

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250213

**Docket: A-113-24 (lead file)
A-116-24**

Citation: 2025 FCA 36

**CORAM: LOCKE J.A.
LEBLANC J.A.
WALKER J.A.**

BETWEEN:

JASON WATTLEWORTH

Applicant

and

UNIFOR LOCAL 25 AND BELL CANADA

Respondents

Heard at Toronto, Ontario, on February 13, 2025.
Judgment delivered from the Bench at Toronto, Ontario, on February 13, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

LOCKE J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on February 13, 2025).

LOCKE J.A.

[1] Jason Wattleworth seeks judicial review of two decisions of the Canada Industrial Relations Board (the Board), both of which dismissed complaints on the basis that they were not timely filed. In the first decision, dated February 21, 2024 (2024 CIRB LD 5283), the Board dismissed Mr. Wattleworth's complaint that Unifor Local 25, of which he had been a member, had breached its duty of fair representation as contemplated in section 37 of the *Canada Labour*

Code, R.S.C. 1985, c. L-2 (the Code). In the second decision, dated February 22, 2024 (2024 CIRB LD 5287), the Board dismissed Mr. Wattleworth's complaint that Bell Canada, his former employer, had breached section 147 of the Code when it terminated his employment. These decisions are referred to hereinafter respectively as the DFR Decision and the Reprisal Decision.

[2] Both of the complaints that led to the impugned decisions were filed by Mr. Wattleworth with the Board on July 28, 2023. In both of the impugned decisions, the Board noted that the deadline for filing the complaint was 90 days after the date on which the complainant knew, or in the opinion of the Board ought to have known, of the action or circumstances giving rise to the complaint: see subsections 97(2) and 133(2) of the Code. The Board also noted, in relation to both decisions, that it had the power to extend the deadline pursuant to subsection 16(m.1) of the Code.

[3] In the DFR Decision, the Board concluded that Mr. Wattleworth knew or ought to have known by November 4, 2022 that Unifor had decided not to take his dismissal grievance against Bell Canada to arbitration. The Board found that this decision was the basis for Mr. Wattleworth's complaint against Unifor, and that the July 28, 2023 filing date of this complaint was therefore more than 90 days after the event giving rise to the complaint. As noted by the Board, quoting its own jurisprudence, "[t]he union member cannot wait until the internal union review mechanisms have been exhausted before a complaint is filed with the Board." The Board also found that the circumstances did not justify extending the 90-day deadline.

[4] In the Reprisal Decision, the Board concluded that Mr. Wattleworth knew by November 26, 2021, the date of the termination of his employment with Bell Canada, of the action or circumstances giving rise to his complaint against Bell Canada. As with the DFR Decision, more than 90 days passed from the date of termination until Mr. Wattleworth filed his complaint against Bell Canada with the Board on July 28, 2023. The Board also found that the circumstances did not justify extending the 90-day deadline.

[5] Mr. Wattleworth does not take issue with the reasonableness of the Board's impugned decisions. Rather, his arguments concern procedural fairness. Specifically, Mr. Wattleworth argues that the Board acted in a manner that was procedurally unfair in three respects: (i) it failed to order the production of certain documents he sought, (ii) it failed to consolidate his complaints against Unifor and Bell Canada, and (iii) it failed to provide reasons for not ordering the production of documents and the consolidation of the complaints.

[6] On all of these issues, we are not convinced that the Board acted in a manner that was procedurally unfair.

[7] The ultimate question for the Court on an issue of procedural fairness is whether the applicant knew the case to meet and had a full and fair chance to respond: *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69, [2019] 1 F.C.R. 121 at para. 56. We see no problem in this regard.

[8] In respect of his request for production of documents, Mr. Wattleworth sought correspondence exchanged within Unifor or within Bell Canada, or between them, concerning his grievances. While it is conceivable that such documents might have been relevant to the merits of Mr. Wattleworth's complaints, he has not satisfactorily explained how they could have affected the decisions under appeal, which concerned only the timeliness of those complaints. As indicated above, the timeliness of those complaints depends on what Mr. Wattleworth knew or should have known, and this depends on correspondence with him, not within or between the respondents.

[9] Mr. Wattleworth also expresses concern that his complaints were dismissed without a hearing. However, as noted by the Board, section 16.1 of the Code authorizes it to decide any matter before it without holding an oral hearing.

[10] Mr. Wattleworth's argument concerning his request for consolidation of his complaints suffers from a similar problem: he has not satisfactorily explained how consolidation could have affected the result in the decisions under appeal. Consolidation might have been advisable if the complaints had proceeded on their merits, but it is difficult to see how it could relate to the question of the timeliness of the complaints. Mr. Wattleworth argues that issues raised in his complaint against Unifor were relevant to the timeliness of his complaint against Bell Canada, but we see no merit in that argument.

[11] The Board's failures to order the production of documents or to consolidate the complaints were not relevant to the decisions under appeal. It follows from these conclusions, that the question of the sufficiency of reasons in respect thereof is likewise not relevant.

[12] For the foregoing reasons, and despite the able submissions of Mr. Wattleworth's counsel, the present applications for judicial review will be dismissed with costs.

"George R. Locke"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-113-24 (lead file) A-116-24
STYLE OF CAUSE:	JASON WATTLEWORTH v. UNIFOR LOCAL 25 and BELL CANADA
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	FEBRUARY 13, 2025
REASONS FOR JUDGMENT OF THE COURT BY:	LOCKE J.A. LEBLANC J.A. WALKER J.A.
DELIVERED FROM THE BENCH BY:	LOCKE J.A.

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