

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20100826

Docket: A-214-10

Citation: 2010 FCA 217

Present: SEXTON J.A.

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on August 26, 2010.

REASONS FOR ORDER BY:

SEXTON J.A.

Federal Court
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REASONS FOR ORDER

SEXTON J.A.

[1] This is a motion by the Public Service Alliance of Canada (“PSAC”) for leave to intervene in this case, which is an application for judicial review of a decision of the Public Service Labour Relations Board.

[2] In an earlier decision, the Public Service Labour Relations Board rendered a decision which declared that certain members of employee groups represented by the respondent, Professional Institute of the Public Service of Canada performed essential services (the Public Safety Decision). The Board in a subsequent decision ruled that it had the authority to order that the description of essential services described in the Public Safety Decision be included in the essential services

agreement (“ESA”). The Attorney General of Canada seeks judicial review of the latter decision.

[3] The Public Service Alliance of Canada (“PSAC”) seeks to intervene in the application, arguing that it is directly affected by the present application because the Board’s decision deals with the Board’s authority to order that its definition of an essential service be included in an essential services agreement (“ESA”). PSAC says that it is a party in a number of ongoing cases which raise the same issue.

[4] In order to be granted leave to intervene, it is “incumbent” on PSAC to demonstrate “what it would bring to the debate over and beyond what was already available to the Court through the parties”: *Canadian Union of Public Employees (Airline Division) v. Canadian Airlines International* (2000), [2010] 1 F.C.R. 226 (C.A.) at paragraph 12; *Sawridge Band v. Canada*, 2009 FCA 61 at paragraphs 11-16.

[5] PSAC submits that the size and diversity of its membership, and its participation in previous Public Service Labour Relations Board cases raising similar issues, give it a “unique perspective.” However, PSAC’s position on the issues is virtually identical to that of the Institute, and PSAC has not indicated that its arguments will be substantially different from those of the Institute. See *Anderson v. Canada (Customs and Revenue Agency)*, 2003 FCA 352. Though PSAC is correct in noting that an intervener is not required to adduce evidence, an intervener must add some legal or factual argument in order to assist the court.

[6] PSAC has not shown that there is any reason to believe that the Institute will fail to adequately advance the arguments which PSAC proposes to make.

[7] It is therefore not necessary to deal with the other arguments advanced by the parties. The motion is dismissed with costs.

"J. Edgar Sexton"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-214-10

STYLE OF CAUSE: Attorney General of Canada v.
Professional Institute of the Public
Service of Canada

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: Sexton J.A.

DATED: August 26, 2010

WRITTEN REPRESENTATIONS BY:

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Dougald Brown Christopher Rootham	FOR THE RESPONDENT
Andrew Raven Andrew Astritis	FOR THE PROPOSED INTERVENOR, Public Service Alliance of Canada

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