faith in negotiating, entering into and interpreting agreements concerning their pension plan and for failing to inform them of the impact of withdrawing their pension funds from the pension plan.

[3] The Board's decision should be reviewed on a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65; *Kiame v. Union of National Employees/PSAC*, 2024 FCA 103 at para. 8 (*Kiame*); *Perrin v. Canadian Union of Public Employees*, 2023 FCA 104 at para. 5 (*Perrin*); *Watson v. Canadian Union of Public Employees*, 2023 FCA 48 at para. 16 (*Watson*)). In matters of procedural fairness, the role of this Court is to establish whether the procedure was fair having regard to all of the circumstances (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69 at paras. 54 to 56; *Kiame* at para. 8; *Perrin* at para. 14; *Watson* at para. 17).

[4] We cannot agree with the applicants' argument that the Board refused to exercise its jurisdiction. The Board's reasons clearly show that it reviewed the applicants' complaints, addressed their arguments and ruled on the issue of IAMAW's duty of fair representation.

[5] Rather, the applicants' arguments concern the reasonableness of the Board's decision.

We are of the opinion that the Board reasonably interpreted the limitations of its power to intervene and applied the correct test to determine whether IAMAW had breached its duty. Its findings are also supported by the documentation filed by the parties. As this Court stated in *Watson*, when "faced with conflicting employee interests, the union does not breach its duty of fair representation by pursuing one set of interests to the detriment of another" (*Watson* at para. 19).

[6] As for the argument that the Board breached its duty of procedural fairness by refusing to hold a hearing despite a request to this effect, this Court has stated several times that the Board is not required to hold an oral hearing on every occasion that one is requested. Section 16.1 of the Code gives the Board discretion to decide when an oral hearing is required, and the Court must show deference in this regard (*Kiame* at para. 13; *Perrin* at para. 13; *Watson* at paras. 17, 50, 52; *Paris v. Syndicat des employés de Transports R.M.T. (Unifor-Québec)*, 2022 FCA 173 at para. 5; *Ducharme v. Air Transat A.T. Inc.*, 2021 FCA 34 at paras. 19, 21; *Wsáneé School Board v. British Columbia*, 2017 FCA 210 at para. 33, leave to appeal to the SCC denied, 37894 (August 9, 2018); *Madrigga v. Teamsters Canada Rail Conference*, 2016 FCA 151 at paras. 26 to 28).

[7] In this case, the applicants did not demonstrate that the Board's decision to rule on the complaints without holding an oral hearing prevented them from fully asserting their rights. They filed detail-laden complaints in addition to considerable documentation. They also had the

opportunity to file a reply to IAMAW's response. A requisition for hearing must not be used as a fishing expedition for evidence that might support allegations or validate assumptions.

[8] The application for judicial review will therefore be dismissed with costs.

“Sylvie E. Roussel”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-164-23

**STYLE OF CAUSE:** MARIO LONGO, ET AL. v.  
INTERNATIONAL  
ASSOCIATION OF  
MACHINISTS AND  
AEROSPACE WORKERS,  
TRANSPORTATION  
DISTRICT 140, AND AIR  
CANADA

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** SEPTEMBER 25, 2024

**REASONS FOR JUDGMENT OF THE COURT  
BY:** LEBLANC J.A.  
ROUSSEL J.A.  
HECKMAN J.A.

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

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