Federal Court of Appeal | Cour d'appel fédérale

Date: 20250314

Docket: A-330-23

Citation: 2025 FCA 59

CORAM: **STRATAS J.A.**
MACTAVISH J.A.
LEBLANC J.A.

BETWEEN:

JOSHAUA BEAULIEU

Applicant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

Heard at Ottawa, Ontario, on March 12, 2025.

Judgment delivered at Ottawa, Ontario, on March 14, 2025.

REASONS FOR JUDGMENT BY: MACTAVISH J.A.

CONCURRED IN BY: STRATAS J.A.
LEBLANC J.A.

Federal Court of Appeal | Cour d'appel fédérale

Date: 20250314

Docket: A-330-23

Citation: 2025 FCA 59

CORAM: **STRATAS J.A.**
MACTAVISH J.A.
LEBLANC J.A.

BETWEEN:

JOSHAUA BEAULIEU

Applicant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

REASONS FOR JUDGMENT

MACTAVISH J.A.

[1] Joshaua Beaulieu seeks judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the "Board") summarily dismissing the unfair labour practice complaint that he filed against his union on the basis that it was untimely.

[2] Mr. Beaulieu was an employee of Veterans Affairs Canada and a member of the Union of Veterans Affairs Employees, which is a component of the Public Service Alliance of Canada (collectively, the "Union"). In 2018, he sought representation from his Union regarding an alleged workplace harassment issue. On May 2, 2018, the Union advised Mr. Beaulieu that it did not provide representation with respect to departmental harassment complaints.

[3] On February 27, 2023, Mr. Beaulieu filed a complaint with the Board pursuant to section 190 of the *Federal Public Sector Labour Relations Act*, S.C. 2003, c. 22, s. 2 (the "*FPSLRA*"). He alleged in his complaint that his Union breached its duty of fair representation by declining to represent him in relation to his 2018 harassment complaint.

[4] Subsection 190(2) of the *FPSLRA* establishes a strict timeline for making a complaint, providing that complaints must be made to the Board "not later than 90 days after the date on which the complainant knew, or in the Board's opinion ought to have known, of the action or circumstances giving rise to the complaint". Mr. Beaulieu acknowledges that he was aware of the action or circumstances giving rise to his unfair labour practice complaint on May 2, 2018.

[5] Given that Mr. Beaulieu filed his complaint with the Board almost five years after he became aware of the facts giving rise to the complaint, the Union sought to have it summarily dismissed as untimely. Mr. Beaulieu did not dispute that his complaint was untimely, but he submitted that he should be granted an extension of time by the Board for several reasons, including the fact that he was suffering from serious mental health challenges that prevented him from acting sooner. While the Board accepted that Mr. Beaulieu had serious mental health

challenges, it did not accept they prevented him from filing his complaint in a timely manner. Consequently, the Board dismissed the complaint.

[6] Mr. Beaulieu has identified several reasons why he says that the Board's decision should be set aside. While we have carefully considered all the issues that he has raised, it is only necessary to address some of them in these reasons.

I. The Standard of Review to be Applied to the Board's Decision

[7] Mr. Beaulieu submits in his memorandum of fact and law that his case raises a question of central importance to the legal system as a whole: namely, "when does a disabled applicant require an extension of the time limits to apply?" Consequently, he says that this Court should apply the correctness standard in reviewing the Board's decision.

[8] I do not agree.

[9] The category of general questions of law of central importance to the legal system is narrow, and it is not, "a broad catch-all category for correctness review": *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para. 61.

[10] The decision to grant or deny an extension of time is a discretionary one—one that will be heavily dependant on the facts of the specific case. While this case is undoubtedly of

tremendous importance to Mr. Beaulieu, the issues that he raises do not involve the sort of general question that attracts correctness review.

[11] Before leaving the question of standard of review, I note that Mr. Beaulieu also submits that the Board treated him unfairly. While some authorities suggest that questions of procedural fairness are reviewable on the correctness standard, a review of Mr. Beaulieu's submissions reveals that they reflect disagreement with the Board's findings, rather than questions of procedural fairness. As such, they are subject to reasonableness review.

II. The Content of the Record

[12] Before considering whether the Board's decision was reasonable, it is first necessary to clarify what the documents are that we can consider.

[13] The Board's decision was based on Mr. Beaulieu's complaint form together with the written submissions filed with the Board by the parties. Mr. Beaulieu did not include the material that was before the Board in his Application Record, but the Union included this material in its Responding Record.

[14] Prior to this hearing, Mr. Beaulieu served the Union with an affidavit to which he had appended unsworn exhibits, but again, he did not include it in his Application Record. The Union included a copy of the affidavit in its Responding Record, without prejudice to its right to object to Mr. Beaulieu relying on evidence included in his Affidavit (either as an attached exhibit or

contained within the body of the Affidavit) that was not before the Board when it made the decision under review.

[15] Mr. Beaulieu also sought to provide the Court with a letter from his treating psychologist. However, as we explained to Mr. Beaulieu at the hearing, we cannot receive new evidence in a case such as this.

[16] Judicial review is generally to be conducted based on the record that was before the administrative tribunal whose decision is under review: *Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency*, 2012 FCA 22, at para. 19. While there are limited exceptions to this principle, Mr. Beaulieu has not identified any circumstances in this case that would allow us to supplement the evidentiary record.

III. Was the Board's Decision Reasonable?

[17] Much of the Board's analysis was taken up with considering whether it had the power to grant extensions of time, given the mandatory wording of subsection 190(2) of the *FPSLRA*. It is not necessary to resolve this question in this case, however, as the Board ultimately concluded that it did indeed have such a power. The question for determination here is thus whether the Board's conclusion that an extension of time should not be granted to Mr. Beaulieu was reasonable.

[18] To be reasonable, the decision of an administrative board must be transparent and intelligible, and it must be justified in relation to the relevant factual and legal constraints that bear on it: *Vavilov*, above at para. 99. However, absent exceptional circumstances, this Court is not entitled to interfere with the Board's factual findings: *Vavilov*, above at para. 125.

[19] Some of Mr. Beaulieu's submissions are directed to the merits of his unfair labour practice complaint. However, the merits of that complaint are not before us on this application. As noted earlier, the question now before us is whether the Board's conclusion that an extension of time should not be granted to Mr. Beaulieu to bring his complaint was reasonable.

[20] Mr. Beaulieu filed his complaint under paragraphs 190(1)(e) and (g) of the *FPSLRA*. Paragraph 190(1)(e) deals with the failure to comply with duty to implement provisions of a collective agreement. The Board dismissed this aspect of Mr. Beaulieu's complaint on the basis that this provision relates to the implementation of a new collective agreement or arbitral award, and not to the application of the provisions of an existing collective agreement. Mr. Beaulieu has not established that the Board erred in coming to this conclusion.

[21] The Board did address Mr. Beaulieu's unfair labour practice complaint, as it related to the timeliness of his complaint under paragraph 190(1)(g) of the *FPSLRA*.

[22] Mr. Beaulieu notes that the Board has provided extensions of time to the Union and the employer in the past, submitting that it should have done so in his case. However, as Mr. Beaulieu himself stated at the hearing "each case must be decided on its own facts".

[23] Mr. Beaulieu had offered the Board several reasons as to why he should receive an extension of time to bring his complaint, most of which relate to his claim that he was totally disabled and was thus unable to make a complaint prior to 2023. In support of this argument, Mr. Beaulieu points to the fact that in March of 2019, his employer's disability management insurer determined that he was "totally and permanently incapacitated" and his claim for disability benefits was approved up until 2052. Mr. Beaulieu's employment was terminated on May 22, 2019.

[24] The Board was aware that Mr. Beaulieu was disabled. It noted, however, that his disability did not prevent him from filing a discrimination complaint with the Canadian Human Rights Commission on December 10, 2018. Not only was Mr. Beaulieu able to participate in the Commission investigation process, he was also able to bring an application for judicial review in the Federal Court after his human rights complaint was dismissed by the Commission. Mr. Beaulieu was also able to represent himself at the hearing before the Federal Court.

[25] From this, the Board concluded that although Mr. Beaulieu's disability insurer had found him to be totally disabled, that was solely for the purpose of determining his entitlement to benefits under his disability insurance plan, and not for all purposes. The insurer's determination that Mr. Beaulieu was totally disabled did not prevent him from pursuing his complaint with the Commission and a judicial review of its decision. In other words, Mr. Beaulieu was not so incapacitated that he could not initiate legal proceedings, such as a complaint to the Board. This is a finding of fact that was reasonably open to the Board on the record before it.

[26] Mr. Beaulieu also submits that the Board erred in finding that he had been able to pursue his human rights complaint before the Commission and in the Federal Court without having to seek extensions of time to allow him to do so. While it appears that the Board may have been mistaken on this point, its finding was not sufficiently material as to affect the reasonableness of its decision.

[27] The extensions of time sought by Mr. Beaulieu during the Commission and judicial review processes were brief, and unrelated to his mental health or capacity. One extension of time was granted due to the death of a friend, another was granted because Mr. Beaulieu's laptop had been "affected during a thunderstorm", and the third was granted due to a "communication issue" between Mr. Beaulieu and the Registry. The fact that Mr. Beaulieu did in fact receive a few brief extensions of time takes nothing away from the Board's finding that Mr. Beaulieu's mental health did not preclude him from pursuing his human rights complaint before the Commission and in the Federal Court.

[28] Mr. Beaulieu further submits that his limited mental capacity meant that he could not undertake both the Commission process and the Board's process simultaneously. This submission is, however, somewhat undermined by Mr. Beaulieu's explanation that although he had made a human rights complaint, he did not realize that he could also make a complaint with the Board until the time for doing so had expired.

[29] Sadly, many self-represented litigants are unfamiliar with Board and court processes, but an unfamiliarity with an available avenue of legal recourse is not an exceptional or unusual

circumstance justifying an extension of time. The jurisprudence has consistently refused to consider a self-represented litigant's lack of legal training or understanding of the procedural rules as constituting a reasonable justification for delay: see, for example, *Mischena v. Canada (Attorney General)*, 2004 FC 1515 at para. 5; *Scheuneman v. Her Majesty the Queen*, 2003 FCT 37 at para. 4; and *Soderstrom v. Canada (Attorney General)*, 2011 FC 575.

[30] Moreover, as the Board noted, Mr. Beaulieu could have filed his unfair labour practice complaint within the 90-day time limit, and then asked that his Board complaint be held in abeyance while his human rights complaint worked its way through the Commission and Federal Court processes. Mr. Beaulieu says that he did not know that this was a possibility, but again, unfamiliarity with the legal process is unfortunately not an exceptional circumstance.

[31] Mr. Beaulieu also says that he should have been given an extension of time in which to commence his unfair labour practice complaint because he had been subjected to "intimidation and cyberstalking by the Union". The Board accepted that intimidation and cyberstalking might, given a sufficient factual foundation, constitute exceptional or unusual circumstances that could justify extending the time limit for bringing a complaint. However, Mr. Beaulieu had not provided any particulars about the Union's actions that would constitute exceptional or unusual circumstances that could justify extending the time limit. Mr. Beaulieu has also failed to explain to us how the Union's alleged actions prevented him from filing his unfair labour practice complaint for nearly five years.

[32] Finally, Mr. Beaulieu submitted to the Board that he should have been given an extension of time in which to bring his complaint as a form of accommodation in accordance with human rights law and the *Accessible Canada Act*, S.C. 2019, c. 10.

[33] The Board was clearly mindful of its obligation to accommodate disabled litigants under human rights law, providing lucid reasons why it was not persuaded that Mr. Beaulieu was entitled to an extension of time in this case, notwithstanding his disability. Given that Mr. Beaulieu had been able to participate fully in other legal processes, this was a finding that was reasonably open to the Board.

[34] The *Accessible Canada Act* creates a "… proactive and systemic approach for identifying, removing and preventing barriers to accessibility …" It does not create an individual complaints process, and the Board did not err in finding that it had no application to Mr. Beaulieu's complaint.

IV. Conclusion

[35] For these reasons, I would dismiss the application. In the exercise of my discretion, I would not award costs.

"Anne L. Mactavish"
J.A.

"I agree.
David Stratas J.A."

"I agree.
René LeBlanc J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-330-23
STYLE OF CAUSE:	JOSHAUA BEAULIEU v. PUBLIC SERVICE ALLIANCE OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	MARCH 12, 2025
REASONS FOR JUDGMENT BY:	MACTAVISH J.A.
CONCURRED IN BY:	STRATAS J.A. LEBLANC J.A.
DATED:	MARCH 14, 2025

APPEARANCES:

Joshaua Beaulieu	ON HIS OWN BEHALF
Emilie Taman	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Champ & Associates Ottawa, Ontario	FOR THE RESPONDENT