Canada Industrial Relations Board Conseil canadien des relations industrielles

C.D. Howe Building, 240 Sparks Street, 4th Floor West, Ottawa, Ont. K1A 0X8
Édifice C.D. Howe, 240, rue Sparks, 4e étage Ouest, Ottawa (Ont.) K1A 0X8

Reasons for decision

Mataya Reid,

complainant,

and

Canadian Union of Postal Workers,

respondent,

and

Canada Post Corporation,

employer.

Board Files: 30020-C; 31248-C
Neutral Citation: 2016 CIRB **807**
January 14, 2016

The Canada Industrial Relations Board (Board) was composed of Mr. Graham J. Clarke, Vice-Chairperson, and Messrs. André Lecavalier and Norman Rivard, Members.

Section 16.1 of the *Canada Labour Code (Part I–Industrial Relations)* (*Code*) provides that the Board may decide any matter before it without holding an oral hearing. Having reviewed all of the material on file, the Board is satisfied that the documentation before it is sufficient for it to determine these two complaints without an oral hearing.

Counsel of Record

Ms. Mataya Reid, on her own behalf;
Mr. Claude Leblanc, for Canadian Union of Postal Workers;
Ms. Stéfanie Germain, for Canada Post Corporation.

These reasons for decision were written by Mr. Graham J. Clarke, Vice-Chairperson.

I. Background

[1] On June 5 and August 6, 2013, Ms. Mataya Reid filed a duty of fair representation (DFR) complaint against her bargaining agent, the Canadian Union of Postal Workers (CUPW) (Board file no. 30020-C), alleging a violation of section 37 of the *Code* :

> **37.** A trade union or representative of a trade union that is the bargaining agent for a bargaining unit shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit with respect to their rights under the collective agreement that is applicable to them.

[2] Ms. Reid relied on the exact same material, including the Board's own DFR complaint form, to allege that her employer, Canada Post Corporation (CPC), violated Part II of the *Code*.

[3] Ms. Reid's DFR complaint consisted of 356 pages of generally unfocussed material, much of which made it difficult for the Board to understand the particulars of her issues. In *Reid*, 2013 CIRB 693 (*Reid 693*), the Board noted the challenges for self-represented parties, but confirmed every complainant's obligations:

> [19] While the Board has attempted to assist lay people to focus on the essential elements of a DFR complaint, it is ultimately up to each complainant to submit a proper pleading. Neither the Board, nor the opposing parties, are required to sift through reams of material in an attempt to analyze whether they contain sufficient elements to make out a cause of action.
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> [32] As mentioned above, the Board is fully aware that Ms. Reid, like many unrepresented litigants, may not be familiar with the *Code*. But a complainant still has the ultimate obligation of going through his/her own material, including allegedly relevant documents, and drafting a complaint in accordance with the *Regulations*. That obligation is not satisfied by filing hundreds of pages of documents and implicitly asking the Board to go through it and decide what, if anything, should form part of a complaint.

[4] In *Reid 693*, the Board gave Ms. Reid 30 days to provide a proper and focused pleading. Ms. Reid complied with that order. CUPW also provided its position on Ms. Reid's issues.

[5] The Board requested supplemental submissions from the parties in an attempt to understand their positions. CPC, as is customary for employers in DFR complaints, took no position on the merits.

[6] In *Reid*, 2014 CIRB LD 3269 (*Reid 3269*), the Board dismissed Ms. Reid's Part II complaint. Since there is no *prima facie* case process for Part II matters the way there is for DFR complaints, *infra*, CPC had responded to Ms. Reid's initial complaint. In its response, CPC

provided helpful guidance on three discipline matters which seemed to be at the heart of Ms. Reid's reprisal allegations.

[7] In *Reid 3269*, the Board agreed with CPC that two issues Ms. Reid had raised fell outside the *Code*'s 90-day time limit for the filing of complaints: section 133(2). Ms. Reid similarly had provided no basis for the Board to extend the 90-day time limit. For the issue which was timely, Ms. Reid did not persuade the Board that CPC's discipline, which CUPW had grieved on her behalf, arose in whole or in part from her involvement in a Part II process.

[8] On August 20, 2015, Ms. Reid filed another DFR complaint against CUPW (Board file no. 31248-C). She asked the Board to join that file with her original complaint. The Board has accepted that request. This decision will also decide that DFR complaint from file no. 31248-C.

[9] The Board has decided to dismiss both of Ms. Reid's complaints. For the initial complaint (file no. 30020-C), Ms. Reid did not convince the Board that CUPW, which had among other initiatives filed 17 grievances on her behalf, some of which remained pending at the material times, had acted in an arbitrary, discriminatory or bad faith manner.

[10] For file 31248-C, the Board has concluded that Ms. Reid did not file the complaint within the *Code*'s 90-day time limit and did not provide a satisfactory explanation why the Board should extend that time limit.

[11] Moreover, Ms. Reid's complaint, even if it had been timely, failed to raise a *prima facie* case as a result of her failure to provide the key supporting documents upon which she based her allegations.

[12] This decision provides the reasons for the Board's conclusions.

II. Applicable Legal Principles

[13] Because of the breadth of Ms. Reid's allegations, as best the Board can understand them from the record, we will first review the relevant legal principles.

A. The Board's obligation toward self-represented litigants

[14] In *Reid 693*, the Board noted the steps to which it had gone to try to demystify the DFR process for laypersons:

> [22] The Board's IC and DFR Form go to significant lengths to focus complainants on describing how they allege their trade union acted in an arbitrary, discriminatory and/or bad faith manner.
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> [23] This need for focus is important given the sheer volume of DFR complaints which fail to comprehend a trade union's role. For example, the Board receives numerous complaints which simply express disagreement with a trade union's decision whether to go to arbitration. Others contest a trade union's interpretation of the collective agreement.

[15] But the Board must ensure it treats all parties fairly, whether experienced or not. In *0927613 B.C. Ltd.* v. *0941187 B.C. Ltd,* 2015 BCCA 457, the British Columbia Court of Appeal overturned a lower court decision which had imposed on an arbitrator a duty of "special consideration" for an unrepresented party:

> [68] In these circumstances, I am unable to find any breach of natural justice obligations or duties of procedural unfairness toward the respondent, particularly where in this case, Mr. Sangha was given every opportunity to participate in the process, present his evidence and make submissions to the arbitrator, and respond to the appellant's evidence and submissions, but chose not to do so. The process was fair to the respondent. The arbitrator had no further obligation to the respondent after he chose not to participate.

[16] The Board has been careful in this case not to become Ms. Reid's advocate.

B. The Board's *prima facie* process for DFR cases

[17] In *Reid 693*, the Board described the *prima facie* case analysis it conducts for all DFR complaints. The Board examines the material facts as pleaded, and as supported by the documentation the *Canada Industrial Relations Board Regulations*, 2012 (*Regulations*) require complainants to produce, in order to decide if a *prima facie* case exists. If a complainant makes out a prima facie case, the Board will request a response from the respondents:

> **IV. The DFR *prima facie* Process**
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> [20] The Board applies a *prima facie* case process for DFR complaints. After a complaint is received, but before asking for submissions from the trade union and the employer, the Board first examines whether the complainant has established a case, at least at an initial glance.
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> [21] Only if the complainant has demonstrated a *prima facie* case will the Board request the respondents to respond. In *Crispo*, 2010 CIRB 527, the Board described this essential screening process:
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> > [12] The Board conducts a *prima facie* case analysis for the numerous duty of fair representation cases it receives. This *prima facie* case analysis accepts a complainant's pleaded material facts as true and then analyzes whether those material facts could amount to a *Code* violation.

> [13] The *prima facie* case analysis weighs the material facts as opposed to legal conclusions. A complainant who pleads a legal conclusion by alleging, for example, that certain conduct was arbitrary, discriminatory or in bad faith does not, by so doing, avoid the application of the *prima facie* case test.
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> [14] In *Blanchet* v. *the International Association of Machinists and Aerospace Workers, Local 712*, 2009 FCA 103, the Federal Court of Appeal endorsed the Board's use of a *prima facie* case analysis and its focus on the material facts:
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> > [17] As a general rule, when a court presumes the allegations to be true, they are allegations of fact. That rule does not apply in findings of law: see *Lawrence v. The Queen*, [1978] 2 F.C. 782 (T.D.). It is for the court, not the parties, to determine questions of law: *ibidem*.
> >
> > [18] It is true that, in the passage quoted, the Board did not specify that it was referring to the applicant's allegations of fact. However, the reference to the applicant's allegations cannot be anything other than a reference to allegations of fact. Otherwise, a complainant would need only to state as a conclusion that his or her union's decision was arbitrary or discriminatory for the Board to be forced to find that there had been a violation, or at least a *prima facie* violation, of section 37 of the *Code* and rule on the merits of the complaint. Thus, the complaint screening process would become a thing of the past.

[18] The Board's DFR form also highlights the need for complainants to include the supporting documentation for their complaint.

C. Time limits for unfair labour practice complaints

[19] The *Code* contains a 90-day time limit for the filing of DFR complaints. Ms. Reid was already familiar with the *Code*'s time limits, since a similar time limit applied to her Part II complaint.

[20] The Board does not routinely grant time limit extensions : *Kerr*, 2012 CIRB (*Kerr 631*). In exceptional cases, however, the Board may exercise its discretion under section 16(m.1) of the *Code* to extend the time limits for the filing of a complaint, as recently occurred in *Perron–Martin*, 2014 CIRB 719 (*Perron-Martin 719*):

> [24] Notwithstanding the general principle described in *Kerr 631*, *supra*, the Board finds that Ms. Perron-Martin's complaint constitutes an exceptional case which warrants an extension of the 90-day limit. A number of factors support this conclusion.
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> [25] First of all, Ms. Perron-Martin acted diligently following her dismissal. She filed several complaints at the provincial and federal levels. This is not a case where a complainant did nothing for 90 days. Ms. Perron-Martin always wanted to contest her dismissal.

> [26] Secondly, constitutional law is complicated; the Supreme Court of Canada is not always unanimous in its constitutional law decisions. The fact that a diligent complainant failed to file a complaint in the proper jurisdiction can be a relevant factor when the Board is considering whether it should exercise its discretion. However, this does not mean that filing a complaint in the wrong jurisdiction automatically gives a right to an extension of the *Code*'s time limits.
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> [27] Third, and this is perhaps the most important factor in this case, the number of days exceeding the 90-day time limit is relatively low. When one compares the 24-day delay (24 days over and above the 90-day limit) in this case with the six-month delay in *Kerr 631*, *supra*, the Board's exercise of its discretion under the *Code* becomes appropriate.
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> [28] For these reasons, the Board is prepared to determine the complaint filed by Ms. Perron-Martin on its merits. However, the Board will limit its analysis to the events surrounding Ms. Perron-Martin's dismissal on July 17, 2013. The harassment complaints made in 2011 and 2012 were mentioned earlier merely to provide background in relation to Ms. Perron-Martin's dismissal.

D. The Board examines a trade union's process, but does not sit in appeal of a trade union's day-to-day decisions

[21] When it considers a DFR complaint, the Board focuses on a trade union's process, as was explained in *Scott*, 2014 CIRB 710 (*Scott 710*):

> [93] If the Board sat in appeal of a trade union's decision whether to go to arbitration, then it would not matter what the union actually did, or did not do, when it made its original decision about arbitration. Any and all arguments, whether new or not, could be reviewed in order to decide the "correctness" of the union's conclusion.
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> [94] But the Board does not sit in appeal of a trade union's decisions. The Board only concerns itself with the trade union's process and the steps it demonstrates it took in arriving at its decision. The correctness of the union's decision is irrelevant if its process violated the DFR duty it owed to the bargaining unit member.

[22] The Board will not substitute its judgment for that of an experienced bargaining agent.

E. A DFR complaint deals only with employee rights arising under a collective agreement

[23] The wording of section 37 establishes the scope of a DFR complaint:

> **37.** A trade union or representative of a trade union that is the bargaining agent for a bargaining unit shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit **with respect to their rights under the collective agreement that is applicable to them.**
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> (emphasis added)

[24] In *Torabi*, 2015 CIRB 781 (*Torabi 781*), the Board examined the scope of a DFR complaint and its necessary link to rights under the collective agreement. Subject to the content of the

applicable collective agreement, the DFR does not oblige trade unions to represent bargaining unit members before other administrative tribunals or to judicially review an arbitration award.

[25] Neither does the DFR clothe the Board with authority to decide issues arising from internal union elections (*Gill*, 2011 CIRB LD 2528) or for disputes about the proper interpretation of a trade union's constitution (*Thibeault*, 2014 CIRB 711, [*Thibeault 711*]). In *Torabi 781*, the Board found it did not have jurisdiction to determine whether a trade union's constitution prevented it from setting up a pension plan for bargaining unit members:

> [58] The Board is not the appropriate body to consider Mr. Torabi's allegations regarding the interpretation of terms like "commercial enterprise" in article 5.8 of SPEA's Constitution. Rather, as the Board noted in *Thibeault 711*, disputes about the interpretation of a trade union's Constitution, arising in essence from a contractual dispute, fall within the jurisdiction of the courts.
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> [59] It is important to focus on the collective agreement when examining the scope of the DFR. The only collective agreement references the Board could identify in Mr. Torabi's complaint concerned the pension options under article 13. SPEA adopted a voting method to choose one of those pension options. Mr. Torabi et al. had the opportunity to vote, if they so desired.
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> [60] However, article 13.03(*c*)(iii) in the SPEA-Candu collective agreement did not clothe the Board with a general oversight jurisdiction to examine any and all issues arising from the SPEA Plan.

[26] The Board similarly does not examine matters which arose under an internal employer policy, rather than under the collective agreement: *Mallet*, 2014 CIRB 730 (*Mallet 730*).

F. The Board does not resolve disputes about the proper interpretation of the collective agreement

[27] Given the trade union's role as the exclusive representative for bargaining unit members, it decides how it will interpret the collective agreement it negotiated with the employer. This sometimes places the trade union in a no-win situation, since not all bargaining unit members will be happy with certain interpretations, especially those involving seniority.

[28] The Board faced this situation in *Mallette*, 2012 CIRB 645 (*Mallette 645*) where it found that, absent arbitrariness, discrimination, or bad faith, the trade union had the exclusive authority to interpret the collective agreement :

> [22] The CAW accordingly decided to choose an official interpretation of the collective agreement and to resolve this issue with VIA. The outcome was not favourable for Mr. Mallette.

> [23] As indicated in the excerpt from *Crispo 527*, *supra*, the Board accepts the fact that the bargaining agent has ultimate responsibility for deciding on its interpretation of the collective agreement. Such responsibility includes the discretion to correct its opinion regarding the interpretation of a particular clause.
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> [24] In his complaint, Mr. Mallette challenges the interpretation of the collective agreement. However, there is no evidence that the CAW arrived at its position based on arbitrary or discriminatory factors or bad faith. The facts set out indicate that the CAW had to rule on a question of seniority that involved several members of the unit.

[29] With these principles in mind, the Board will now examine Ms. Reid's complaint.

III. Analysis and Decision

[30] Rather than review numerous inter-related grievances one by one, the Board will summarize the major issues Ms. Reid raised and provide its analysis of them. The lengthy record contains the minutiae about these issues.

A. Background

[31] CPC hired Ms. Reid as a postal worker in 2000. In October 2012, she transferred from her employment in Vancouver to a position in Beauport, a Quebec City suburb. One of Ms. Reid's stated purposes for the move was to improve her French.

[32] Ms. Reid later transferred to another Quebec City location on Jean Perrin Street. The events raised by Ms. Reid occurred at both locations.

[33] In or about July 2014, Ms. Reid transferred out of Quebec City to another CPC position in Sydney, Nova Scotia.

[34] During Ms. Reid's time in Quebec City, CUPW filed 17 grievances on her behalf. CUPW provided a description of all of those grievances in its initial July 28, 2014 response to the complaint.

[35] Those grievances covered various issues including inter-related allegations regarding: i) excessive overtime; ii) health and safety concerns; iii) route measurement issues; iv) workplace violence, bullying and harassment; and v) discipline. Some of these grievances remain pending. CUPW did not pursue one grievance (#370 12 00162), which resulted in Ms. Reid filing the second complaint in file no. 31248-C, *supra*.

[36] Ms. Reid also took issue with CUPW's decision to remove her as a union steward and raised language discrimination allegations.

[37] It is clear from the voluminous correspondence Ms. Reid produced that she was frustrated with CUPW. This is not to criticize CUPW which, in the circumstances, appears to have acted often with considerable patience. The correspondence highlights challenges arising from Ms. Reid's working knowledge of French and certain CUPW representatives' ability to converse with her in English.

[38] Ms. Reid complained about this language barrier (starting at page 14 of the complaint). While Ms. Reid filed a complaint with the Office of the Commissioner of Official Languages, that Office discontinued its investigation of CPC (see June 11, 2013 letter at page 16 of the complaint). The record before the Board shows that CUPW attempted to communicate with Ms. Reid in both official languages, though often in difficult circumstances.

[39] Ms. Reid insisted on using French, despite CUPW advising her it had difficulty understanding her spoken French, as well as the text of her written grievances. Ms. Reid alleged that CUPW's raising of language difficulties was merely a pretext to hide its refusal to represent her, *infra*.

[40] Even if discrimination on the basis of language could fall within the scope of a DFR complaint (*Benoit*, 2011 CIRB 568), Ms. Reid did not satisfy the Board that CUPW was discriminating against her on the basis of language. The record demonstrated CUPW repeatedly attempted to represent her, though communication challenges clearly existed.

B. Ms. Reid's complaint about her shop steward position

[41] At pages 3 and 227-251 of her complaint, Ms. Reid contested certain events relating to her position as a CUPW shop steward. She also suggested CUPW was discriminating against her, contrary to its National Policies and National Constitution (pages 203; 201-216). Part of Ms. Reid's discrimination allegations were on the basis of language.

[42] As noted earlier in this decision, the Board's role in a DFR complaint concerns a trade union's conduct with regard to a bargaining unit member's **rights under the collective agreement**. Ms. Reid's comments about CUPW's decision to revoke her position as a shop steward and her references to CUPW's by-laws, National Policies and National Constitution, fall outside the scope of a DFR complaint: See *Torabi 781* and *Thibeault 711*.

[43] The Board does not police internal union matters under the *Code*'s DFR provision. Some complaints filed under section 95 of the *Code* may require the Board to examine certain trade

union conduct as was examined in *Torabi 781*. But section 95 is not at issue in these complaints.

C. Disputes about which collective agreement articles to include in grievances

[44] Ms. Reid alleged that CUPW acted arbitrarily when it filed grievances which did not contest article 33.13, an article which she had explicitly raised. Article 33.13 of the collective agreement deals with an employee's right to refuse dangerous work.

[45] At page 76(a) of her documentation, Ms. Reid described the issue:

> **Article 33.04 Please read in documents section**
> So in conclusion Arbitrary behaviour is the by the lack of acknowledgement of 33.13 and grieving the procedures of the article were not followed. All my grievances plainly said 33.13. As a member if we have a fall or accident, the corporation gives us letters for being unsafe employees. Under the law it is everyone's responsibility. I take it very seriously, by putting things in Health and Safety reports through the committee and checking up on them. I believe very strongly the corporations interpretation of 33.13 is a health and safety issue since they say it only applies to certain things. Putting in grievance is a long drawn out way of dealing with a situation that left on a continuous health and safety situation. I believe having proper TRUTHFULL investigations and the freedom to bring any issue forward after all other options have been exhausted is very critical in our job. This way is part of our contract under 33.13. **I want it to go to arbitration because the language is unclear and there is a lot of confusion around it. There is no damage by taking it there because we would be in the same spot we are now. When article 33.13 is used, no matter what the health and safety issue, the issue should be resolved according to it. Not by saying that the article does not apply, that is an interpretation I would like resolved.**
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> (emphasis added)

[46] This health and safety inspired issue also involved Ms. Reid's concerns about her overtime hours when she first arrived in Quebec City. In her view, the hours she was asked to work raised article 33.13 of the collective agreement. Ms. Reid also raised issues with CPC's route measurements.

[47] CUPW filed grievances on her behalf about overtime, but did not specifically raise article 33.13.

[48] On a later occasion (see pages 153-156 of the complaint), Ms. Reid was allowed to proceed with an article 33.13 matter. However, a CUPW steward and CPC representative later jointly agreed that the situation did not properly fall within that article.

[49] The Board's case law is clear. The trade union determines whether to proceed with a grievance. The trade union also determines the grounds on which it will proceed. While

Ms. Reid desired that an arbitrator interpret article 33.13, it was up to CUPW to determine whether it was in the interest of the overall bargaining unit to raise that specific article in a grievance.

[50] CUPW decided to contest the overtime issue in another manner, as it was fully entitled to do given its role as the exclusive bargaining agent.

[51] Just as in cases where a trade union has to decide whether to contest an employee's seniority claim, CUPW determined the grounds on which it was willing to contest Ms. Reid's allegations regarding overtime, etc. Ms. Reid did not convince the Board that CUPW did anything arbitrary in making to this determination.

D. Ms. Reid's allegations of harassment

[52] In or about November 2012, Ms. Reid alleged that CPC was harassing her. CUPW filed grievances on her behalf, in accordance with the collective agreement.

[53] Ms. Reid filed a similar complaint with the Canadian Human Rights Commission, but the Commission's January 17, 2013 response advised her that it was refusing to deal with the matter, since she had not yet exhausted the collective agreement's grievance procedure.

[54] A significant investigation took place into Ms. Reid's complaint. An internal three-person investigation committee, which included a CUPW representative, issued a 21-page report on April 17, 2013 concerning Ms. Reid's allegations. The investigation committee concluded that Ms. Reid's complaint was unfounded (see pages 179-181 of the complaint and attachments to CUPW's March 9, 2015 reply).

[55] As noted above, the Board's role is not to second guess the decisions CUPW has to make when representing bargaining unit employees. The Board needs to determine solely whether CUPW acted in an arbitrary, discriminatory or bad faith manner with regard to Ms. Reid's collective agreement rights.

[56] For her harassment allegations, CUPW filed grievances on her behalf and also participated in a significant investigation. The investigation report did not find merit in Ms. Reid's allegations.

[57] Ms. Reid did not convince the Board that a *Code* violation occurred when CUPW attempted to assist her with these issues.

E. DFR complaint (file no. 31248-C) regarding grievance #370 12 00162

[58] Ms. Reid filed this second DFR complaint on August 20, 2015. She contested CUPW's decision not to proceed to arbitration with grievance 370 12 00162.

[59] CUPW had provided her with its written decision in a letter dated February 15, 2015, some six months prior to the Board receiving the complaint.

[60] The Board has decided to dismiss this second DFR complaint for two reasons.

[61] It is clear on the record that Ms. Reid, who was already aware from her involvement with other Board matters of the *Code*'s 90-day time limit for complaints, did not file her complaint on time.

[62] Ms. Reid did refer in her complaint to a doctor's note which she described as advising her in March 2015 not to pursue the matter for reasons of stress. She listed the note as being among the attachments to the complaint, but she failed include it. Ms. Reid advised the Board's Industrial Relations Officer (IRO) that she wanted to protect the confidentiality of these documents.

[63] The Board's DFR complaint form, as well as the *Regulation*, is clear. Parties, including the self-represented, must provide the relevant supporting documents with their pleadings. Section 40(1)(c), (d) and (e) of the *Regulations* set out a party's obligations when filing a complaint:

> **40.** (1) A complaint must include
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> ...
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> (c) a reference to the provision of the Code under which the complaint is being made;
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> (d) full particulars of the facts, relevant dates and grounds for the complaint;
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> (e) a copy of supporting documents for the complaint;
>
> ...

[64] Such information is crucial in order to allow the Board to exercise its powers under the *Code*. Not only does the Board conduct a mandatory *prima facie* case analysis for all DFR complaints, but section 16.1 of the *Code* allows the Board to decide any case without holding an oral hearing:

16.1 The Board may decide any matter before it without holding an oral hearing.

[65] A party must submit the key supporting documents on which it relies, even if it believes some are confidential or otherwise sensitive. Section 22 of the *Regulations* deals expressly with the Board's ability to issue confidentiality orders.

[66] Even if the Board had been persuaded to extend the time limit for Ms. Reid's complaint, the materials she submitted further failed to raise a *prima facie* case.

[67] A party cannot avoid the Board's *prima facie* case analysis by omitting to include key supporting documents with the complaint. In this case, Ms. Reid did not provide CUPW's February 15, 2015 letter advising her that it was not proceeding with her grievance.

[68] Ms. Reid commented explicitly on the content of CUPW's letter in her complaint, but did not include a copy of it. When the Board's IRO requested a copy of the letter, Ms. Reid indicated she had misplaced it.

[69] It is simply not good enough, whether for experienced or self-represented litigants, to make allegations about a key document and then fail to produce it. Ms. Reid had the obligation to ensure she filed the supporting documents for her complainant. If she had to ask CUPW for another copy of the letter, then that was her obligation. It is not up to the Board to chase after complainants for documents or obtain those documents on its own initiative in order to complete a file.

[70] In *Reid 693*, the Board had explained to Ms. Reid its *prima facie* process for DFR complaints. It was incumbent on Ms. Reid to put her best foot forward by trying to establish a *prima facie* case. The Board has often decided DFR cases on a *prima facie* case basis after reviewing a trade union's correspondence which a complainant had included with the complaint.

[71] The Board will not put respondents like CUPW to the time and expense of providing responses to DFR complaints if the complainants themselves fail to provide the required supporting material. This is especially the case if an IRO has requested the documents.

[72] The Board conducts its *prima facie* case analysis based on what it has in the file before it. It does not as, part of that process, give complainants a head's up that they may not succeed unless they provide further information.

[73] The Board, accordingly, dismisses Ms. Reid's complaint in file no. 31248-C on the basis of timeliness and, separately, on the merits because it failed to raise a *prima facie* case.

IV. Conclusion

[74] The Board has reviewed Ms. Reid's complaints and has not been persuaded that CUPW violated the obligations section 37 of the *Code* imposed on it. Those obligations are continuing. This decision does not apply to any future developments on Ms. Reid's many grievances. CUPW remains obliged to respect the *Code*'s DFR as it assists Ms. Reid with those grievances and other matters.

[75] For current purposes, the Board dismisses the DFR complaints in file nos. 30020-C and 31248–C.

[76] This is a unanimous decision of the Board.

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Graham J. Clarke
Vice-Chairperson

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André Lecavalier
Member

_____
Norman Rivard
Member