Federal Court  Cour fédérale

Date: 20180228

Docket: T-1510-17

Citation: 2018 FC 223

[ENGLISH TRANSLATION]

Ottawa, Ontario, February 28, 2018

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

MICHEL THIBODEAU

Applicant

and

HALIFAX INTERNATIONAL AIRPORT AUTHORITY

Respondent

ORDER AND REASONS

[1] On October 5, 2017, the applicant, Michel Thibodeau, filed an application before this Court under section 77 of the *Official Languages Act*, RSC 1985, c 31 (4th Supp) [OLA], criticizing the respondent, the Halifax International Airport Authority [HIAA] for past and current failure to comply, as a federal institution, with its quasi-constitutional obligations set forth in Part IV of the OLA (Communications with and Services to the Public). The issue is to

determine whether the Court must strike certain paragraphs from the affidavit filed in support of the application in question on the grounds that they are irrelevant and either contain inadmissible hearsay or are covered by settlement privilege.

Background

[2] The applicant filed a complaint with the Commissioner of Official Languages [Commissioner] that the HIAA was not complying with the language obligations set out in section 23 of the OLA to ensure that services to travellers at the Halifax Stanfield International Airport [the Airport] are provided in both official languages. In fact, on July 26, 2016, the applicant and his spouse were not served in French at an information counter at the Airport when a display clearly indicated that service was available in both official languages [the incident]. The federal institution does not deny those facts.

[3] Information services at the Airport's counters were offered and continue to be offered to the travelling public by a team of volunteers who are recruited and trained by the HIAA. In her final report dated August 2017, the Acting Commissioner found that the lack of services in French was flagrant and systemic. In fact, the investigation revealed that the total number of volunteers at the Airport's counters was 96 and that, of that number, only two were identified as being bilingual. The HIAA acknowledged that the volunteers who were present on the day of the incident at the information counter the applicant and his spouse visited were all unilingual Anglophones, meaning that they were unable to serve them or other travellers in French.

[4] Finding that the applicant's complaint had merit and that the HIAA had not complied with the obligations set forth in Part IV (including the spirit of the OLA), the Acting Commissioner recommended that the HIAA develop and implement an action plan as soon as possible and no later than six months after receiving the final report in order to recruit volunteers who can offer service in French at the Airport's information counters and continue to give monthly reminders of the importance of complying with the OLA to volunteers who serve the public.

Application for remedy to the Court

[5] The applicant is now seeking a declaration from the Court that the respondent failed to meet its language obligations. He is also seeking an order requiring the respondent to change its operating processes to ensure that, in the future, the service provided to travellers at the Airport's information counters is of equal quality in both official languages. Furthermore, the applicant is seeking the amount of $1,500 in damages, along with a letter of apology and any other remedy that the Court deems appropriate and just in light of the circumstances.

[6] In support of his application for remedy, the applicant promptly served the respondent with an affidavit from himself, dated November 16, 2017, which details the facts surrounding the incident, the investigation conducted by the Acting Commissioner, the Acting Commissioner's findings and recommendations and the communications that the applicant has had with the respondent following that investigation report, and which also cites excerpts from reports and newspaper articles that detail a flagrant and systemic problem with the lack of services in French at the Airport's information counters.

[7] The respondent, who is opposed to the application, has not yet served its affidavits to the applicant. Instead, on December 20, 2017, it filed this motion with the Court to strike certain paragraphs from the applicant's affidavit—and exclude some documentary evidence—on the grounds that they are irrelevant and contain either communications that are subject to settlement privilege or inadmissible hearsay. At the same time, since the time limit for serving its affidavits has elapsed, the respondent is also asking the Court to extend the time for serving its affidavits and documentary evidence to the applicant.

[8] This motion to strike is dismissed.

Applicable principles for striking allegations from an affidavit

[9] We must begin by noting that the Federal Court has the jurisdiction to hear the applicant's remedy and, if it finds that the respondent did not comply with the OLA, it may grant such remedy as it considers appropriate and just in the circumstances (subsections 77(1) and (4) of the OLA). In the meantime, until the matter is decided on the merits by the trial judge, it is the provisions in Part 5 – Applications of the *Federal Courts Rules*, SOR/98-106 [the Rules] that govern the proceedings. It is also axiomatic: unless this application becomes an action (which is not the case here), the Court must rule on the remedy expeditiously and according to a summary proceeding. In that case, the Court does not hear witnesses. All the evidence is submitted through affidavits.

[10] By analogy, in the context of an application for judicial review, the motions judge must only resort to his or her discretion to strike all or part of an affidavit in exceptional circumstances

(see *Gravel v Telus Communications Inc*, 2011 FCA 14 at paragraph 5 [*Gravel*]). To repeat the words of Justice Létourneau, "[t]he reason is quite simple: applications for judicial review must quickly proceed on the merits, and the procedural impacts of the nature of a motion to strike are to delay unduly and, more often than not, needlessly, a decision on the merits" (*Gravel* at paragraph 5). Such discretion can namely be exercised when the allegations in question are abusive or clearly irrelevant, where they contain opinion, argument or legal conclusions, or where the Court is convinced that admissibility would be better resolved at an early stage so as to allow the hearing to proceed in a timely and orderly fashion (see *Canada (Attorney General) v Quadrini*, 2010 FCA 47 at paragraph 18).

[11] In addition, when striking paragraphs from an affidavit and certain supporting exhibits because they contain inadmissible hearsay, such a motion should be brought only where the hearsay goes to a controversial issue, where the hearsay can be clearly shown and where prejudice by leaving the matter for disposition at trial can be demonstrated (see *Canadian Tire Corp Ltd v PS Partsource Inc*, 2001 FCA 8 at paragraph 18 [*Partsource*]). Similarly, allegations and exhibits containing communications protected by settlement privilege can also be struck (see, for example, *Remo Imports Ltd v Jaguar Cars Ltd*, 2005 FC 870 at paragraphs 18–19). In short, in a motion to strike, the judge should use his or her discretion only in the most obvious cases (see, for example, *Partsource* at paragraph 17). That is not the case here.

Hearsay evidence

[12] The respondent submits that exhibits 8 and 10 of the applicant's affidavit dated November 16, 2017, which consist of articles from Radio-Canada's website and paragraphs 23

and 25 referring to the articles, should be struck because they constitute inadmissible hearsay. The paragraphs in question read as follows: [TRANSLATION]

> 23. The problem of the lack of French services at Halifax International Airport was also documented in the news. For example, see this Radio-Canada article dated January 22, 2010, in **Exhibit 8** of this affidavit, entitled "*Halifax fait piètre figure*", which reads as follows:
>
> "Nova Scotia's Halifax International Airport is recognized worldwide for the quality of its passenger services, but it is among the worst in Canada when it comes to offering services in French, according to a new report from the Commissioner of Official Languages, Graham Fraser."
>
> 25. A few years later, on August 10, 2012, another Radio-Canada article, included in **Exhibit 10** of this affidavit, states that volunteers at Halifax International Airport are unable to serve people in French:
>
> "'Volunteers, for example, may not be able to respond to people in French, but they must offer them an alternative solution,' explains the airport's communications official, Jennifer Delorey Lyon."

[13] According to the respondent, those articles constitute hearsay, and the applicant is clearly attempting to admit them as evidence of their content. They do not meet the criteria of reliability and necessity required to make an exception to prohibiting hearsay evidence.

[14] The applicant retorts that the articles are relevant and should be admitted as evidence. Firstly, they show that the respondent was already having difficulty with offering service in French in 2010 and in 2012. Being able to show the existence of a persistent problem is important so that the Court can award a full, effective and meaningful remedy. Moreover, the articles contain comments from the respondent's own senior executives: it is free to examine its

senior officials and submit evidence to the contrary in its affidavits. While the articles are in fact hearsay, the applicant first submits that they meet the criteria of reliability and necessity. Regardless, they could also be admissible under section 79 of the OLA, which allows for the admission into evidence of information relating to any similar complaint in respect of the same federal institution and thus prevails over the other rules of evidence (see *Thibodeau v Air Canada*, 2005 FC 1156 at paragraph 83, affirmed by 2007 FCA 115 [*Thibodeau FC 2005*]).

[15] I agree with the applicant. The procedural approach advocated by the respondent has no place here. I would also reiterate the remarks of Justice Décary in *Canada (Commissaire Aux Langues Officielles) v Air Canada*, 88 ACWS (3rd) 995 at paragraphs 16–17, [1999] FCJ No. 738 (QL) (FCA):

> [16] The Act itself provides that a particular complaint may serve as the gateway into a federal institution's system as a whole. This was Parliament's intention, as a means of giving more teeth to an enactment, the *Official Languages Act*, which serves as a special tool for the recognition, affirmation and extension of the linguistic rights recognized by the *Canadian Charter of Rights and Freedoms*.
>
> [17] In other words, this is an area in which an overly litigious approach is particularly inappropriate. The Act itself invites one to go beyond the particular case to the general, and a federal institution against which not one but several complaints are brought can hardly feign surprise or cry injustice if the Commissioner, in an investigation, in his report, in his findings, or in the context of a court proceeding, was quick to transform the argument on a particular case into a general argument.

[16] But there is more to the subject. We must go back to the definition of hearsay evidence. Hearsay refers to out-of-court statements by a third party introduced as evidence by a witness or to an exhibit intended to establish the truth of their contents, that is, the truth of the facts

contained in the statements, when it is impossible to cross-examine the declarant (see, for example, *R v Khelawon*, 2006 SCC 57 at paragraph 35 [*Khelawon*]; *R v Starr*, 2000 SCC 40 at paragraphs 159–161 [*Starr*]). On the contrary, statements are not considered hearsay if they are filed simply to prove that they were made (see, in particular, *R v O'Brien* (1977), [1978] 1 SCR 591 at page 593, 76 DLR (3rd) 513). Therefore, the first step of the analysis consists of determining the purpose for which the out-of-court statement is tendered (see *Khelawon* at paragraph 36; see also *Express File Inc v HRB Royalty Inc*, 2003 FC 924 at paragraph 8, citing *Starr* at paragraphs 162 and 165, affirmed by 2004 FCA 341).

[17] Therefore, as a motions judge, I must determine whether it is appropriate at this stage of proceedings to exercise the Court's discretion in the manner the respondent is seeking, meaning, to strike the allegations in question and purely and simply exclude the articles in question from the evidence on record. In my view, that is not the case, since it is not obvious that the allegations and articles in question constitute inadmissible hearsay. In fact, they do not appear to have been filed to prove their content, but instead to reveal a repeated breach over time by the respondent of the language requirements in Part IV of the OLA. In my view, this is exactly the type of generic evidence that Parliament intends to allow to be admitted in this type of public law remedy involving a federal institution's public relations.

[18] This allows complainants to present the tribunal with the full context of the language situation in the federal institution against which they are complaining and to establish the existence of a systemic problem that has already persisted for some time (see *Canada (Commissioner of Official Languages) v Air Canada*, 77 ACWS (3rd) 1166 at paragraphs 17–22, [1997] FCJ No. 1834 (QL) (FCTD) [*Air Canada 1997 FC* cited to ACWS]; *Lavigne v Canada*

Post Corporation, 2009 FC 756 at paragraph 32; *Thibodeau 2005 FC* at paragraph 53).

Otherwise, Parliament would not have enacted section 79 of the OLA, which reads as follows:

In proceedings under this Part relating to a complaint against a federal institution, the Court may admit as evidence information relating to any similar complaint under this Act in respect of the same federal institution.	Sont recevables en preuve dans les recours les renseignements portant sur des plaintes de même nature concernant une même institution fédérale.

[19] Moreover, section 79 of the OLA is a unique provision, showing Parliament's intent to make an exception to the traditional rules of evidence in order to allow the tribunal to offer the most complete and appropriate remedy (see *Thibodeau 2005 FC* at paragraphs 82–83). In fact, in the context of an application under the OLA, complainants can report on a general or even systemic situation that goes beyond the events that they personally encountered. The case at hand involves services that must be offered in both official languages to the travelling public as a whole. This involves highlighting the extent and quality of the French services that the federal institution actually provides: a context that spans a number of years, during which, according to the applicant, the respondent did not comply with its obligations under Part IV of the Act.

[20] For example, if we consider the statement by communications official Jennifer Delorey Lyon, found at paragraph 25 of the applicant's affidavit, the purpose is not to prove that in 2012, the volunteers were in fact required to offer an alternative service, but rather, that in 2012, the respondent was already concerned about the language issue. Similarly, with respect to the remarks of the Commissioner of Official Languages included at paragraph 23 of the affidavit and in exhibit 8, they are not intended to prove the truth of his remarks, but rather, the simple fact

that he had already considered the situation of the respondent's compliance with language laws at the time.

[21] In my view, exhibits 8 and 10 should therefore be admitted into evidence. That evidence may prove useful for demonstrating that, already in 2010 and 2012, the media and the respondent's representatives were concerned about the language issue, thus supporting the applicant's general allegation that there had been public criticisms of the repeated breaches of the obligations in Part IV of the OLA. It will be up to the judge presiding at the hearing on the merits of the application to assess the probative value of the articles in question in light of all of the evidence on record (see *Air Canada 1997 FC* at paragraph 19).

[22] I would also mention in passing that exhibits 8 and 10 contain several statements from the respondent's own representatives. Even though they were in fact hearsay, those statements could constitute out-of-court admissions (see, in particular, *R v Evans*, [1993] 3 SCR 653 at page 664, 108 DLR (4th) 32). It should also be kept in mind that the rule prohibiting hearsay is based on the difficulty of verifying the reliability of the declarant's statement, given that cross-examination is impossible (see *Khelawon* at paragraph 35). It is difficult to imagine how the respondent can claim to be unable to cross-examine its own representatives. As the applicant highlights, the respondent is free to file affidavits that respond to the allegations, which, it must be remembered, it did not do within the time allowed to it. This is not an obvious case that would warrant me exercising my discretion to once again strike an inappropriate allegation from an affidavit. Quite the contrary, the articles in question are exactly the type of evidence that is admissible to verify compliance with the obligations in Part IV of the OLA, that is, to ensure the

equality of service in English and French and the fullest protection of these quasi-constitutional language guarantees.

Settlement privilege

[23] With regard to the motion to strike paragraph 15 from the affidavit dated November 16, 2017, the respondent cites Rule 422, which is found in Part 11 – Costs. Paragraph 15 reads as follows:

> 15. [TRANSLATION] On November 1, 2017, counsel for the HIAA sent me a settlement offer, which I declined. I cannot attach a copy of that settlement offer to this affidavit because, according to counsel for the HIAA, the contents of the offer "cannot be disclosed or used before any forum whatsoever."

[24] Rule 422 provides that no communication respecting an offer to settle shall be made to the Court until all questions of liability and the relief to be granted, other than costs, have been determined. The respondent submits that Rule 422 goes as far as prohibiting the disclosure of the very existence of an offer to settle. However, contrary to the respondent's submissions, neither Rule 422 nor the settlement privilege appear to prevent the disclosure of the existence of an offer to settle. The privilege instead prohibits the disclosure of the contents of such an offer (see *Union Carbide Canada Inc v Bombardier Inc*, 2014 SCC 35 at paragraph 31 [*Union Carbide*]).

[25] In this case, there is no need to strike paragraph 15, which does not describe any offer to settle.

[26] Second, this involves determining whether paragraph 13 (including the email attached in exhibit 3) of the affidavit dated November 16, 2017, contains communications that are subject to the settlement privilege as the respondent claims, which is challenged by the applicant.

[27] Paragraph 13 of the affidavit dated November 16, 2017, reads as follows:

> 13. [TRANSLATION] On September 27 [2017], I received an email from Valerie Seager at the HIAA declining the out-of-court settlement and at the same time stating that "We deeply regret that services in French were not made available to you at our volunteer counter on July 26, 2016." The same email also states that the HIAA is unable to have bilingual volunteers available at all times. A copy of the email is included in **Exhibit 3** of this affidavit.

[28] Although the excerpts at paragraph 13 of the affidavit dated November 16, 2017, do not strictly reveal the contents of any offer to settle made by the respondent—which declined an out-of-court settlement—counsel for the respondent nevertheless invites the Court to read the entire email from September 27, 2017, which reads as follows:

> [TRANSLATION]
> Thank you for having contacted me. I appreciate you having informed me in advance of your intentions regarding your recent complaint about your experience at Halifax Stanfield International Airport.
>
> We deeply regret that services in French were not made available to you at our volunteer counter on July 26, 2016. We take our obligations under the *Official Languages Act* very seriously and regret having been unable to respond to your request for assistance in the language of your choice. We would like to thank you for bringing this situation to our attention. Although we are unable to have bilingual volunteers on site at all times, we provide our volunteers with training and certain tools to help them provide service in French to our passengers. We are sorry that our volunteer did not use those tools in your case.

> After receiving your complaint, we reminded our volunteers of their obligation to provide travellers with service in the official language of their choice and we reviewed with them the tools that are available to help them do so. We have also increased our efforts to attract bilingual volunteers.
>
> We are proud to offer our passengers exceptional customer service, and we regret that we were unable to do so on this occasion.
>
> While we recognize that you were entitled to service in the official language of your choice, we do not think that damages of $1,500 are warranted in these particular circumstances. However, we greatly appreciate that you took the time to bring this issue to our attention, and we took this opportunity to remind all our service providers of their official languages obligations. Please accept my most sincere apologies for this incident.

[29] In this case, it is clear from Valerie Seager's affidavit dated December 13, 2017, and from the applicant's affidavit dated January 26, 2018, which were filed by the respondent and applicant respectively in support of their submissions regarding the motion to strike, that the parties do not agree on the legal description to be given to the contents of the communications alleged at paragraph 13 of the affidavit dated November 16, 2017, particularly what is written by the respondent's representative in the email from September 27, 2017.

[30] According to the respondent, that email was part of a series of discussions about a potential settlement. In fact, the email followed a telephone call from the applicant in which he proposed to settle the dispute out of court and threatened the respondent that he would otherwise bring his case before the Federal Court. Based on the respondent's understanding, the intention of the parties was clear that all those exchanges were to remain confidential. The failure to include a specific mention to that effect in the email is an accidental omission on its part. The respondent never would have made such concessions outside of a settlement context. Thus, the

conditions in the case law that lead to the protection of communications made as part of a settlement are met: litigation was clearly being considered, in light of the applicant's threat; the intention of the parties was clear that the communications were to remain confidential and that the lack of a specific label was not determinative; and, lastly, the applicant himself admitted that he had proposed to the respondent that they settle out of court. The email from September 27, 2017, is the reply to that offer.

[31] The applicant is focusing his submissions on the lack of a common intent between the parties as to the confidentiality of communications, at least those that were included in the email alleged at paragraph 13. There is no indication in the email from September 27, 2017, that its existence or its contents had to remain confidential. The parties never discussed that matter as part of their exchanges, and it was never explicitly or implicitly agreed to. On the contrary, he also states that he had been surprised to see a confidential label on the offer to settle that was made after the email from September 27, 2017, by counsel for the respondent on November 1, 2017, and which is not filed in the record or summarized at paragraph 15 of the affidavit from November 16, 2017. According to him, the conditions in the case law that would lead to the protection of communications made as part of a settlement are therefore not met in this case.

[32] The respondent's objection is unfounded.

[33] Settlement privilege is a common law rule of evidence that is intended to protect communications exchanged by parties seeking to settle a dispute (see *Union Carbide* at paragraph 31). It applies to all communications that are made as part of discussions aimed at a settlement and not only the contents of a possible agreement. The Supreme Court has repeatedly

confirmed the importance of that privilege, which aims to encourage out-of-court settlements and thus contribute to improving access to justice (see *Globe and Mail v Canada (Attorney General)*, 2010 SCC 41 at paragraphs 78 and 81 [*Globe and Mail*]; *Sable Offshore Energy Inc v Ameron International Corp*, 2013 SCC 37 at paragraph 11 [*Sable Offshore*]; *Union Carbide* at paragraph 1). In fact, that privilege stems from the principle that parties would hesitate to commit themselves in open negotiations if they feared that the concessions made could be used against them in later litigation (see *Globe and Mail* at paragraph 80; *Sable Offshore* at paragraph 13; *Union Carbide* at paragraph 31).

[34] According to the case law and doctrine consulted by the Court (*Mohawks of the Bay of Quinte v Canada (Indian Affairs and Northern Development)*, 2013 FC 669 at paragraph 34; see also Sidney N. Lederman, Alan W. Bryant and Michelle K. Fuerst, *Sopinka, Lederman & Bryant: The Law of Evidence in Canada*, 4th ed, Markham, Lexis Nexis, 2014 at page 1039 [Lederman]), the necessary conditions for settlement privilege are as follows:

> A litigious dispute must be in existence or considered;
>
> The communication must be made with the express or implied intention that it would not be disclosed to the court in the event negotiations failed; and
>
> The purpose of the communication must be to attempt to effect a settlement.

[35] That said, although it may serve to indicate the intent of the parties, the presence of the label “without prejudice” is not required in order for the privilege to apply (see *Sable Offshore* at

paragraph 14; see also Lederman at page 1039). It is in fact the intent of the parties to settle the action that will be determinative (see *Sable Offshore* at paragraph 14).

[36] The email from September 27, 2017, is not protected by settlement privilege. Indeed, it is undeniable that litigation between the parties was contemplated. The applicant himself mentions at paragraph 9 of his affidavit dated January 26, 2018, that he had contacted the respondent for the purpose of avoiding litigation in the Federal Court. For the applicant, the intent of that call was clearly to settle the dispute out of court (see the affidavit dated January 26, 2018, at paragraph 9). However, I am not satisfied that this was the respondent's intent in its email from September 27, 2017 (exhibit 3). In fact, the email does not show any intent whatsoever to settle: Valerie Seager merely declines the applicant's offer without presenting anything in exchange or trying to initiate any sort of settlement discussion. It must be kept in mind that settlement privilege aims to encourage the parties to disclose information and make concessions. Here, the information given by Ms. Seager regarding the official languages situation does not appear to me to have been intended as a negotiation argument. Instead, the email has the appearance of a courtesy letter that attempts to end the exchange with the applicant. For that reason, I do not find that the email indicates the respondent's intention to settle, which is the third criterion for the privilege to apply.

[37] I also agree with the applicant that the intent to keep those communications confidential is not evident. Let us recall the context: the respondent, the HIAA, a significant federal institution, communicates directly with an individual through its Vice President, Legal & Regulatory Affairs, clearly showing an imbalance in the level of legal knowledge between the parties. Ms. Seager therefore could not assume that the applicant would naturally expect that

their exchanges would remain confidential. If that was the respondent's intent, it seems to me that a brief conversation or mention to that effect would have been appropriate. However, the question of confidentiality was never discussed by the parties, at least not when the email was sent. The Vice President was thus well aware of the issue of confidentiality, yet she claims that the failure to include any mention in the email was accidental. I cannot agree with this *a posteriori* argument by the respondent. Moreover, counsel for the respondent made the effort to include the label "without prejudice" in its subsequent offer on November 1, 2017.

[38] In summary, the three criteria for the application of settlement privilege are not all met. Therefore, there is no need to exercise this Court's discretion to summarily strike paragraph 13 and exhibit 3 of the applicant's affidavit dated November 16, 2017.

Costs

[39] The parties agree that the Court should award costs at the motion to strike stage, rather than waiting for the decision on the merits, as costs in the cause.

[40] Given that this motion was dismissed, the applicant will be entitled to costs.

[41] Although, as a general rule, self-represented parties are entitled only to payment of their disbursements and not to their fees, given the absence of counsel, the justices of this Court are increasingly open to awarding some compensation for time spent preparing the case (see *Air Canada v Thibodeau*, 2007 FCA 115 at paragraph 24 [*Thibodeau 2007 FCA*]; *Sherman v Canada (Minister of National Revenue)*, 2004 FCA 29 at paragraphs 10–11; *Stevens v Canada*

(Attorney General), 2007 FC 847 at paragraphs 17–19; refer also to the Trial Division's decision in *Thibodeau 2005 FC* at paragraphs 31 *et seq*).

[42] In *Thibodeau 2007 FCA*, Justice Létourneau stated the following:

> [24] However, given the three-fold objective of costs, i.e. providing compensation, promoting settlement and deterring abusive behaviour, case law has acknowledged that it is appropriate to award some form of compensation to self-represented parties, particularly when that party is required to be present at a hearing and foregoes income because of that: see *Sherman v Minister of National Revenue*, [2003] 4 FCA 865. However, the compensation awarded may at best be equal to what the party could have obtained under the Tariff if it had been represented by a lawyer: see *Sherman*, *supra*, 2004 FCA 29, at paragraph 11. . . .

[43] In my view, such an approach is consistent with the spirit of the OLA, in which subsection 81(2) also allows costs to be awarded in favour of the unsuccessful party, given the public interest of remedies under this legislative scheme. Although that subsection does not apply in this case, it certainly shows a legislative intent to compensate the parties that spend time and money to settle a case that raises issues of importance to Canadian society (see, for example, *Norton v Via Rail Canada*, 2009 FC 704 at paragraph 130).

[44] In addition to his $250 costs, the applicant is seeking compensation for the approximately 50 hours of work that were necessary for preparing his reply to the respondent's motion. Here, it is suitable to award the applicant an overall sum as compensation for his time invested. A total sum of $1,250, including the disbursements claimed by the applicant, seems appropriate to me in the circumstances.

Extension of the time for serving the respondent's affidavits

[45] Lastly, given that the time to serve the respondent's affidavits has elapsed, the Court allows an extension until March 16, 2018, for the respondent's affidavits to be served.

ORDER in T-1510-17

THIS COURT ORDERS that:

1. The respondent's motion to strike is dismissed;

2. The applicant is entitled to costs in the amount of $1,250; and

3. The time limit for serving the respondent's affidavits is extended to March 16, 2018.

"Luc Martineau"
Judge

Certified true translation
This 12th day of February 2020

Lionbridge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1510-17
STYLE OF CAUSE:	MICHEL THIBODEAU v HALIFAX INTERNATIONAL AIRPORT AUTHORITY
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	JANUARY 31, 2018
ORDER AND REASONS:	MARTINEAU J.
DATED:	FEBRUARY 28, 2018

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