

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250218

Docket: A-21-21

Citation: 2025 FCA 39

**CORAM: BOIVIN J.A.
RENNIE J.A.
LASKIN J.A.**

BETWEEN:

JOHN J. BURNS

Applicant

and

UNIFOR LOCAL 2182

Respondent

Heard at Ottawa, Ontario, on February 18, 2025.
Judgment delivered from the Bench at Ottawa, Ontario, on February 18, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on February 18, 2025).

BOIVIN J.A.

[1] Mr. Burns, the applicant, seeks judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the Board) rendered on December 21, 2020 (2020 FPSLRB 119) (the Decision). In its Decision, the Board concluded that the applicant's allegations, insofar as they were timely, did not amount to an arguable case that the respondent, his union, violated its duty of fair representation set out in section 187 of the *Federal Public*

Sector Labour Relations Act, S.C. 2003, c. 22, s. 2 (the Act). Thus, the Board dismissed the applicant's complaints.

[2] Before this Court, the applicant essentially argues that the Board erred in its assessment of the timeliness of the allegations and in the factual conclusions that supported its determination that the respondent did not breach its duty of fair representation.

[3] We are all of the view that the Board's decision is reasonable (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (*Vavilov*)).

[4] Indeed, it was open to the Board to conclude that the vast majority of the incidents alleged in the applicant's complaints were untimely, and the Board rightfully noted that it was not empowered to extend the 90-day window for filing a complaint, pursuant to subsection 190(2) of the Act: *Castonguay v. Public Service Alliance of Canada*, 2007 PSLRB 78 at para. 55. The Board nonetheless considered whether events properly within the 90-day window served as "triggering" or "crystallizing" events for the allegations which would otherwise be untimely; however, the Board could not find support for this conclusion in the record. We see no error in the Board's assessment of the timeliness of the complaints.

[5] The applicant argues that the respondent's recommendations for dealing with his workplace absence, which arose in 2015, do not demonstrate that the respondent conducted a reasonable and thorough study of his case. However, as noted by the Board, grievance process and not duty-of-fair-representation complaints are the proper process to pursue such claims

(Decision at para. 164). The Board further carefully and exhaustively reviewed the allegations of the applicant, and its reasons - which span 167 paragraphs - are transparent, justified, and intelligible (*Vavilov* at para. 15). The Board reasonably concluded that the applicant's complaints did not show an arguable case that the respondent had violated its duty of fair representation under the Act.

[6] In sum, the applicant is asking our Court to reweigh the evidence, which is not our role (*Vavilov* at para. 125).

[7] Finally, on the basis of the record, we find that no procedural unfairness arises from the decision of the Board to proceed in writing, as opposed to orally, as requested by the applicant.

[8] For these reasons, the application for judicial review will be dismissed with costs.

"Richard Boivin"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-21-21

STYLE OF CAUSE:

JOHN J. BURNS v. UNIFOR
LOCAL 2182

PLACE OF HEARING:

OTTAWA, ONTARIO

DATE OF HEARING:

FEBRUARY 18, 2025

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

BOIVIN J.A.
RENNIE J.A.
LASKIN J.A.

DELIVERED FROM THE BENCH BY:

BOIVIN J.A.

APPEARANCES:

John J. Burns

ON HIS OWN BEHALF

Toby Whitfield

FOR THE RESPONDENT

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