Federal Court  Cour fédérale

Date: 20210705

Docket: T-623-20

Citation: 2021 FC 704

Ottawa, Ontario, July 5, 2021

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

MATTHEW DOUCETTE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Mr. Matthew Doucette, was an employee of Agriculture and Agri-Food Canada ("AAFC") from July 2003 until September 2019, when his employment was terminated. The Applicant was alleged to have behaved inappropriately towards female colleagues in vulnerable positions both inside and outside the workplace. An investigatory report determined those allegations were founded (the "Report"). On September 12, 2019, AAFC accepted the

Report's findings of misconduct, and the Applicant grieved that decision (the "Investigation Grievance"). On September 20, 2019, AAFC terminated the Applicant based on the Report's findings, and the Applicant grieved that decision as well (the "Termination Grievance").

[2] On February 28, 2020, AAFC denied both the Applicant's grievances at the final level (the "Investigation Decision" and "Termination Decision" respectively). The Applicant seeks judicial review of the Investigation Decision. In addition, the Applicant has referred the Termination Grievance to the Federal Public Sector Labour Relations and Employment Board (the "Board") for adjudication.

[3] The Applicant submits the Report — and in turn the Investigation Decision — breached the principles of procedural fairness because the Report's author, Mr. Ty Arslan from Auspice Safety Inc. (the "Investigator"), was biased and did not provide the Applicant with an opportunity to know the case against him and respond, among other things.

[4] The Respondent submits this application should be dismissed because it is premature. The Respondent asserts the Board is able to remedy any issues of procedural fairness underlying the Investigation Decision when it adjudicates the Termination Grievance. Accordingly, the Respondent asserts the Applicant has failed to exhaust all adequate and available remedies under the *Federal Public Sector Labour Relations Act*, SC 2003, c 22, s 2 (the "*Act*") before proceeding to this Court for judicial review.

[5] For the reasons that follow, I shall grant the Respondent's motion and dismiss this application for judicial review on the basis that it is premature. Although the decision under review is final and binding under the *Act*, the Board has jurisdiction to hear and, if necessary, remedy any issues of procedural fairness underlying the Investigation Decision in adjudicating the Termination Grievance. In addition, I am not convinced exceptional circumstances arise in this case that warrant this Court's intervention before the administrative process is complete.

II. Facts

A. *The Applicant*

[6] On February 27, 2019, AAFC notified the Applicant that a fact-finding exercise would be conducted by the Investigator concerning the Applicant's alleged inappropriate behaviors inside and outside of the workplace. At that time, the Applicant was provided no further information regarding the allegations against him.

[7] On April 15, 2019, the Applicant attended a meeting with AAFC management, who provided the Applicant with an outline of the allegations against him. The allegations included, among other things, that the Applicant:

(a) abused his authority as a manager to lure young female colleagues in vulnerable positions in attempts to coerce or have sexual relations with them;

(b) behaved inappropriately towards women by discrediting women in front of colleagues, bragging about his sexual relations, stalking young women at the workplace, making inappropriate comments about the women's physical characteristics, and using hostile language; and

(c) used substances with young female students and brought them to strip clubs.

[8] The Applicant was interviewed twice by the Investigator: first on April 26, 2019 and again on May 31, 2019.

[9] On July 26, 2019, the Applicant was provided with the Investigator's preliminary report and an opportunity to comment on its findings. In a letter dated July 31, 2019, the Applicant provided the Investigator and AAFC with nearly 20 pages of written submissions responding to the preliminary report.

[10] On September 5, 2019, the Investigator issued the Report, which confirmed the allegations against the Applicant were founded.

[11] In a letter dated September 12, 2019, Mr. Paul Samson, the Assistant Deputy Minister of the Programs Branch at AAFC, informed the Applicant of his decision to accept the Report's findings. In that letter, the Applicant was invited to a pre-disciplinary meeting on September 17, 2019, which the Applicant attended.

[12] In a letter dated September 20, 2019, Mr. Samson terminated the Applicant's employment with AAFC due to his "wilful inappropriate behaviours towards women in junior positions in [the] organization".

[13] On October 11, 2019, the Applicant filed both the Investigation Grievance and the Termination Grievance. The Investigation Grievance concerned Mr. Samson's September 12, 2019 decision to accept the Report. The Termination Grievance concerned Mr. Samson's September 20, 2019 decision to terminate the Applicant's employment.

[14] On February 25, 2020, the Applicant, through his union, referred the Termination Grievance to the Board for adjudication.

[15] On February 28, 2020, Ms. Christine Walker, Assistant Deputy Minister and Chief Financial Officer of the Corporate Management Branch at AAFC, issued the Investigation Decision, which denied the Investigation Grievance and upheld Mr. Samson's September 12, 2019 decision to accept the findings in the Report.

[16] On that same day, February 28, 2020, Ms. Walker also issued the Termination Decision, which denied the Termination Grievance and upheld Mr. Samson's September 20, 2019 decision to terminate the Applicant's employment.

[17] On June 11, 2020, the Applicant filed a Notice of Application with this Court, seeking judicial review of the Investigation Decision. The Board's adjudication of the Termination Grievance was then, and remains, outstanding.

B. *Decision Under Review*

[18] In the Investigation Decision, Ms. Walker held there was no credible evidence to substantiate the Applicant's allegations regarding breaches of procedural fairness throughout the Report's investigation process and bias on behalf of the Investigator:

> Although, I note the unfortunate comment made to you by our EFAP service provider consultant, I am of the view that this does not demonstrate a predetermined outcome on the part of management. Further, I noted that you were provided with multiple opportunities to share your perspective on the allegations and this was taken into consideration by the investigator.

[19] As Ms. Walker found the Investigator did not breach his duty of fairness, Ms. Walker upheld AAFC's decision to accept the findings in the Report.

III. Preliminary Issue: Respondent's Motion

[20] On September 3, 2020, The Respondent brought a motion in writing requesting the Court dismiss this application because: (i) the Applicant failed to exhaust all available and adequate remedies under the *Act* prior to submitting his application for judicial review; and (ii) the

application constitutes a collateral attack and abuse of process on the Board's pending adjudication of the Termination Grievance.

[21] The Respondent's motion remained outstanding at the time of the hearing for this application. The issues raised in the Respondent's motion are therefore considered within the body of this judgment.

IV. Issues and Standard of Review

[22] This application for judicial review raises the following three issues:

A. *Did the Applicant exhaust all adequate and available remedies before seeking judicial review?*

B. *Does the application constitute a collateral attack or an abuse of process on the Termination Decision?*

C. *Was the Investigation Decision procedurally fair?*

[23] The first two issues attract no standard of review because they do not raise concerns regarding the substance of the Investigation Decision.

[24] The Applicant submits correctness is the applicable standard of review for the third issue, as it concerns matters of procedural fairness.

[25] I agree. Issues of procedural fairness are reviewed upon what is best reflected in the correctness standard (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paras 21-28 (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54).

V. Analysis

A. *Did the Applicant exhaust all adequate and available remedies before seeking judicial review?*

[26] As explained by the Federal Court of Appeal in *Canada (Border Services Agency) v C.B. Powell Limited*, 2010 FCA 61 ("*C.B. Powell*"), the doctrine of adequate alternative remedies requires that, absent exceptional circumstances, parties cannot proceed to judicial review until the administrative process has run its course:

> [31] […] This means that, absent exceptional circumstances, those who are dissatisfied with some matter arising in the ongoing administrative process must pursue all effective remedies that are available within that process; only when the administrative process has finished or when the administrative process affords no effective remedy can they proceed to court. […]
>
> [32] This prevents fragmentation of the administrative process and piecemeal court proceedings, eliminates the large costs and delays associated with premature forays to court and avoids the waste associated with hearing an interlocutory judicial review when the

> applicant for judicial review may succeed at the end of the administrative process anyway.
>
> [citations omitted, emphasis added]

[27] The decision to decline judicial review jurisdiction due to an alternative remedy is discretionary. The operable consideration is whether the alternative remedy is adequate, not whether it is perfect (*Froom v Canada (Minister of Justice)*, 2004 FCA 352 at para 12).

[28] The above principles have been applied consistently in the context of applications for judicial review brought prior to completion of the grievance procedure under the *Act* and its predecessor (*McCarthy v Canada (Attorney General)*, 2020 FC 930 at para 42).

(1) Is the Investigation Decision final and binding under section 214 of the *Act*?

[29] The Applicant asserts he has exhausted all remedies available to him under the individual grievance procedure contained in sections 208-214 of the *Act*. In particular, he notes that because the Investigation Decision is not the type of decision which may be referred to adjudication under section 209 of the *Act*, the Investigation Decision is final and binding under section 214.

[30] The provisions at issue under the *Act* are as follows:

Reference to adjudication	**Renvoi d'un grief à l'arbitrage**
209 (1) An employee who is not a member as defined in subsection 2(1) of the *Royal*	209 (1) Après l'avoir porté jusqu'au dernier palier de la procédure applicable sans avoir

Canadian Mounted Police Act may refer to adjudication an individual grievance that has been presented up to and including the final level in the grievance process and that has not been dealt with to the employee's satisfaction if the grievance is related to

obtenu satisfaction, le fonctionnaire qui n'est pas un membre, au sens du paragraphe 2(1) de la *Loi sur la Gendarmerie royale du Canada*, peut renvoyer à l'arbitrage tout grief individuel portant sur :

(a) the interpretation or application in respect of the employee of a provision of a collective agreement or an arbitral award;

a) soit l'interprétation ou l'application, à son égard, de toute disposition d'une convention collective ou d'une décision arbitrale;

(b) a disciplinary action resulting in termination, demotion, suspension or financial penalty;

b) soit une mesure disciplinaire entraînant le licenciement, la rétrogradation, la suspension ou une sanction pécuniaire;

(c) in the case of an employee in the core public administration,

c) soit, s'il est un fonctionnaire de l'administration publique centrale :

(i) demotion or termination under paragraph 12(1)(d) of the *Financial Administration Act* for unsatisfactory performance or under paragraph 12(1)(e) of that Act for any other reason that does not relate to a breach of discipline or misconduct, or

(i) la rétrogradation ou le licenciement imposé sous le régime soit de l'alinéa 12(1)d) de la *Loi sur la gestion des finances publiques* pour rendement insuffisant, soit de l'alinéa 12(1)e) de cette loi pour toute raison autre que l'insuffisance du rendement, un manquement à la discipline ou une inconduite,

(ii) deployment under the *Public Service Employment Act* without the employee's consent

(ii) la mutation sous le régime de la *Loi sur l'emploi dans la fonction publique* sans son

where consent is required; or	consentement alors que celui-ci était nécessaire;
(d) in the case of an employee of a separate agency designated under subsection (3), demotion or termination for any reason that does not relate to a breach of discipline or misconduct.	d) soit la rétrogradation ou le licenciement imposé pour toute raison autre qu'un manquement à la discipline ou une inconduite, s'il est un fonctionnaire d'un organisme distinct désigné au titre du paragraphe (3).
Decision final and binding	**Décision définitive et obligatoire**
214 If an individual grievance has been presented up to and including the final level in the grievance process and it is not one that under section 209, 209.1 or 238.25 may be referred to adjudication, the decision on the grievance taken at the final level in the grievance process is final and binding for all purposes of this Act and no further action under this Act may be taken on it.	214 Sauf dans le cas du grief individuel qui peut être renvoyé à l'arbitrage au titre des articles 209, 209.1 ou 238.25, la décision rendue au dernier palier de la procédure applicable en la matière est définitive et obligatoire et aucune autre mesure ne peut être prise sous le régime de la présente loi à l'égard du grief en cause.

[31] I accept that the Investigation Decision is final and binding under section 214 of the *Act*. The Investigation Decision cannot be referred to adjudication under subsection 209(1) of the *Act* because it does not concern: a question of interpretation or application of the Applicant's collective agreement under subsection 209(1)(a); a disciplinary measure under subsection 209(1)(b); or any action identified under subsection 209(1)(c). Additionally, the Investigation Decision cannot be referred to adjudication under sections 209.1 or 238.25, as those provisions concern circumstances that do not apply to the case at hand.

(2) Is an alternative remedy available?

[32] Despite the finality of the Investigation Decision under the *Act*, the Respondent asserts an adequate remedy remains available to the Applicant because the fundamental issue raised by this application — *i.e.*, whether the Investigator breached the principles of procedural fairness — will be examined by the Board when it adjudicates the Termination Grievance.

[33] The Respondent notes *Patanguli v Canada (Citizenship and Immigration)*, 2015 FCA 291, wherein Gauthier J.A. held that the Board's adjudication is a *de novo* hearing capable of remedying issues of procedural fairness:

> [38] The Public Service Labour Relations Board case law is clear: a hearing held before an adjudicator of a grievance constitutes a *de novo* hearing.
>
> [39] In *Danyluk v. Ainsworth Technologies Inc.*, 2001 SCC 44, [2001] 2 S.C.R. 460, the appellant submitted that she did not have an opportunity to rebut her employer's allegations in an investigation related to her claim for unpaid commissions and wages. Justice Binnie commented, in an *obiter*, as follows:
>
> > [32] If an internal review were ordered, an adjudicator would then have looked at the appellant's claim *de novo* and would undoubtedly have shared the employer documents with the appellant and given her every opportunity to respond and comment. I agree that under the scheme of the Act procedural defects at the ESA officer level, including a failure to provide proper notice and an opportunity to be heard in response to the opposing case, can be rectified on review.
> >
> > [emphasis in original]
>
> [40] Our Court's doctrine has applied this same principle for at least 30 years. As Justice Urie held in *Tipple v. Canada (Treasury Board)*, [1985] FCJ No. 818 (FCA):

> Assuming that there was procedural unfairness in obtaining the statements taken from the Applicant by his superior (an assumption upon which we have considerable doubt) that unfairness was wholly cured by the hearing *de novo* before the Adjudicator at which the Applicant had full notice of the allegations against him and full opportunity to respond to them.
>
> [emphasis added]

[34] The Respondent asserts that allowing the Applicant to proceed with judicial review before this Court prior to proceeding to adjudication before the Board would undermine the statutory scheme in the *Act*, as the Board has jurisdiction to consider any issues of procedural fairness within the investigatory process. According to the Respondent, to provide otherwise would contradict the Supreme Court of Canada's affirmation in *Vaughan v Canada*, 2005 SCC 11 ("*Vaughan*") at para 39, wherein Justice Binnie held that "where Parliament has clearly created a scheme for dealing with labour disputes, as it has done in this case, courts should not jeopardize the comprehensive dispute resolution process contained in the legislation by permitting routine access to the courts."

[35] Instructive on this matter is *Augustin v Canada (Attorney General)*, 2018 FC 55 ("*Augustin*"). In that case, an employee submitted both an official harassment complaint and a discrimination grievance with her employer, the latter of which was part of her application for judicial review (*Augustin* at paras 7-8). Justice Mosley found the application was premature because the discrimination grievance was submitted to the Board for adjudication (*Augustin* at paras 17-19). Citing *Vaughan*, Justice Mosley in *Augustin* stated:

> [22] All useful recourse, including the recourse to the adjudication before the Board, must be exhausted before the Court exercises its judicial review jurisdiction. The adjudication procedure for the grievance before the Board should follow its course before an application for judicial review is commenced.
>
> [citations omitted]

[36] In coming to the above conclusion, Justice Mosley rejected the employee's argument that there was a distinction between the issue of harassment, which she claimed was before the Court, and the issue of discrimination, which she claimed was before the Board (*Augustin* at para 20). In particular, Justice Mosley declined to judicially review the discrimination grievance because "the Court and the Board would review the same series of facts in the same context" and the remedy sought before the Board "also concern[ed] the issue of harassment" (*Augustin* at para 21).

[37] Likewise, I find that if this Court were to review the Investigation Decision, it would review the same series of facts and issues that the Board would consider in adjudicating the Termination Grievance. The investigation underlying the Investigation Grievance is not a stand-alone item, but rather part of a complete disciplinary process. The Board can address the entirety of that process upon adjudicating the Termination Grievance and remedy any issues of procedural fairness, if necessary.

[38] The Applicant disagrees. He asserts *Augustin* is distinguishable from the case at hand because the facts argued for the Applicant's two grievances do not intersect, whereas the facts argued before both the Court and the Board in *Augustin* were identical. In particular, the Applicant asserts the Investigation Grievance concerns AAFC's conduct in the investigative

process, whereas the Termination Grievance concerns the Applicant's conduct inside and outside of the workplace.

[39] In my view, the dichotomy proposed by the Applicant is unsubstantiated. There is no evidence to suggest the Board is unable to consider AAFC's conduct in the investigation process upon adjudicating the Termination Grievance. I accept that *Augustin* is distinguishable insofar as the grievance before the Court in *Augustin* was the same grievance referred to the Board, whereas the grievance in the case at hand cannot be referred to the Board. However, this distinction does not negate the fact that the Applicant's grievances overlap, as the Board can consider the facts and issues concerning procedural fairness raised in the Investigation Grievance when adjudicating the Termination Grievance.

(3) Does the Board have jurisdiction to consider issues of procedural fairness?

[40] In arguing he has exhausted all adequate and available remedies, the Applicant asserts the Board does not have jurisdiction to review matters of procedural fairness. The authorities relied upon by the Applicant for this argument constitute a long strand of jurisprudence, which stems from *Canada (Attorney General) v Assh*, 2005 FC 734 ("*Assh*").

[41] In my view, *Assh* does not stand for the authority that the Board lacks jurisdiction to consider matters of procedural fairness.

[42] In *Assh*, Justice Strayer found an adjudicator appointed under the *Public Service Staff Relations Act*, RSC 1985, c P-35 ("*PSSRA*"), a predecessor of the *Act*, erred in assuming

jurisdiction of an employee's grievance. The employee in *Assh* was an advocate for Veterans Affairs Canada who received a small bequest from a client. Noting a potential conflict of interest, the employee informed his supervisor of the bequest, who then instructed the employee to refuse the bequest. The employee grieved his supervisor's decision and ultimately referred the matter to adjudication (*Assh* at paras 2-4).

[43] The adjudicator assumed jurisdiction over the employee's grievance by finding the employee received a "disciplinary action resulting in suspension or financial penalty" under section 92 of the *PSSRA*, a provision that largely resembled section 209 of the *Act* (*Assh* at para 5). The Court held this finding was unreasonable, as the employee did not receive disciplinary action and section 92 could not reasonably be interpreted to include possible disciplinary action (*Assh* at para 14).

[44] In finding the adjudicator unreasonably assumed jurisdiction over the employee's grievance, Justice Strayer in *Assh* affirmed the employee could still seek relief upon judicial review:

> [12] Nor does this lead to any serious injustice. What it means is that once a grievance has been dealt with at the final level, and is not referable for adjudication, the grievor can seek judicial review in this Court of the final level grievance decision. This is not an illusory remedy. As was said by Evans J.A. in *Vaughn v. Canada* 2003 FCA 76 (CanLII), [2003] 3 F.C. 645 (C.A.):
>
> > 136 Fourth, the availability of judicial review of an adverse final level decision on a grievance that cannot be referred to an adjudicator under section 92 provides external discipline for decision-makers, and brings an independent measure of quality control to both process and outcome. On an application for judicial review to the Trial Division under section 18.1 of the Federal Court Act, the Court can be

> asked to review the fairness of the administrative process, the rationality of material findings of fact, and the lawfulness of the decision or action in question.
>
> [emphasis added]

[45] Considering the above, I find *Assh* stands for the authority that the Court can review a final level grievance decision if the grievance is not referable for adjudication. This conclusion accords with how *Assh* is treated in the jurisprudence cited by the Applicant.

[46] In *Price v Treasury Board (Canada)*, T-1074-13 (March 31, 2014) ("*Price 1*") at 3, Justice Gleason (as she then was) relied upon *Assh* and found the Board did not have jurisdiction to adjudicate the grievance at issue because it was inadjudicable under section 209 of the *Act*. In other words, the Board did not have jurisdiction over the grievance in *Price 1* because the grievance did not meet the criteria under section 209 of the *Act*, not because the grievance concerned matters of procedural fairness *per se*.

[47] Both *Assh* and *Price 1* were then relied upon by Justice LeBlanc in *Chickoski v Canada (Attorney General)*, 2016 FC 1043 ("*Chickoski*"). Noting the heightened threshold for allowing a preliminary motion to dismiss an application, Justice LeBlanc was not prepared to find the application for judicial review in *Chickoski* was premature because it remained unclear whether the employee was precluded from alternative remedies based on the characterization of his grievance (*Chickoski* at paras 8-13, 20). Citing *Assh* at paragraph 12, Justice LeBlanc stated that "once a grievance has been dealt with at the final grievance level as is the case here, the grievor can seek judicial review in this Court of the final level grievance decision provided it is not referable for adjudication" (*Chickoski* at para 13) [emphasis added].

[48] In light of the above, I find the Applicant has not provided an authority establishing the Board does not have the jurisdiction to consider issues of procedural fairness. In my view, neither *Assh*, *Price 1*, nor *Chickoski* stand for such a proposition.

[49] As noted by the Respondent, the above conclusion aligns with *Puccini v Deputy Head (Parole Board of Canada)*, 2018 FPSLREB 88 ("*Puccini*"), and *Heyser v Deputy Head (Department of Employment and Social Development) and Treasury Board (Department of Employment and Social Development)*, 2015 PSLREB 70 ("*Heyser*"), aff'd 2017 FCA 113. Both *Puccini* and *Heyser* concerned an administrative investigation resulting in an employee's termination, and in both cases the Board considered issues of procedural fairness (*Puccini* at paras 5, 339-47; *Heyser* at paras 2, 120).

(4) Should the Court intervene before the administrative procedure is complete?

[50] If this application is premature, the Applicant submits in the alternative that the Court should nonetheless "impose a high threshold for procedural fairness" by intervening before the administrative process is complete. As discussed in paragraph 26 of this judgment, the Court may review an administrative decision prior to the exhaustion of all adequate and available remedies if "exceptional circumstances" exist.

[51] The Applicant's concerns regarding procedural fairness or bias underlying the Investigation Grievance are not exceptional circumstances that warrant this Court's intervention (*C.B. Powell* at para 31).

[52] In arguing to the contrary, the Applicant relies on *Chapman v Canada (Attorney General)*, 2019 FC 975 ("*Chapman*") as an example of the Court reviewing issues of procedural fairness concerning workplace investigations prior to the imposition of disciplinary action.

[53] In *Chapman*, an employee claimed she was denied procedural fairness in the investigation and decision-making process, wherein she was found to have engaged in wrongdoing under the *Public Servants Disclosure Protection Act*, SC 2005, c 46 ("*PSDPA*") (*Chapman* at para 1). The employee in *Chapman* sought judicial review of that decision prior to receiving or grieving any disciplinary action (*Chapman* at para 35).

[54] I find *Chapman* is distinguishable from the case at hand because the consequences of the Investigation Decision, unlike the consequences of the decision in *Chapman*, flow from disciplinary action that is adjudicable by the Board. The Investigation Decision only has consequences for the Applicant insofar as the Report is relied upon in the Termination Decision. The Board has the ability to remedy those consequences in adjudicating the Termination Grievance and addressing any issues of procedural fairness underlying the Investigation Decision.

[55] In contrast, the decision in *Chapman* had consequences regardless of whether disciplinary action was imposed. If wrongdoing was found under the *PSDPA*, as it was in *Chapman*, the public had to be provided access to information describing the wrongdoing. Justice Zinn found this disclosure would likely have adverse impacts on the applicant's professional reputation (*Chapman* at para 36). In *Chapman*, judicial review was the proper remedy for concerns under

the *PSDPA*. In the case at hand, adjudication by the Board is the proper remedy for the Applicant's concerns.

[56] The Applicant further claims the undue delay caused by the increasing backlog of cases before the Board — according to the Applicant, he will not receive a hearing date for approximately three years — constitutes exceptional circumstances that warrant this Court's intervention prior to the Board's adjudication of the Termination Grievance.

[57] I am not convinced by the Applicant's argument. The threshold for exceptionality is high (*Constantinescu v Canada (Attorney General)*, 2021 FC 213 at para 16). As recently stated by Noël C.J.A. in *Dugré v Canada (Attorney General)*, 2021 FCA 8 at paras 35-37, "the non-availability of interlocutory relief is next to absolute"; exceptional circumstances are "very rare" and require that the consequences of an interlocutory decision be so immediate and radical that they call into question the rule of law.

[58] In my view, the issues raised by the Applicant do not constitute exceptional circumstances. The Applicant raises standard issues of procedural fairness and lengthy proceedings. Although these issues are important, their consequences are not so severe that they warrant this Court's intervention. I make this determination notwithstanding any potential finding by the Board or subsequent judicial review that AAFC breached its duty of fairness to the Applicant.

[59] In light of the above determination, I find it unnecessary to address the remaining issues raised by the Applicant.

VI. Costs

[60] Both parties request that costs be awarded. Having found the Respondent successful in dismissing this application, and considering my discretion under Rule 400(1) of the *Federal Courts Rules*, SOR/98-106, I award the Respondent $1,500 in costs payable forthwith by the Applicant.

VII. Conclusion

[61] The Respondent's motion is granted with costs. This application is dismissed because it is premature.

JUDGMENT IN T-623-20

THIS COURT'S JUDGMENT is that:

1. The Respondent's motion is granted. This application is dismissed because it is premature.

2. The Applicant shall pay the Respondent $1,500 in costs.

"Shirzad A."
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-623-20
STYLE OF CAUSE:	MATTHEW DOUCETTE v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE IN OTTAWA, ONTARIO
DATE OF HEARING:	MAY 6, 2021
JUDGMENT AND REASONS:	AHMED J.
DATED:	JULY 5, 2021

APPEARANCES:

Mathieu Delorme Matthew Letourneau	FOR THE APPLICANT
Marc Séguin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Association of Canadian Financial Officers Ottawa, Ontario	FOR THE APPLICANT
Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT