

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180409

Docket: A-173-17

Citation: 2018 FCA 71

**CORAM: NADON J.A.
DAWSON J.A.
GLEASON J.A.**

BETWEEN:

GARDA SECURITY SCREENING INC.

Applicant

and

GENERAL TEAMSTERS, LOCAL UNION 979

Respondent

Heard at Winnipeg, Manitoba, on April 9, 2018.

Judgment delivered from the Bench at Winnipeg, Manitoba, on April 9, 2018.

REASONS FOR JUDGMENT OF THE COURT BY:

GLEASON J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Winnipeg, Manitoba, on April 9, 2018).

GLEASON J.A.

[1] Garda Security Screening Inc. seeks to set aside the decision of the Canada Industrial Relations Board (the CIRB or the Board) in *General Teamsters, Local Union 979 v. Garda Security Screening Inc.*, 2017 CIRB 856, certifying the Teamsters as the bargaining agent for a unit of check point managers and quality leads employed by Garda at the Winnipeg International Airport. The CIRB held that these employees did not exercise management functions and were

therefore employees as defined in the *Canada Labour Code*, R.S.C. 1985, c. L-2. The Board also concluded that the check point managers and quality leads were not employed in a confidential capacity in matters related to industrial relations. The Board thus determined that they were eligible for unionization. As the Teamsters had the support of the majority of these employees in the unit found to be appropriate for collective bargaining, the CIRB certified the Teamsters as the bargaining agent for the check point managers and quality leads employed by Garda at the Winnipeg International Airport.

[2] In this application for judicial review, Garda seeks to set aside the CIRB's certification order, arguing that the Board's determination that the check point managers and quality leads did not exercise management functions is unreasonable for three inter-related reasons, only one of which was argued orally. In his oral arguments, counsel for Garda submitted that the check point managers and quality leads' duties and responsibilities related to national security require that they be characterized as managers due to the critical importance of their functions and the risk that they would be less likely to perform their functions if they were unionized with the Teamsters.

[3] The Board found that there was no evidence to support this assertion. In our view, this conclusion is unassailable in light of the record before the Board. We also believe that it was open to the CIRB to apply its well-established case law to these issues and to hold that the importance of the functions performed by the check point managers and quality leads was not incompatible with their unionization. Indeed, the decision of the Supreme Court of Canada in *Mounted Police Association of Ontario v. Canada (Attorney General)* 2015 SCC 1, [2015] 1

SCR 3, cited by the Board in its reasons, provides more than ample support for the CIRB's conclusion.

[4] Turning to the arguments advanced in writing by Garda, it was not necessary for the CIRB to have provided more fulsome reasons. Contrary to what Garda asserts, the Board did not fail to address its arguments, and, even if it had given them shorter shrift, its decision would not be subject to being set aside for that reason as a labour board need not address each argument advanced by a party as the Supreme Court confirmed in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para. 16, [2011] 3 SCR 708 and *Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65 at para. 3, [2012] 3 SCR 405.

[5] Finally, we see nothing unreasonable in the Board's conclusion that the check point managers and quality leads did not exercise management functions in light of the CIRB's well-established case law regarding the scope of the managerial exclusion under the Code, the evidence before the Board and the considerable deference the CIRB is owed in matters of this nature.

[6] There is accordingly no basis for interfering with the CIRB's decision and this application will be dismissed with costs.

“Mary J.L. Gleason”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

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REASONS FOR JUDGMENT OF THE COURT BY: NADON J.A.
DAWSON J.A.
GLEASON J.A.

DELIVERED FROM THE BENCH BY: GLEASON J.A.

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