

Federal Court of Appeal



Cour d'appel fédérale

Date: 20260421

**Dockets: A-409-24
A-410-24**

Citation: 2026 FCA 76

[ENGLISH TRANSLATION]

**CORAM: DE MONTIGNY C.J.
LEBLANC J.A.
PAMEL J.A.**

Docket: A-409-24

BETWEEN:

LAURY DUBÉ

Applicant

and

CANADIAN MEDIA GUILD

Respondent

Docket: A-410-24

AND BETWEEN:

LAURY DUBÉ

Applicant

and

CANADIAN BROADCASTING CORPORATION

Respondent

Heard at Montréal, Quebec, on April 21, 2026.

Judgment delivered from the bench at Montréal, Quebec, on April 21, 2026.

REASONS FOR JUDGMENT OF THE
COURT BY:

LEBLANC J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Montréal, Quebec, on April 21, 2026.)

LEBLANC J.A.

[1] The applicant, Laury Dubé, is applying for judicial review of two decisions by the Canadian Industrial Relations Board (the Board), both dated September 10, 2024 (2024 CIRB LD 5449 and 2024 CIRB LD 5450). In both cases, the Board found complaints filed by the applicant on June 19, 2023, to be inadmissible because they were filed late. One complaint was against her union, the respondent Canadian Media Guild (the Union) for breaching its duty of fair representation, and the other was against her former employer, the Canadian Broadcasting Corporation (the CBC) for various reprisals, up to and including dismissal, following a complaint of workplace violence and harassment. In parallel with these two complaints, a series of grievances were filed by the applicant in connection with allegations of workplace violence and harassment and absences from work that were considered unauthorized by the CBC.

[2] These complaints were made under section 37 and paragraph 97(1)(a) of the *Canada Labour Code*, R.S.C. 1985, c. L-2 (the Code) with respect to the Union, and under sections 133 and 147 of the Code with respect to the CBC. They were subject to the same time limits under subsections 97(2) and 133(2) of the Code, meaning that they had to be made not later than ninety days after the date on which the complainant knew, or in the opinion of the Board ought to have known, of the action or circumstances giving rise to the complaints.

[3] The Board determined that the time limit was not respected in either case. In the case of the complaint against the Union, the Board considered that the applicant ought to have known of the circumstances that gave rise to the complaint no later than on March 17, 2023, which was when the applicant was informed by email that the termination of employment grievance had no chance of success and that it would therefore be withdrawn, as would the grievances that had no financial impact. In the case of the complaint against the CBC, the Board found that the applicant ought to have known of the circumstances that gave rise to the reprisal complaint no later than on December 14, 2022, when her termination of employment was confirmed to her in writing by the CBC.

[4] The applicant is asking the Court to intervene. She contends that the Board applied a [TRANSLATION] “rigid interpretation” of the applicable time limits, thereby denying her an investigation into the [TRANSLATION] “serious breaches” she alleges against the Union and the CBC, which are supported in her memorandum. She asserts, among other things, that the Board did not assess the [TRANSLATION] “exceptional circumstances” that had led to the delay in her actions. On this point, she states that she received poor advice from a lawyer and that the Union had an ambiguous attitude toward her.

[5] At the start of the hearing, we dismissed a motion made by the applicant only a few days ago, requesting permission to file an additional affidavit regarding the fact that that lawyer was not a lawyer. Both respondents opposed the motion. We dismissed it on the basis that the motion was made late and that this information was not before the Board. Only the evidence that was before the Board may be considered by the Court in examining these applications for judicial

review. In any case, even if we assume that this person was not a lawyer, the impact of this information on calculating the time limits would be purely speculative.

[6] On the merits, we cannot allow the applicant's applications for judicial review. It is important to note, at the outset, that it is not our role in the context of these applications to determine the merits of the breaches the applicant alleges against the Union and the CBC.

[7] The only issue before us is whether our intervention is warranted to set aside the Board's decisions to dismiss the two complaints for delay. To decide this issue, we must apply the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (*Vavilov*)). This is a deferential standard, which invites the Court to ask whether the Board's decisions are based on an internally coherent and rational chain of analysis and whether they are justified in relation to the facts and law that constrained the Board (*Vavilov* at paras. 84–85). What must be understood about the reasonableness standard is that we must refrain from reassessing the evidence on the record and from substituting our own conclusions to those of the Board (*Vavilov* at para. 83).

[8] Thus, our capacity to intervene is limited. Only a "fatal flaw" in the overarching logic of the Board's decisions can enable us to intervene (*Vavilov* at para. 102), and only "exceptional circumstances" can authorize us to change the factual findings of the administrative decision maker (*Vavilov* at para. 125).

[9] Here, the question of when the applicant knew of the circumstances that gave rise to the complaints at issue—which, in the Board’s opinion, was on December 14, 2022, for the complaint against the CBC and on March 17, 2023, for the complaint against the Union—is a question of fact, and we see no exceptional circumstances that would enable us to intervene. These two dates are supported by the evidence that was before the Board. The test to be applied here is not whether the way the applicant sees these circumstances is in itself reasonable or whether we would have arrived at a different conclusion from the Board if we had assessed the facts on the record ourselves. Rather, it is whether the way the Board sees the circumstances was reasonable. In our view, it was.

[10] Finally, the complaint forms filled out by the applicant in both cases informed her of the Board’s power, granted under paragraph 16(m.1) of the Code, to extend the time limit of 90 days on the basis of “exceptional circumstances”. The form also specified that the applicant had to apply to the Board for the extension. However, in both cases, as noted by the Board, no such application was made. In this context, the Board cannot be criticized for not assessing the “exceptional circumstances”, which, according to the applicant, caused the delay in her actions. In other words, these circumstances were not alleged before the Board for it to exercise its discretion under paragraph 16(m.1) of the Code, and, as indicated above, we do not have the power to assess them in place of the Board.

[11] At the hearing, the applicant, who was represented by counsel, asked us to intervene essentially on the basis of considerations of fairness because she represented herself when she had filed the two complaints at issue. We cannot accept this argument either. As stated above,

the complaint forms she filled out clearly informed her that she could apply to the Board for an extension of time on the basis of exceptional circumstances. However, once again, the applicant did not make such an application. In fulfilling its role on judicial review, this Court cannot decide a dispute on the basis of fairness. Our only concern must be whether the Board's decision is reasonable, and, when alleged—which is not the case here—whether the Board breached the rules of procedural fairness.

[12] For all of these reasons, the two applications for judicial review before us will be dismissed, with costs to the Union and the CBC. The original of these reasons will be filed in court file A-409-24, and a copy will be filed in court file A-410-24.

“René LeBlanc”

J.A.

Certified true translation
Margarita Gorbounova, Senior Jurilinguist

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-409-24

STYLE OF CAUSE: LAURY DUBÉ v. CANADIAN
MEDIA GUILD

AND DOCKET: A-410-24

STYLE OF CAUSE: LAURY DUBÉ v. CANADIAN
BROADCASTING
CORPORATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: APRIL 21, 2026

REASONS FOR JUDGMENT OF THE COURT BY: DE MONTIGNY C.J.
LEBLANC J.A.
PAMEL J.A.

DELIVERED FROM THE BENCH BY: LEBLANC J.A.

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