

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251021

Docket: A-364-24

Citation: 2025 FCA 188

**CORAM: RENNIE J.A.
GLEASON J.A.
LOCKE J.A.**

BETWEEN:

WILLIAM D. HEATLEY

Applicant

and

**INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, DISTRICT LODGE 14**

Respondent

Heard at Calgary, Alberta, on October 21, 2025.
Judgment delivered from the Bench at Calgary, Alberta, on October 21, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

GLEASON J.A.

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251021

Docket: A-364-24

Citation: 2025 FCA 188

**CORAM: RENNIE J.A.
GLEASON J.A.
LOCKE J.A.**

BETWEEN:

WILLIAM D. HEATLEY

Applicant

and

**INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, DISTRICT LODGE 14**

Respondent

REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Calgary, Alberta, on October 21, 2025).

GLEASON J.A.

[1] The applicant seeks to set aside the decision of the Canada Industrial Relations Board (the CIRB or the Board) issued July 3, 2024 (2024 CIRB LD 5387) in which the CIRB dismissed his duty of fair representation complaint because it was filed outside the 90-day time limit contained in subsection 97(2) of the *Canada Labour Code*, R.S.C. 1985, c. L-2.

[2] That subsection provides that a complaint of this nature must be filed within 90 days from the date on which a complainant knew, or in the opinion of the Board ought to have known, of the circumstances giving rise to the complaint. The CIRB determined that the applicant knew of these circumstances when the respondent advised him that it would not advance his termination grievance to arbitration. As the applicant's complaint was filed more than 90 days later, the Board concluded that the complaint was untimely. It also determined that it would not exercise its discretion to extend the 90-day time limit. In reaching these conclusions the CIRB relied on previous cases in which it had reached similar conclusions.

[3] This Court may only intervene to set aside the CIRB's decision if it is unreasonable: *Perrin v. Canadian Union of Public Employees*, 2023 FCA 104 at para. 5; *Watson v. Canadian Union of Public Employees*, 2023 FCA 48 at para. 16; *Paris v. Syndicat des employés de Transports R.M.T. (Unifor-Québec)*, 2022 FCA 173 at paras. 2 and 14; *Grant v. Unifor*, 2022 FCA 6 at paras. 7–8.

[4] We see nothing unreasonable in the Board's decision, which was supported by well-articulated reasons that rested on its previous case law. The decision was also amply supported by the facts before the Board.

[5] In essence, in this application, the applicant seeks to have this Court overturn the Board's factual finding as to the date the applicant knew or should have known of the circumstances giving rise to his complaint and to re-make the discretionary decision to not extend the 90-day time limit. However, we cannot do either of these things as that would involve us substituting our

views for those of the Board, which is the opposite of the deference reasonableness review requires.

[6] The applicant more specifically argues that the CIRB erred in declining to follow four prior cases that the applicant alleges involve identical or very similar facts where the Board reached different conclusions as to when a complainant has knowledge of the circumstances giving rise to his complaint, namely, *Lang v. Canadian Union of Postal Workers*, 2017 CIRB 848, *Crouch v. B.R.C. (1983)*, 55 di 48, 1983 CarswellNat 555, 1983 CarswellNat 556, *Brassard v. B.M.W.E. (1993)*, 92 di 67, 1993 CarswellNat 1829, 1993 CarswellNat 1828 and *Startek v. I.B.T., Local 938*, 38 di 228, 1979 CarswellNat 757, 1979 CarswellNat 758. We disagree as these cases turn on their facts, which are markedly different from those in the present case. More importantly, factual determinations as to when the 90-day time period to file a complaint starts to run are for the Board and not this Court to make.

[7] Similarly, the applicant seeks to reargue why an extension to the 90-day time limit should have been granted. However, as noted, second-guessing the Board's exercise of discretion is not something this Court may do in a judicial review application.

[8] This application must therefore be dismissed, with costs, which we fix in the all-inclusive amount of \$2,500.00.

“Mary J.L. Gleason”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-364-24

STYLE OF CAUSE: WILLIAM D. HEATLEY v.
INTERNATIONAL
ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS,
DISTRICT LODGE 14

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: OCTOBER 21, 2025

REASONS FOR JUDGMENT OF THE COURT BY: RENNIE J.A.
GLEASON J.A.
LOCKE J.A.

DELIVERED FROM THE BENCH BY: GLEASON J.A.

APPEARANCES:

Charles Osuji FOR THE APPLICANT
Imtiaz Hafiz

Natalia Makuch FOR THE RESPONDENT
Camila Franco

SOLICITORS OF RECORD:

Osuji & Smith Lawyers FOR THE APPLICANT
Calgary, Alberta

Chivers Carpenter Lawyers FOR THE RESPONDENT
Edmonton, Alberta