

Federal Court of Appeal



Cour d'appel fédérale

Date: 20120615

Docket: A-433-11

Citation: 2012 FCA 182

**CORAM: EVANS J.A.
GAUTHIER J.A.
TRUDEL J.A.**

BETWEEN:

DEBORAH GUYDOS

Applicant

and

**CANADIAN UNION OF POSTAL WORKERS
and CANADA POST CORPORATION**

Respondents

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on June 15, 2012.

REASONS FOR ORDER BY:

EVANS J.A.

CONCURRED IN BY:

**GAUTHIER J.A.
TRUDEL J.A.**

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REASONS FOR ORDER

EVANS J.A.

[1] This is a motion under rule 369 of the *Federal Courts Rules*, SOR/98-106 by the Applicant, Deborah Guydos, for an extension of time within which to serve and file her Applicant's Record. In support of her motion, Ms Guydos, who is self-represented, says that she made a mistake in calculating the date when her record was due.

[2] Canada Post Corporation, one of the Respondents, takes no position on the motion. The other Respondent, the Canadian Union of Postal Workers (CUPW) opposes the motion on the

ground that the application is effectively moot and that no useful purpose would be served by continuing it.

[3] The proceeding underlying this motion is an application by Ms Guydos for judicial review of a decision by the Canada Industrial Relations Board (CIRB), dated November 4, 2011 (2011 CIRB LD 2666) dismissing her request for a reconsideration of a decision by the CIRB, dated June 28, 2011 (2011 CIRB LD 2592). In its June decision, the CIRB deferred consideration of two complaints by Ms Guydos against CUPW pending the disposition of a grievance filed by CUPW against Canada Post's termination of Ms Guydos' employment.

[4] On May 2, 2012 (2012 CIRB LD 2788), the CIRB dismissed Ms Guydos' request that it reconsider its dismissal of a third complaint that she had made against CUPW. In its reasons, the CIRB noted that it had received a letter from counsel for CUPW, dated March 28, 2012, stating that on that date, CUPW had withdrawn its arbitral grievance against the termination of Ms Guydos' employment and that the CIRB could therefore proceed with her two original complaints and another that she subsequently made. The CIRB stated that, because the grievance had been withdrawn, it would now proceed to deal with the complaints in due course.

[5] On May 8, 2012 (2012 CIRB LD 2793), the CIRB consolidated Ms Guydos' outstanding complaints against CUPW, ordered the parties to provide the Board with full particulars of their entire case and to file any additional submissions, with or without further supporting documents. It set deadlines within which the parties could make their submissions. CUPW and Canada Post have

complied with this direction, and Ms Guydos' submissions are due on June 15, 2012. The CIRB advised the parties that it had the discretion to determine the complaints on the basis of the written submissions, without holding an oral hearing. Finally, the CIRB appointed an Industrial Relations Officer to assist the parties in reaching a settlement.

[6] I agree with CUPW's submissions. In the circumstances outlined above, there is no realistic possibility that, if this application were permitted to continue, it could succeed. Since the CIRB is now dealing with Ms Guydos' complaints, the underlying application for judicial review of its decision to delay proceeding has become moot. An extension of time may be refused under rule 8 of the *Federal Courts Rules* on the ground, among others, that the proceeding has no merit.

[7] If Ms Guydos is dissatisfied with the CIRB's disposition of her consolidated complaints on their merits, she is, of course, at liberty to apply for judicial review of its decision. It would be an unnecessary waste of resources to grant an extension of time to permit Ms Guydos to continue her challenge to the CIRB's decision to delay dealing with her complaints.

[8] Moreover, since the effect of denying Ms Guydos' motion for an extension of time to file her Applicant's Record is that she cannot proceed further with her application for judicial review of the CIRB's decision to delay dealing with her complaints, her application should be dismissed.

[9] For these reasons, the motion for an extension of time will be denied and the application for judicial review will be dismissed.

“John M. Evans”

J.A.

“I agree.

Johanne Gauthier J.A.”

“I agree.

Johanne Trudel J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-433-11

STYLE OF CAUSE: Deborah Guydos v. The Canadian
Union of Postal Workers and Canada
Post Corporation

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: EVANS J.A.

CONCURRED IN BY: GAUTHIER J.A.
TRUDEL J.A.

DATED: June 15, 2012

WRITTEN REPRESENTATIONS BY:

Deborah Guydos
Stan Guenther
Rush Crane Guenther

APPLICANT ON HER OWN
BEHALF

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Barristers and Solicitors
Vancouver, British Columbia

FOR THE RESPONDENT – THE
CANADIAN UNION OF POSTAL
WORKERS