

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230118

Docket: A-124-21

Citation: 2023 FCA 5

[ENGLISH TRANSLATION]

**CORAM: GAUTHIER J.A.
GLEASON J.A.
RIVOALEN J.A.**

BETWEEN:

MARIE MACHE RAMEAU

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on January 10, 2023.

Judgment delivered from the bench at Ottawa, Ontario, on January 10, 2023.

REASONS FOR JUDGMENT OF THE COURT BY:

RIVOALEN J.A.

Federal Court of Appeal



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AMENDED REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Ottawa, Ontario, on January 10, 2023.)

RIVOALEN J.A.

[1] Ms. Mache Rameau is seeking judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the Board) dated February 17, 2021 (2021 FPSLREB 15). In that decision, the Board ruled that it did not have jurisdiction to hear the grievance filed by Ms. Mache Rameau on February 22, 2013 to challenge her employer's decision of

January 30, 2013, which declared that Ms. Mache Rameau was a surplus employee because her human resources programs advisor position was affected by a workforce adjustment.

[2] The employer had objected to the Board's jurisdiction to hear Ms. Mache Rameau's grievance on two grounds. First, the employer argued that Ms. Mache Rameau had raised a new allegation of disguised discipline for the first time before the Board. Second, the employer argued that the grievance could not be based solely on an independent allegation of a human rights violation.

[3] On February 17, 2021, the Board rendered the decision that is the subject of this application for judicial review, allowing the employer's objection and dismissing Ms. Mache Rameau's grievance for lack of jurisdiction.

[4] In its decision, the Board further emphasized that the grievance must be adjudicated as originally presented and that altering the fundamental nature of a grievance at adjudication was not permitted (*Burchill v. Attorney General of Canada*, [1981] 1 F.C. 109, 37 N.R. 530). The Board also relied on *Chamberlain v. Canada (Attorney General)*, 2015 FC 50, 473 F.T.R. 222 at paragraphs 41 to 43, to support its finding that the adjudication of a grievance based solely on an independent allegation of a human rights violation is not permitted. Before us, the applicant indicated that she no longer disputes this second finding.

[5] We all agree that the Board's decision is reasonable. It describes the grievance for which adjudication is sought, reviews the submissions of the parties and provides reasons for its

findings. The decision takes into account the constraints imposed by the applicable legislative scheme. Given the facts of this case, including the joint statement of facts, the wording of the grievance, the fact that there was no mention of disguised discipline throughout the grievance process, and the wording of the first referral to adjudication, it was open to the Board to find that the grievance had not raised an issue of disguised discipline.

[6] The Board's decision satisfies the requirements that the decision be transparent, intelligible and justified (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1, at paragraphs 15 and 108).

[7] For these reasons, the application for judicial review is dismissed with costs fixed at \$500.

“Marianne Rivoalen”

J.A.

Certified true translation
Vera Roy, Jurilinguist

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-124-21

STYLE OF CAUSE: MARIE MACHE RAMEAU v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: JANUARY 10, 2023
Amended reasons issued
January 18, 2023

**REASONS FOR JUDGMENT OF THE COURT
BY:** GAUTHIER J.A.
GLEASON J.A.
RIVOALEN J.A.

DELIVERED FROM THE BENCH BY: RIVOALEN J.A.

APPEARANCES:

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