

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250521

Docket: A-127-24

Citation: 2025 FCA 99

**CORAM: STRATAS J.A.
GOYETTE J.A.
BIRINGER J.A.**

BETWEEN:

FAVEL TRANSPORTATION INC.

Applicant

and

CANADIAN FOOD INSPECTION AGENCY

Respondent

Heard at Regina, Saskatchewan, on May 21, 2025.
Judgment delivered from the Bench at Regina, Saskatchewan, on May 21, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

GOYETTE J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Regina, Saskatchewan, on May 21, 2025).

GOYETTE J.A.

[1] Favel Transportation Inc. asks this Court to judicially review the decision by a member of the Canadian Agricultural Review Tribunal not to recuse herself.

[2] By way of context, in 2022, Favel Transportation was served with a notice of alleged violation of Federal agriculture regulations and made a request to the Canadian Agricultural

Review Tribunal to review the notice. In the course of the process, the Tribunal member assigned to the review denied Favel Transportation's request for an in-person hearing. Favel Transportation asked the member to recuse herself on the basis that she had "demonstrated a reasonable apprehension of bias" in the way she denied an in-person hearing. The member refused to recuse herself, and Favel Transportation brought the present application for judicial review.

[3] The Attorney General of Canada submits that the application is premature.

[4] We agree.

[5] Absent exceptional circumstances, judicial review may only be brought after the administrative-decision maker has made a final decision. Favel Transportation fails to demonstrate exceptional circumstances that would allow the Court to depart from this general rule and review the Tribunal member's interlocutory decision on recusal: *C.B. Powell Limited v. Canada (Border Services Agency)*, 2010 FCA 61 at paras. 30–32; *Dugré v. Canada (Attorney General)*, 2021 FCA 8 at paras. 34–37, leave to appeal to SCC refused, 39614 (29 September 2021). The concern of the sort alleged here—that falls far short of creating consequences so immediate and radical that they call into question the rule of law—does not constitute exceptional circumstances: *Herbert v. Canada (Attorney General)*, 2022 FCA 11 at para. 12; *Jacques v. Canada (Attorney General)*, 2024 FC 26 at paras. 53–55. In this regard, we note that in the jurisprudence relied upon by Favel Transportation, judicial review applications or appeals alleging bias were brought after final decisions were made below.

[6] Accordingly, the application for judicial review is dismissed with costs.

[7] On a final note, the Attorney General of Canada asks that the style of cause be amended to name the Canadian Food Inspection Agency as the respondent. The Court agrees and so orders: *Federal Courts Rules*, S.O.R./98-106, rule 303. The amended style of cause appears in these reasons and will appear in the judgment.

"Nathalie Goyette"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-127-24

STYLE OF CAUSE: FAVEL TRANSPORTATION INC.
v. CANADIAN FOOD
INSPECTION AGENCY

PLACE OF HEARING: REGINA, SASKATCHEWAN

DATE OF HEARING: MAY 21, 2025

REASONS FOR JUDGMENT OF THE COURT BY: STRATAS J.A.
GOYETTE J.A.
BIRINGER J.A.

DELIVERED FROM THE BENCH BY: GOYETTE J.A.

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