

Federal Court of Appeal



Cour d'appel fédérale

Date: 20141203

Docket: A-330-13

Citation: 2014 FCA 282

**CORAM: DAWSON J.A.
TRUDEL J.A.
NEAR J.A.**

BETWEEN:

BARBARA DUNKLEY-CHIEFFALLO

Appellant

and

CANADA POST CORPORATION

Respondent

Heard at Ottawa, Ontario, on December 3, 2014.
Judgment delivered from the Bench at Ottawa, Ontario, on December 3, 2014.

REASONS FOR JUDGMENT OF THE COURT BY:

TRUDEL J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on December 3, 2014).

TRUDEL J.A.

[1] We are all of the view that this appeal should be dismissed. The appellant has not shown that the Commission's decision was unreasonable in the circumstances or that the Commission failed in its obligation to investigate her complaint fairly and thoroughly.

[2] Although the appellant is unhappy with Canada Post's alleged failure to abide by its offer to work with the appellant and her union to find her alternative employment within the

corporation, this issue is not before our Court because it is conduct after the decision under review. It is only relevant to the extent that it was potentially unreasonable for the Commission to rely on such a vague and open-ended offer in deciding to dismiss the complaint. An examination of the Preliminary Assessment Report prepared to assist the Commission shows that, based on the available evidence and written submissions of the parties, the decision not to refer the complaint to the Tribunal was reasonable notwithstanding the Commission's apparent reliance on this offer and the Judge's reference to it. In particular, we note that the investigator properly addressed the appellant's complaint that on occasion, one employee did not pick up her mail (see Appeal Book at page 58).

[3] As for whether the Commission treated the appellant fairly, there is no evidence that the investigator was not neutral or ignored relevant evidence when compiling the report. Accordingly, the Judge correctly dismissed the application for judicial review (2013 FC 759).

[4] As well, there is no reason for our Court to disturb the Judge's cost award. He granted costs to the successful party on the application, in accordance with the normal rule. The Judge's decision was not clearly wrong or based on an error of law.

[5] As a result, the appeal will be dismissed without costs in view of the circumstances.

"Johanne Trudel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-330-13

STYLE OF CAUSE: BARBARA DUNKLEY-
CHIEFFALLO v. CANADA POST
CORPORATION

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: DECEMBER 3, 2014

REASONS FOR JUDGMENT OF THE COURT BY: DAWSON J.A.
TRUDEL J.A.
NEAR J.A.

DELIVERED FROM THE BENCH BY: TRUDEL J.A.

APPEARANCES:

Barbara-Dunkley Chieffallo ON HER OWN BEHALF

Caroline Richard FOR THE RESPONDENT
CANADA POST CORPORATION

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