

Federal Court of Appeal



Cour d'appel fédérale

Date: 20141106

Docket: A-221-14

Citation: 2014 FCA 261

**CORAM: NOËL C.J.
GAUTHIER J.A.
BOIVIN J.A.**

BETWEEN:

**RON TRIMBLE, JEFF SMITH AND ROBERT
CLARKE**

Applicants

and

ALBERT BENOIT

Respondent

Heard at Montréal, Quebec, on November 6, 2014.
Judgment delivered from the Bench at Montréal, Quebec, on November 6, 2014.

REASONS FOR JUDGMENT OF THE COURT BY:

GAUTHIER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Montréal, Quebec, on November 6, 2014).

GAUTHIER J.A.

[1] We have not been persuaded that the decision of the Public Service Labour Relations Board (the Board) concluding that the complaint of unfair labour practice (Sections 185 and 187 of the *Public Service Labour Relations Act*, S.C. 2003 c. 22, s 2) was unreasonable.

[2] In particular, the applicants have not established that the Board made an error of law in i) considering evidence presented by both sides in respect of events that occurred after the date of filing of the complaint or ii) in applying s 187 (duty of fair representation) to internal union affairs. First, it is unnecessary to decide whether it was appropriate in this particular case for the Board to hear and decide on the basis of events that took place after the complaint. This evidence simply confirmed the conclusion the Board had reached at paragraph 44 of its decision (reported as 2014 PSLRB 46) which is based solely on the events described in the complaint.

[3] Second, the Board expressly held that this case could not be characterized as one involving internal union matters. This finding was open to it considering the Board's factual finding of bad faith and that the complainant reasonably had no expectation of assistance from the bargaining agent (paragraph 52 of the decision).

[4] Further, we cannot agree that the Board acted *ultra petita* in issuing the order it did (remedies). The remedy originally sought was not available as it exceeded the Board's jurisdiction (*i.e.* removal). As a result, the Board granted a remedy that was as responsive as possible to the remedy sought without exceeding its jurisdiction.

[5] Finally, considering the purpose of the publication ordered, the period of publication has not been shown to be unreasonable.

[6] The application for judicial review will be dismissed.

“Johanne Gauthier”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-221-14

STYLE OF CAUSE: RON TRIMBLE, JEFF SMITH
AND ROBERT CLARKE v.
ALBERT BENOIT

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: NOVEMBER 6, 2014

REASONS FOR JUDGMENT OF THE COURT BY: NOËL C.J.
GAUTHIER J.A.
BOIVIN J.A.

DELIVERED FROM THE BENCH BY: GAUTHIER J.A.

APPEARANCES:

Arianne Bouchard

FOR THE APPLICANTS
RON TRIMBLE, JEFF SMITH
AND ROBERT CLARKE

SOLICITORS OF RECORD:

Confédération des syndicats nationaux
Montréal, Quebec

FOR THE APPLICANTS
RON TRIMBLE, JEFF SMITH
AND ROBERT CLARKE