

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20241030**

**Docket: A-13-24**

**Citation: 2024 FCA 179**

[ENGLISH TRANSLATION]

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

**BETWEEN:**

**MARIE-CLAUDE SIOUI**

**Appellant**

**and**

**HURON-WENDAT NATION COUNCIL**

**Respondent**

Heard at Québec, Québec, on October 30, 2024.

Judgment delivered from the bench at Québec, Québec, on October 30, 2024.

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

**BOIVIN J.A.**

**Federal Court of Appeal**



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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the bench at Québec, Québec, on October 30, 2024.)**

**BOIVIN J.A.**

[1] This is an appeal from a judgment by Justice St-Louis of the Federal Court (the judge) dated December 27, 2023 (2023 FC 1731). The judge declined jurisdiction and dismissed the application for judicial review of the arbitral award issued by the Tribunal on June 15, 2022. The Tribunal had not upheld the appellant's complaint challenging the abolition of her position by the respondent.

[2] The standards of review in this case are those set out by the Supreme Court of Canada in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235. The correctness standard applies to questions of law. Findings of fact or questions of mixed fact and law are reviewable only where there is a palpable and overriding error.

[3] The appellant made a number of arguments in this Court, but the issue that must be decided in this case is whether the judge erred in finding that the Federal Court does not have jurisdiction to review the Tribunal's decision.

[4] We are all of the opinion that the judge committed no error warranting this Court's intervention, and accordingly this appeal cannot succeed.

[5] First, the judge conducted an exhaustive review of the relevant facts and the applicable legal principles and instructed herself properly on the law (*Anisman v. Canada (Border Services Agency)*, 2010 FCA 52). She also correctly observed that the appellant had formally withdrawn her complaint under section 240 of the *Canada Labour Code*, R.S.C. 1985, c. L-2, and had used, at the end of her employment contract, the dispute resolution procedure set out in section 9 of the Unified Executive Management Policy (the Policy), which is private arbitration.

[6] Second, in her analysis, the judge concluded that the Tribunal derived its jurisdiction not from a federal law, but from section 9 of the Policy, from the appellant's employment contract, and from a mutual agreement between the two parties. Having regard to the evidence, the judge also determined that the Policy is not a by-law and then correctly concluded that the Tribunal is

not a “federal board, commission or other tribunal” within the meaning of subsection 18(1) of the *Federal Courts Act*, R.S.C. 1985, c. F-7. The judge’s decision is sound, and we find no error in her analysis or her finding that would call for this Court’s intervention.

[7] Counsel for the appellant drew attention to *Collins v. Saddle Lake Cree Nation #462*, 2023 FC 1239. We are of the opinion that that decision does not apply to this case since it does not involve the definition of “federal board, commission or other tribunal”.

[8] Having concluded that the application for judicial review filed by the appellant did not fall within the jurisdiction of the Federal Court, given that the Tribunal is not a “federal board, commission or other tribunal” and that that requirement is mandatory in order for the Federal Court to have jurisdiction, the judge nonetheless considered, in the alternative, whether the Tribunal was exercising a private or public power. Having regard to the factors set out by this Court in *Air Canada v. Toronto Port Authority*, 2011 FCA 347, she concluded that even if the Tribunal were characterized as a “federal board, commission or other tribunal”, it was exercising a private power that could not be subject to the Federal Court’s power of review.

[9] In light of our finding regarding the concept of “federal board, commission or other tribunal”, it is not necessary for this Court to dispose of the issue of whether the power exercised by the Tribunal was private or public. However, if that were the case, we would essentially agree with the judge’s reasons.

[10] For these reasons, the appeal will be dismissed, with costs.

“Richard Boivin”

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J.A.

Certified true translation

Melissa Paquette, Senior Jurilinguist

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-13-24

**STYLE OF CAUSE:** MARIE-CLAUDE SIOUI v.  
HURON-WENDAT NATION  
COUNCIL

**PLACE OF HEARING:** QUÉBEC, QUÉBEC

**DATE OF HEARING:** OCTOBER 30, 2024

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

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

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