Federal Court of Appeal Cour d'appel fédérale

Date: 20221115

Docket: A-195-21

Citation: 2022 FCA 196

CORAM: **GAUTHIER J.A.**
RIVOALEN J.A.
ROUSSEL J.A.

BETWEEN:

BLAIR CARON

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard by online video conference hosted by the Registry on October 13, 2022.

Judgment delivered at Ottawa, Ontario, on November 15, 2022.

REASONS FOR JUDGMENT BY: RIVOALEN J.A.

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

Federal Court of Appeal

Cour d'appel fédérale

Date: 20221115

Docket: A-195-21

Citation: 2022 FCA 196

CORAM: **GAUTHIER J.A.**
RIVOALEN J.A.
ROUSSEL J.A.

BETWEEN:

BLAIR CARON

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT

RIVOALEN J.A.

I. Overview

[1] The applicant, Blair Caron, applies for judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the Board), dated June 24, 2021, in *Caron v. Canadian Nuclear Safety Commission*, 2021 FPSLREB 74 (the Decision). By letter dated

November 16, 2015, the applicant's employer, the Canadian Nuclear Safety Commission (CNSC) terminated his employment for unsatisfactory performance pursuant to paragraph 12(1)(*d*) of the *Financial Administration Act*, R.S.C. 1985, c. F-11.

[2] The applicant grieved his termination on several grounds, including that the CNSC had terminated him for disciplinary reasons. The applicant's bargaining agent referred the grievance to adjudication under paragraph 209(1)(*b*) of the *Federal Public Sector Labour Relations Act*, S.C. 2003, c. 22, s. 2. (the *FPSLRA*), alleging disciplinary action resulting in termination, demotion, suspension, or financial penalty.

[3] Three key findings regarding the Board's jurisdiction are not in dispute:

1) the applicant did not have approval of his bargaining agent to represent him in adjudication proceedings, as required to grieve an interpretation or application of a provision of a collective agreement under paragraph 209(1)(*a*) of the *FPSLRA*;

2) the applicant is not an employee of the core public administration, as required to grieve a termination for unsatisfactory performance or any other reason that does not relate to a breach of discipline or misconduct, as set out in paragraph 209(1)(*c*) of the *FPSLRA*; and

3) the employer is not a separate agency, as required to grieve a termination for any reason that does not relate to a breach of discipline or misconduct under paragraph 209(1)(*d*) of the *FPSLRA*.

[4] Because the employer's stated ground for termination was not disciplinary, in order for the Board to have jurisdiction to hear the merits of the grievance under paragraph 209(1)(*b*) of the *FPSLRA*, the Board would have to find that the termination was a form of disguised discipline. The Board dismissed the grievance on the grounds that the termination was not a form of disguised discipline and it therefore did not have jurisdiction to deal with the merits of the termination.

II. Standard of review

[5] The parties agree that the standard of review of the Board's decision on the merits is reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653 at para. 23 [*Vavilov*]. With respect to the Board's alleged breaches of procedural fairness, the standard of correctness applies: *Mission Institution v. Khela*, 2014 SCC 24, [2014] 1 S.C.R. 502 at para. 79; *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69, 291 A.C.W.S. (3d) 8 at paras. 33–34. When engaging in a procedural fairness analysis, our Court must assess the procedures and safeguards required, and, if they have not been met, the Court must intervene.

[6] The applicant argues that the Decision is unreasonable. In addition, the applicant argues that it was unfair of the Board not to consider "a core issue of bad faith" within its jurisdiction without notice to the parties and to "block" issues directly and indirectly related to discrimination and the employer's duty to accommodate. At the hearing before us, the applicant clarified his position and indicated that his employer acted in bad faith, and that his termination was a sham

or a camouflage. According to the applicant, he was terminated for reasons other than performance and the employer's bad faith actions consisted of disguised discipline.

[7] The applicant has attempted to characterize a number of his arguments as matters of procedural fairness, but, in my view, the arguments actually go to the reasonableness of the Decision. They relate to whether the Board should have considered the applicant's bad faith arguments as a factor in assessing whether the employer's actions leading up to the applicant's termination constituted a form of disguised discipline.

[8] The only issue before us is whether it was reasonable for the Board to find that the termination of the applicant's employment was not a form of disguised discipline under paragraph 209(1)(*b*) of the *FPSLRA*, leaving the Board without jurisdiction to hear the grievance.

[9] For the reasons that follow, I find that the Decision is reasonable.

III. Background

[10] A brief summary of the facts provides some context to these reasons.

[11] The applicant was employed since 2007 with the CNSC in its Financial Resources Management and Systems Division. There were initially no problems with the applicant's work performance, but alleged issues regarding his performance, tardiness, and attendance subsequently developed (Decision at paras. 1, 12, 20).

[12] By letter dated May 10, 2012, the applicant's team leader wrote an instruction letter to the applicant, expressing concerns about the applicant's absenteeism and tardiness, which impacted work performance and his team's effectiveness (Decision at para. 21).

[13] The instruction letter states that ongoing discussions between the applicant and the applicant's team leader were held regarding his absenteeism and tardiness, and that the situation was unacceptable. Throughout these discussions, the applicant was asked whether he had a medical condition that required accommodation or a personal situation that prevented him from meeting the performance expectations set out in the letter. The employer had requested, on three separate occasions, that the applicant undergo a fitness for work evaluation, and the applicant had denied the requests. The instruction letter indicates that the situation could no longer be tolerated as it was interfering with operations. It recommends that the applicant contact the Employee Assistance Program if personal problems are preventing him from performing his job at the expected satisfactory level. It also advises that failure to comply with the instructions regarding the presence at work could result in administrative or disciplinary measures.

[14] A list of "instructions/expectations" pertaining to presence at work was attached to the May 10, 2012 instruction letter. One of the expectations was that a medical certificate signed and dated by a medical doctor be provided to substantiate all sick leaves and medical appointments.

[15] On April 3, 2014, the CNSC wrote to the applicant to advise that the requirement to certify leave as outlined in the instruction letter was no longer in effect, considering that the management of the applicant's sick and medical leaves had decreased in the past fiscal year. The

employer expressly reserved the right to reinstate this requirement if it believed that unscheduled absences were increasing or becoming a concern. Therefore, the applicant no longer had the obligation to provide a medical certificate to his team leader for unscheduled absences.

[16] In mid-February 2015, the applicant was assigned to a different system for the 2014–2015 year-end review: the Performance Budgeting for Human Capital (PBHC) (Decision at para. 29). When the applicant returned from a vacation, his employer alleged significant errors in his work for fiscal year end and that other members of his team had to redo the year-end process over the Easter holiday weekend (Decision at para. 33).

[17] As a result, the applicant received a poor year-end performance evaluation, was put on a performance management plan, and chose to be reassigned to a special project. The starting date for the special project was July 6, 2015, and the deadline was December 31, 2015 (Decision at paras. 33–34, 38).

[18] Action-plan meetings to review progress on the special project were normally held every two weeks between the applicant and his supervisors. Following each meeting, the applicant was provided with comments on his progress over the previous two weeks (Decision at para. 39).

[19] On August 14, 2015, and on October 21, 2015, the applicant's supervisor provided him with letters about his performance issues. He was advised that he had made only minimal progress on the special project, which was insufficient to meet the December 31, 2015 deadline, and that his performance remained unsatisfactory. The letters also formally advised the applicant

that if he failed to meet the expectations and objectives, it could result in the termination of his employment for unsatisfactory performance (Decision at para. 40).

[20] By letter dated November 16, 2015, the applicant was dismissed from his employment for unsatisfactory performance. On December 17, 2015, the applicant grieved his dismissal. He claimed that the letter of dismissal lacked any specifics or proof, was issued in bad faith, and appeared to be disguised discipline (Decision at paras. 2, 6).

IV. Decision under review

[21] In a 95-page decision, the Board considered the facts, addressed the arguments put to it, and concluded it did not have jurisdiction to deal with the grievance.

[22] The Board started its analysis with the preliminary issue of whether the Board had jurisdiction to hear the applicant's grievance.

[23] Specifically, the Board examined whether it had jurisdiction to hear allegations that the employer harassed the applicant in the six months leading to his termination. The relevant collective agreement's no-discrimination clause deals in part with harassment (Decision at para. 59). The Board agreed with the employer's argument that a harassment allegation would have to be pursued under paragraph 209(1)(*a*) of the *FPSLRA* and would require the bargaining agent's agreement to represent the applicant at adjudication as required by subsection 209(2). The Board noted that the applicant had not alleged a violation of the collective agreement and

did not have the support of the bargaining agent at adjudication. The Board concluded it did not have jurisdiction to hear the harassment allegations, but would nonetheless hear factual evidence that was arguably relevant to the issue of disguised discipline, however it was labelled (Decision at paras 60, 63).

[24] Then, the Board examined whether it had jurisdiction to examine the allegations that the employer failed its duty to accommodate the applicant on the basis of disability, under the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6. The Board referred to its interim decision on this matter, issued on December 20, 2019, in which the Board found that "any issues pertaining to discrimination and the duty to accommodate do not form part of the grievance before the Board". The interim decision noted that the grievance had been referred to the Board under paragraph 209(1)(*b*) of the *FPSLRA*, whereas "[p]rovisions with respect to discrimination and the duty to accommodate are incorporated into the collective agreement", which is dealt with in paragraph 209(1)(*a*) of the *FPSLRA* (Decision at para. 75). The Board wrote:

> The Act provides that before referring an individual grievance, concerning matters relating to the interpretation or application of a collective agreement to adjudication, the employee must obtain the approval of his bargaining agent to represent him in the adjudication proceedings. The bargaining agent has not provided support for the grievance as required under law. The Board does not have an inherent right to interpret and apply human rights legislation without an appropriate grievance before it.
>
> (Decision at para. 75).

[25] The Board relied on *Chamberlain v. Canada (Attorney General)*, 2015 FC 50, 473 F.T.R. 222 and *Remtulla v. Treasury Board (Public Health Agency of Canada)*, 2013 PSLRB 132 and

concluded that it did not have jurisdiction to hear the allegations of discrimination and failure to accommodate (Decision at paras. 76–85).

[26] The Board concluded that "the Board was without jurisdiction to hear this grievance unless the grievor could demonstrate that his termination was disguised discipline." (Decision at para. 86).

[27] Paragraph 209(1)(*b*) of the *FPSLRA* states that an employee may refer to adjudication an individual grievance in the case of "a disciplinary action resulting in termination, demotion, suspension or financial penalty". Since the applicant had not demonstrated the existence of a disciplinary action, the Board examined the events leading up to his termination to determine whether an action of disguised discipline had led to the termination, which would confer onto the Board jurisdiction to hear the grievance.

[28] The Board relied on this Court's decision in *Bergey v. Canada (Attorney General)*, 2017 FCA 30, 276 A.C.W.S. (3d) 113 [*Bergey*], leave to appeal to Supreme Court of Canada denied, 37657 (15 February 2018), which provided principles to distinguish disciplinary and non-disciplinary employer action (Decision at paras. 88–90).

[29] The Board presented an extensive overview of the facts and the parties' submissions on the events leading up to the applicant's termination (Decision at paras. 99–363).

[30] Turning to the instruction letter, the Board found that it continued to govern the terms and conditions of the applicant's employment until his termination, but there was no evidence that the instruction letter was a form of disguised discipline (Decision at para. 150).

[31] After a thorough review of the evidence, the Board stated it was "unable to find anything that would lead [it] to conclude that the employer camouflaged anything or that it attempted to conceal disciplinary measures when it terminated Mr. Carons [*sic*] employment for poor performance" (Decision at para. 471) and that "the employer's decision to terminate the grievor's employment for poor performance was rationally connected to operational considerations." (Decision at para. 475).

[32] In conclusion, the Board found that it did not have jurisdiction and denied the grievance (Decision at para. 486).

V. The applicant's submissions

[33] The applicant advances several detailed arguments on the doctrine of disguised discipline and how he says it applies to the facts of his case. I will not repeat all of the applicant's arguments here, but will focus on his most relevant submissions.

[34] The applicant's main argument is that the employer acted in bad faith, created sham performance assessments and began a campaign of harassment, including refusing his requests for medical accommodation and flex-time. All of these actions by the employer, according to the

applicant, go to the question of whether he was terminated for disciplinary reasons, as opposed to performance reasons.

[35] For instance, the applicant relies on an email he sent the employer on March 28, 2014, referring to other employees working from home on their Blackberry when sick, which he believes may be the action which led to a “disguised discipline termination”. The applicant points to paragraphs 365 to 368 of the Decision to state that the adjudicator mistakenly substituted and assessed an earlier email he sent dated March 11, 2014 (dealing with the same incident), and not the “inappropriate” email dated March 28, 2014. He also submits that the Board did not properly analyze or respond to his arguments surrounding the March 28, 2014 email.

[36] Second, the applicant argues that the assessment of his use of the PBHC system for the 2014–2015 year-end review resembled a form of disguised discipline, a sham, camouflage, or was done in bad faith. He put all of these arguments to the Board, yet the Board did not provide any responsive reasons or specific mentions of certain facts brought to its attention regarding the PBHC system.

[37] Third, the applicant references a formal letter of reprimand he received from the employer on June 30, 2015, which evidences misconduct on his behalf. He had been reprimanded when he sent an angry email to his supervisor about having been forced to sign a “sham” year-end performance management form. These facts and arguments were not included in the Decision, according to the applicant.

[38] Lastly, the applicant refers to a number of examples where he submits he was treated unfairly by the employer because his requests for accommodation or flexible working arrangements were denied and because he was required to provide medical certificates to justify absences.

[39] On the whole, the applicant argues that the Board failed to consider the record before it, and that it was unreasonable for the Board not to be persuaded that the employer's intent was to punish or correct the applicant's behaviour. The applicant relies on *Bergey*, which states that bad faith can be an indication that the employer's motives were disciplinary (*Bergey* at para. 80).

[40] The applicant also relies on jurisprudence where the courts and tribunals indicated that the presence of a sham or camouflage or bad faith conferred jurisdiction to the Board.

VI. Analysis

[41] In response to the applicant's submissions on procedural fairness, I find the applicant was unable to demonstrate any breaches. The one complaint on the question of procedural fairness that did not deal with the Board's factual findings, that being the Board's reliance on jurisprudence that had not been disclosed to the applicant (*Canada v. Rinaldi*, 127 F.T.R. 60,1997 CanLII 16721 (FC)), is not a breach of procedural fairness. This is not a situation where the Board introduced a new principle of law or took the case on a substantially new and different analytical path.

[42] I note that, as mentioned previously, the issue is not whether the applicant was able to provide to the Board all of the evidence and arguments he felt were necessary in order to present his case. The applicant's criticism is rather whether the Board appropriately considered all of his evidence and submissions.

[43] In general, the applicant submits that the Board did not properly consider his arguments and did not include relevant facts that should have supported a finding of bad faith and disguised discipline. Overall, the applicant identifies several facts that, according to the applicant, the Board either ignored, attached too little weight to, misunderstood, or misinterpreted. For the following reasons, I am not persuaded that these criticisms undermine the reasonableness of the Board's conclusion that the employer's actions were not a form of disguised discipline.

[44] To start, when determining whether a decision is reasonable**,** *Vavilov* instructs us that a court must intervene in administrative matters "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness in the administrative process." The starting point is judicial restraint and respect for the distinct role of administrative decision makers (*Vavilov* at para. 13).

[45] Next, it is well-established law that the Board "need not refer in its reasons to each and every piece of evidence before it, but is presumed to have considered all of the evidence. […] [A]ssigning weight to evidence, whether oral or written, is the province of the trier of fact" (*Simpson v. Canada (Attorney General)*, 2012 FCA 82, 213 A.C.W.S. (3d) 223 at para. 10). Here, the adjudicator heard twenty-two days of oral testimony, including cross-examinations,

and considered several volumes of written evidence and written submissions. I cannot substitute my own views of the evidence for that of the Board's because I might have weighed the evidence differently.

[46] Furthermore, paragraph 63 of the Decision supports my conclusion that the Board considered all of the evidence. It refers to the Board's ruling that it would hear "factual evidence that was arguably relevant, irrespective of how it was labelled, to the issue of whether the employer engaged in disguised discipline." I cannot accept the applicant's arguments that the Board failed to consider certain evidence as part of his submissions on disguised discipline.

[47] For example, with respect to the applicant's submissions that the Board did not consider his arguments regarding the employer's alleged bad faith, I note that the Board referred to "bad faith" in paragraphs 6, 183, 422, 423, 425, 428, 430, 478, 483, and 484 of the Decision. While it did not accept the applicant's arguments, it cannot be said that it did not consider them.

[48] On the question of the employer's duty to accommodate, the Board referred to it at paragraphs 42, 64, 65, 67, 71, 72, 75, 79, 85, 91, and 153 of the Decision. The Board noted at paragraph 153 that the employer advised the applicant that if a medical reason was behind the applicant's absences during the core work hours, management recommended that he complete a fitness-to-work evaluation, which would allow the employer to work with the applicant to accommodate all identified health issues. I cannot agree with the applicant's submissions that the Board failed to consider his arguments.

[49] On the question of the "sham" performance management form and action plan, the Board referenced the applicant's submissions, the employer's submissions, and the overall evidence of the performance management form in paragraphs 182, 183, 185, 214, 229, 306, 307, 354, 359, 377, 398, 415, 421, 426, 444, and 460 of the Decision, concluding at paragraph 444 that certain actions of the employer, including the failed performance management form, were not disciplinary in nature.

[50] The applicant's arguments rely on allegedly erroneous findings of fact or omissions of fact made by the Board. It is up to the Board, as the administrative decision maker, to make the factual findings. That is exactly what it did here, and I see no reason to interfere with its conclusion that it did not have jurisdiction to deal with the applicant's grievance.

[51] Contrary to the applicant's submissions, after a review of the record before the Board, it cannot be said that the factual findings made by the Board went contrary to the evidence before it. There was sufficient evidence to rationally support a finding that the applicant's employment had been terminated for unsatisfactory performance. Likewise, I have not been persuaded that the Board omitted or ignored important evidence. The Board weighed all of the evidence before it and considered the submissions of the parties. It is the role of the Board to determine whether it is convinced, on a balance of probabilities, that one party's evidence outweighs the evidence of the party who opposes it. I see no error that could justify this Court's our intervention.

[52] Turning to the jurisprudence, the Board properly relied on *Bergey*, a seminal case from this Court in which the distinction between disciplinary and non-disciplinary employer action

was outlined. As noted in *Bergey*, the relevant factors when assessing whether an action is disciplinary or non-disciplinary are: the nature of the employee's conduct that gave rise to the action in question; the nature of the action taken by the employer; the employer's stated intent; the employer's actual intention; and the impact of the action on the employee (*Bergey* at para. 37).

[53] *Bergey* cited with approval the Federal Court decision in *Canada (Attorney General) v. Frazee*, 2007 FC 1176, 161 A.C.W.S. (3d) 747 [*Frazee*], in which the Federal Court stated that, when examining whether an action is disciplinary, "the issue is not whether an employer's action is ill-conceived or badly executed but, rather, whether it amounts to a form of discipline" and "an employee's feelings about being unfairly treated do not convert administrative action into discipline" (*Frazee* at para. 21). The Federal Court also noted that an action is not disciplinary "where the employer's action is seen to be a reasonable response (but not necessarily the best response) to honestly held operational considerations." (*Frazee* at para. 24).

[54] Further, on the question of bad faith being a factor in determining disguised discipline, at paragraph 80, this Court in *Bergey* stated that "while employer bad faith may well be indicative of the employer's motives being disciplinary, the absence of bad faith does not necessarily lead to an opposite conclusion. A much more nuanced inquiry […] is required to assess whether an employer has engaged in an act of disguised discipline."

[55] The applicant must still prove that the employer engaged in disguised discipline, of which bad faith may be a factor. In this case, the Board did not agree with the applicant's submissions

that the employer's alleged bad faith warranted a finding that it had engaged in disguised discipline. I see no reason to intervene in the Decision.

[56] The applicant's reliance on jurisprudence where the courts and tribunals indicated that the presence of a sham or camouflage or bad faith conferred jurisdiction to the Board is misdirected. These decisions pertain to the termination of probationary employees (*Canada (Attorney General) v. Alexis*, 2021 FCA 216, 337 A.C.W.S. (3d) 526 [*Alexis*]; *Frezza v. Deputy Head (Department of National Defence)*, 2018 FPSLREB 18; *Markovic v. Parliamentary Protective Service*, 2021 FPSLREB 128; *Wrobel v. Deputy Head (Canada Border Services Agency)*, 2021 FPSLREB 14).

[57] The statutory context surrounding the termination of employees on probation differs from that of non-probationary employees. The authority to terminate the employment of probationary employees is derived from section 62 of the *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12, 13 (*PSEA*). As a rule, the Board does not have jurisdiction to adjudicate where employment was terminated under the *PSEA* (*FPSLRA*, s. 211). However, the courts have found that, if the termination of a probationary employee was a camouflage, sham, or made in bad faith, it was not a proper termination under section 62 of the *PSEA* and is not barred from being adjudicated before the Board under section 209 of the *FPSLRA* (*Alexis* at para. 8). The grievor has the burden of proving that the termination was a camouflage, sham or conducted in bad faith (*Alexis* at para. 9).

[58] On the other hand, the authority to terminate non-probationary employees is derived from section 12 of the *Financial Administration Act*. The Board has jurisdiction to adjudicate terminations effected under paragraphs 12(1)(*d*) and (*e*) of the *Financial Administration Act* (*FPSLRA*, s. 209(1)(*c*)(i)).

[59] As a result, in cases involving probationary employees, the concepts of sham, camouflage, and bad faith are used to circumvent section 211 of the *FPSLRA* (which excludes the termination of probationary employees from the Board's jurisdiction) and bring the termination of probationary employees under the purview of section 209 of the *FPSLRA*. The concepts of sham, camouflage, and bad faith are not used to prove that the employer engaged in disguised discipline.

[60] Here, the applicant was not a probationary employee, having been employed with the CNSC since 2007. The CNSC relied on paragraph 12(1)(*d*) of the *Financial Administration Act* when terminating the applicant.

[61] In the case of the termination of non-probationary employees, like the case at hand, section 211 of the *FPSLRA* does not apply. Therefore, there is no need to apply the concepts of sham, camouflage, and bad faith as a preliminary step to circumvent section 211 of the *FPSLRA*. The question that concerns this Court in the present judicial review is whether the employer engaged in disguised discipline such that the applicant's termination can be adjudicated by the Board under paragraph 209(1)(*b*) of the *FPSLRA*. That is a different question than the one asked in the jurisprudence related to probationary employees highlighted by the applicant.

[62] The caselaw relied upon by the applicant in this context is therefore of limited use.

[63] I have considered all of the applicant's arguments. *Vavilov* instructs me that my role as a reviewing judge is to consider whether the decision as a whole is reasonable. That is, I must decide whether the decision is "based on an internally coherent and rational chain of analysis and […] is justified in relation to the facts and law that constrain the decision maker." (*Vavilov* at para. 85). It is the role of the Board to assess and evaluate the evidence before it, and, absent exceptional circumstances, a reviewing court will not interfere with factual findings (*Vavilov* at para. 125). In addition, reviewing courts cannot expect administrative decision makers to respond to every argument or line of possible analysis, or to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion (*Vavilov* at para. 128).

[64] Having regard to my role as a reviewing judge and having reviewed the Decision as a whole, the applicant has not persuaded me that the Decision is unreasonable. In my view, it was reasonable for the Board to find that the termination of the applicant's employment was not a form of disguised discipline and that the Board did not have jurisdiction to hear the applicant's grievance under paragraph 209(1)(*b*) of the *FPSLRA*.

[65] In light of the record that was before the Board and given the Board's reliance on the relevant jurisprudence, the Decision is justified, transparent, and intelligible (*Vavilov* at para. 99). I am satisfied that there are no serious flaws or shortcomings in the Board Decision that are sufficiently central or significant to affect its merits and render it unreasonable (*Vavilov* at para. 100).

[66] I am equally satisfied that there are no breaches of procedural fairness.

[67] In conclusion, I would dismiss the application for judicial review. As the respondent was not seeking costs, I would award none.

"Marianne Rivoalen"
J.A.

“I agree.
Johanne Gauthier J.A.”

“I agree.
Sylvie E. Roussel J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-195-21
STYLE OF CAUSE:	BLAIR CARON v. ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	BY ONLINE VIDEOCONFERENCE
DATE OF HEARING:	OCTOBER 13, 2022
REASONS FOR JUDGMENT BY:	RIVOALEN J.A.
CONCURRED IN BY:	GAUTHIER J.A. ROUSSEL J.A.
DATED:	NOVEMBER 15, 2022

APPEARANCES:

Blair Caron	FOR THE APPLICANT SELF-REPRESENTED
Marc Seguin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

A. François Daigle Deputy Attorney General of Canada	FOR THE RESPONDENT