

Federal Court of Appeal



Cour d'appel fédérale

Date: 20170404

Docket: A-152-16

Citation: 2017 FCA 70

[ENGLISH TRANSLATION]

**CORAM: GAUTHIER J.A.
BOIVIN J.A.
DE MONTIGNY J.A.**

BETWEEN:

PASCAL VALENTI

Applicant

and

CANADIAN UNION OF POSTAL WORKERS

Respondent

Heard at Montreal, Quebec, on April 4, 2017.

Judgment delivered from the bench at Montreal, Quebec, on April 4, 2017.

REASONS FOR JUDGMENT OF THE
COURT BY:

DE MONTIGNY J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Montreal, Quebec, on April 4, 2017.)

DE MONTIGNY J.A.

[1] This is an application for judicial review of the decision by the Canada Industrial Relations Board (the Board) dismissing the applicant's application for reconsideration filed under section 37 of the *Canada Labour Code*, R.S.C. 1985, c. L-2 (the Code). The only issue raised by the applicant in this application for judicial review is whether the Board breached its

duty of procedural fairness in refusing to hear his audio evidence, more specifically, the audio recordings of his meetings with the respondent’s representatives on March 4 and 17, 2015—as opposed to the recordings that allegedly establish harassment on the part of the employer.

[2] At the hearing, it became apparent that the Board made its decision based on an incomplete record. In an exchange with the Court, counsel for the respondent presented a document entitled [TRANSLATION] “SECTION 37 – DUTY OF FAIR REPRESENTATION COMPLAINT – *CANADA LABOUR CODE*” containing, among other things, excerpts from transcripts of audio recordings of the applicant and the respondent. There is no evidence that the Board took this document into account in its reconsideration.

[3] After reading the document and the Board’s response to the request made under section 317 of the *Federal Courts Rules* on June 2, 2016, the Court is of the view that the application for judicial review must be allowed. Accordingly, the application for reconsideration must be sent back for reconsideration by a different panel of the Board, all the members of which will examine the file in its entirety. Without costs.

“Yves De Montigny”

J.A.

Certified true translation
Janine Anderson, Revisor

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-152-16

STYLE OF CAUSE: PASCAL VALENTI v.
CANADIAN UNION OF POSTAL
WORKERS

PLACE OF HEARING: MONTREAL, QUEBEC

DATE OF HEARING: APRIL 4, 2017

REASONS FOR JUDGMENT BY: GAUTHIER J.A.
BOIVIN J.A.
DE MONTIGNY J.A.

DELIVERED FROM THE BENCH BY: DE MONTIGNY J.A.

APPEARANCES:

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