

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20180227**

**Docket: A-251-16**

**Citation: 2018 FCA 50**

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

**BETWEEN:**

**GÉRÈNE ROBICHAUD**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Fredericton, New Brunswick, on February 27, 2018.  
Judgment delivered from the Bench at Fredericton, New Brunswick, on February 27, 2018.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**PELLETIER J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180227

Docket: A-251-16

Citation: 2018 FCA 50

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

**BETWEEN:**

**GÉRÈNE ROBICHAUD**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Fredericton, New Brunswick, on February 27, 2018).**

**PELLETIER J.A.**

[1] Ms. Robichaud seeks judicial review of the decision of the Public Sector Labour Relations and Employment Board (“the Board”) to close her grievance adjudication file without a hearing after her union, the Public Service Alliance of Canada (“PSAC”) withdrew its support for the grievance. The Board closed its file in reliance on s. 209 of the *Public Service Labour Relations Act*, S.C. 2003, c. 22 (“the Act”) which specifies that an individual grievance involving

the interpretation or application of a collective agreement cannot proceed unless the individual has the approval of their bargaining agent.

[2] On January 27, 2016, PSAC, which originally supported Ms. Robichaud's grievance, withdrew its support and wrote to the Board to withdraw the grievance from adjudication.

[3] On February 1, 2016, the Board wrote to PSAC and to the employer to say that, in accordance with s. 209 of the Act, the file was closed.

[4] Ms. Robichaud did not challenge the Board's decision at that time. However, on June 5, 2016, she wrote to the Board setting out the circumstances surrounding her application and asking to be heard. Two days later the Board replied, reiterating its position as to the effect of s. 209 of the Act.

[5] It is clear that the 30 day limitation period for challenging the Board's decision to close its file had expired before Ms. Robichaud filed her notice of application on July 7, 2016. Ms. Robichaud argues that her June 5, 2016 communication to the Board raises new issues which were not considered by the latter when it rendered its February 1, 2016 decision.

[6] The difficulty with Ms. Robichaud's argument is that the Board's decision was based on s. 209 of the Act. It was not based on any consideration of the merits. To that extent, the new facts and new issues raised by Ms. Robichaud were not relevant to the mandatory provisions of s. 209.

[7] On the other hand, if Ms. Robichaud's June 5, 2016 communication raised issues about the conduct of her bargaining agent, then that was a new application, subject to the procedural requirements for an application alleging a breach of the duty of fair representation. The Board could not simply incorporate those issues into the original application.

[8] To the extent that Ms. Robichaud relies upon the Board's guidelines for self-represented litigants, it is clear that agency guidelines do not override the provisions of mandatory legislation.

[9] As a result, the application for judicial review will be dismissed because it was brought out of time. Costs are awarded to the Attorney General in the amount of \$250 all inclusive.

"J.D. Denis Pelletier"

---

J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

<b>DOCKET:</b>	A-251-16
<b>STYLE OF CAUSE:</b>	GÉRÈNE ROBICHAUD v. ATTORNEY GENERAL OF CANADA
<b>PLACE OF HEARING:</b>	Fredericton, New Brunswick
<b>DATE OF HEARING:</b>	FEBRUARY 27, 2018
<b>REASONS FOR JUDGMENT OF THE COURT BY:</b>	PELLETIER J.A. BOIVIN J.A. DE MONTIGNY J.A.
<b>DELIVERED FROM THE BENCH BY:</b>	PELLETIER J.A.

**APPEARANCES:**

Gérène Robichaud Self-represented	FOR THE APPLICANT
Cristina St-Amand-Roy	FOR THE RESPONDENT ATTORNEY GENERAL OF CANADA

**SOLICITORS OF RECORD:**

Nathalie G. Drouin Deputy Attorney General of Canada	FOR THE RESPONDENT ATTORNEY GENERAL OF CANADA
---	---