

Date: 20080512

Docket: A-460-07

Citation: 2008 FCA 181

**CORAM: NADON J.A.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

**MICHELE ARVONIO
residing and domiciled at 140 Mozard Street,
town of Dollard-des-Ormeaux,
province of Quebec, H9G 2Z9**

and

**MICHÈLE NADON
residing and domiciled at 35 Des Trilles Road,
city of Laval, province of Quebec, H7Y 1K1**

and

**JEAN ST-LAURENT
residing and domiciled at 155 Northcote Street,
town of Pincourt, province of Quebec, J7V 5E1**

Applicants

and

**CANADIAN UNION OF PUBLIC EMPLOYEES
AIRLINE DIVISION, having an office at 975 Roméo-Vachon Street,
4th floor, suite 465 (Pierre-Elliot Trudeau International Airport,
Terminal Building), city of Dorval, province of Quebec, H4Y 1H1**

and
AIR CANADA

Respondents

Hearing held at Montréal, Quebec, on May 12, 2008.

Judgment delivered from the bench at Montréal, Quebec, on May 12, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

Date: 20080512

Docket: A-460-07

Citation: 2008 FCA 181

**CORAM: NADON J.A.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

**MICHELE ARVONIO
residing and domiciled at 140 Mozard Street,
town of Dollard-des-Ormeaux,
province of Quebec, H9G 2Z9**

and

**MICHÈLE NADON
residing and domiciled at 35 Chemin des Trilles,
city of Laval, province of Quebec, H7Y 1K1**

and

**JEAN ST-LAURENT
residing and domiciled at 155 Northcote Street,
town of Pincourt, province of Quebec, J7V 5E1**

Applicants

and

**CANADIAN UNION OF PUBLIC EMPLOYEES
AIRLINE DIVISION, having an office at 975 Roméo-Vachon Street,
4th floor, suite 465 (Pierre-Elliot Trudeau International Airport,
Terminal Building), city of Dorval, province of Quebec, H4Y 1H1**

and

AIR CANADA

Respondents

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Montréal, Quebec, on May 12, 2008.)

NADON J.A.

[1] This is an application for judicial review of a decision by the Canada Industrial Relations Board (the Board) dated September 11, 2007.

[2] By its decision, the Board dismissed three complaints filed by the applicants under section 37 of the *Canada Labour Code* (the Code) against their union, the respondent Canadian Union of Public Employees, Airline Division, for breach of their duties of good faith and of fair representation, because the complaints had not been filed within the 90-day time limit prescribed under section 97 of the Code.

[3] More specifically, the Board stated that it was of the view that the application for judicial review filed by the applicants on November 29, 2004, in the Quebec Superior Court had not stopped the running of the time limit under subsection 97(2) of the Code. Moreover, exercising its discretion under section 16 of the Code, the Board concluded that, in the circumstances, there were no grounds for extending the 90-day limit.

[4] Despite the very able argument of counsel for the applicants, Ms. Pilon, we are of the opinion that, regardless of the standard of review applied, the Board did not make any error in concluding as it did.

[5] The application for judicial review will therefore be dismissed with costs.

“M. Nadon”

J.A.

Certified true translation
Michael Palles

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-460-07

STYLE OF CAUSE: MICHELE ARVONIO ET AL. v.
CANADIAN UNION OF PUBLIC
EMPLOYEES ET AL.

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: May 12, 2008

REASONS FOR JUDGMENT OF THE COURT BY: NADON J.A.
PELLETIER J.A.
TRUDEL J.A.

DELIVERED FROM THE BENCH BY: NADON J.A.

APPEARANCES:

Josée Pilon FOR THE APPLICANTS

Sean T. McGee FOR THE RESPONDENT
CANADIAN UNION OF PUBLIC
EMPLOYEES

Michael McCrory FOR THE RESPONDENT
AIR CANADA

SOLICITORS OF RECORD:

Braman Barbacki Moreau FOR THE APPLICANTS
Montréal, Quebec

Nelligan O'Brien Payne FOR THE RESPONDENT
Ottawa, Ontario
CANADIAN UNION OF PUBLIC
EMPLOYEES

Air Canada FOR THE RESPONDENT
Montréal, Quebec
AIR CANADA