Federal Court of Appeal | Cour d'appel fédérale

Date: 20110323

Docket: A-384-09

Citation: 2011 FCA 115

CORAM: **EVANS J.A.**
SHARLOW J.A.
PELLETIER J.A.

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

RUDY QUADRINI

Respondent

and

PUBLIC SERVICE LABOUR RELATIONS BOARD

Intervener

Heard at Ottawa, Ontario, on December 15, 2010.

Judgment delivered at Ottawa, Ontario, on March 23, 2011.

REASONS FOR JUDGMENT BY: EVANS J.A.

CONCURRED IN BY: SHARLOW J.A.
PELLETIER J.A.

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REASONS FOR JUDGMENT

EVANS J.A.

Introduction

[1] This is an application for judicial review by the Attorney General of Canada to set aside a decision of the Public Service Labour Relations Board (Board), dated August 28, 2009. The Respondent to the application is Rudy Quadrini, a former employee of the Canada Revenue Agency (CRA).

[2] In that decision (2009 PSLRB 104), the Board dismissed an objection by the CRA and R. Larry Hillier, CRA Assistant Commissioner, Ontario Region (referred to collectively in these reasons as the CRA), that the Board had no authority to determine the validity of a claim for solicitor-client privilege. The Board ordered them to provide an affidavit sworn by the CRA's solicitor describing the nature of the contents of pages that had been redacted from an exhibit on the ground that they were subject to solicitor-client privilege.

[3] The Attorney General on behalf of the CRA says that solicitor-client privilege may only be abrogated with express or necessarily implied statutory authority, and none exists here. The Board responds that it has implicit legal authority to decide all questions of fact and law (including constitutional law) necessary to dispose of matters properly before it. It would unduly delay and disrupt Board proceedings, it is argued, if decision-making powers were bifurcated by a requirement that claims for privilege arising in Board proceedings must be decided by the Court. The Board also says that, if it has the power to decide privilege claims, its decisions would be subject to judicial review on a standard of correctness. This, the Board submits, would provide sufficient judicial protection for the important interests at stake in privilege claims.

[4] The present case was argued before the Board and in this Court on the level of general principle. Relatively little attention was paid to the nature of the documents in dispute, the factual and legal contexts from which the issue of privilege arose, or the relevance of the documents to the underlying dispute. This resulted in part from the fact that Mr Quadrini represented himself and

participated in the application for judicial review to only a limited extent, and that counsel for the Board was constrained from addressing the merits of the claim for privilege.

[5] In my view, the Board's decision should be set aside because Mr Quadrini did not establish that the redacted pages, which *prima facie* appear to contain privileged communications, may be relevant to the questions in issue in the proceeding before the Board. Hence, it is not necessary to decide whether the Board may determine the validity of claims for solicitor-client privilege. Moreover, because the submissions made to the Court were limited in scope, it would not be appropriate for the Court to make a ruling broader than is required to dispose of the application.

Factual background

[6] The dispute underlying this proceeding has a long history. It is recounted by the Board in its decision in 2008 PSLRB 37, where the Board dismissed a preliminary objection by the CRA that Mr Quadrini's complaint that it had committed an unfair labour practice was frivolous and vexatious. The facts reviewed in that decision provide background information that is important for a contextual understanding of the decision under review.

[7] In April 2003, the CRA dismissed Mr Quadrini for misconduct, alleging that he was working for the Ontario Ministry of Revenue (OMoR) while on paid sick leave from the CRA. Mr Quadrini grieved his termination. The grievance was referred to the Board, a mediation session was held, and the grievance was settled. Under the memorandum of agreement, dated October 4, 2004, Mr Quadrini agreed to offer to resign, effective July 2, 2003, and the CRA agreed to accept his

resignation as of that date. In return, the CRA made compensatory payments to Mr Quadrini, who continued working in the corporate tax division of the Ontario Ministry.

[8] Under an agreement in 2007 between Ontario and Canada, the CRA assumed responsibility for the collection of Ontario corporate tax. The positions of approximately 370 employees of the OMoR were affected by this transfer of functions agreement, including that of Mr Quadrini. According to him, of all the employees whose positions were affected by the agreement, and who were interested in being employed by the CRA, he was the only one to whom the CRA did not offer employment.

[9] In a letter, dated September 13, 2007, Mr Hillier advised Mr Quadrini that, although his name was on the list of OMoR employees whose positions were directly affected by the transfer agreement, he would not be receiving an offer of employment from the CRA. The letter stated as follows the basis of this decision.

> I trust that you recall the mediation of your grievances concerning the termination of employment action taken by the CRA when it was discovered that, while you were on paid sick leave with CRA, you were reporting to a new position with the Ontario Government. As a result, I must advise you that the CRA is not prepared to offer you employment.

[10] After receiving this letter, Mr Quadrini filed an unfair labour practice complaint with the Board under paragraph 190(1)(*g*) of the *Public Service Labour Relations Act*, S.C. 2003, c. 22 (Act). He alleged, among other things, that the CRA's refusal to offer him employment breached its duty under subparagraphs 186(2)(*a*)(iii) and (iv) of the Act. These provisions prohibit an employer from refusing to employ individuals because they have presented a grievance under Part 2 of the

Act or exercised any right under it, and are included in the definition of an unfair labour practice by section 185. The statutory provisions referred to in these reasons are set out in the Appendix.

[11] In its reply, dated December 5, 2007, the CRA objected to Mr Quadrini's complaint, on the ground that it was not within the Board's jurisdiction and, in any event, did not make out a *prima facie* breach of the Act. Accordingly, it said, the Board should dismiss the complaint under subsection 40(2) of the Act as frivolous and vexatious. The CRA stated that the settlement of Mr Quadrini's grievance in 2004, set out in a memorandum of agreement, was a full and final settlement that ended their employment relationship. It would, the CRA said, be an inappropriate "undoing" of the settlement to require it to re-employ him as a result of the transfer of functions agreement with Ontario.

[12] In response to the Board's request for written submissions, the CRA reiterated that it had refused to hire Mr Quadrini because of his misconduct while a CRA employee and that he had adduced no evidence to the Board in support of his allegation that the refusal was a reprisal for grieving his dismissal.

[13] From the extensive and wide-ranging representations and voluminous evidence submitted to it by Mr Quadrini, the Board distilled the essential question before it to be this: had the complainant established a *prima facie* link between the CRA's decision not to hire him in 2007 and the exercise of his right to grieve his dismissal by the CRA in 2003? The Board found in favour of Mr Quadrini: there was no reasonable way to argue, it held, that there was no link between the two events.

[14] Consequently, the complaint proceeded to a determination of its merits. At that stage, subsection 191(3) of the Act placed on the CRA the burden of showing that its refusal to employ Mr Quadrini was not a reprisal in breach of subsection 186(2).

[15] In preparing for the hearing of the merits of his complaint, Mr Quadrini made several requests to the CRA for information under the *Privacy Act,* R.S.C 1985, c. P-21. Of the documents that he received in response to his request, pages 000007 to 000011 were redacted. The CRA's Access to Information and Privacy Directorate explained this on the basis of sections 26 and 27 of the *Privacy Act*, which exempt from disclosure personal information about another individual and information that is subject to solicitor-client privilege.

Decision of the Board

[16] On the sixth day of the hearing of the merits of his complaint, Mr Quadrini asked the Board to order the CRA to disclose the redacted pages because they might cast doubt on the Respondents' defence to his complaint. He argued that he had been unable to discover the ground on which the CRA refused to hire him. If the redacted pages contained a legal opinion, it might reveal the basis of the decision, and thus be relevant to the determination of his complaint.

[17] The CRA objected when the Board attempted to make an order for production of the pages redacted from the documents released by the CRA. It said that the Board had no power either to order the production of documents subject to solicitor-client privilege, or to determine the validity of the claim for privilege.

[18] The Board adjourned the hearing and requested written submissions from the parties on the following two questions:

1. In the context of a complaint filed under section 190 of the *Public Service Labour Relations Act*, does the Board have the authority to satisfy itself that a document is subject to a solicitor-client privilege?

2. If the answer to question 1 is in the affirmative, what procedure should the Board follow in order to satisfy itself that a document is subject to a solicitor-client privilege?

[19] The Board did not agree with the CRA's submission that Mr Quadrini had accepted the *prima facie* validity of the claim for privilege. As a result, the Board said, the issue in dispute was not limited to deciding whether one of the exceptions to the protection afforded to privileged communications applied. Referring to the Board's power under paragraph 40(1)(*h*) of the Act to compel at any stage of a proceeding the production of any document or thing "that may be relevant", the Board assumed that the redacted pages might be relevant because it was not aware of their content.

[20] Turning to the question of whether it had the authority to determine the validity of claims for legal privilege, the Board considered the decision in *Canada (Privacy Commissioner) v. Blood Tribe Department of Health*, 2008 SCC 44, [2008] 2 S.C.R. 574 (*Blood Tribe*). The question in that case was whether the Privacy Commissioner's general powers to compel the production of documents and to accept any evidence in the course of investigating an alleged breach of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, impliedly authorized the Commissioner to determine claims for legal privilege over the documents sought.

[21] The Court held that they did not. The Board surmised that the Court would probably have taken the same view of its general powers to require the production of documents.

[22] However, the Board noted (at para. 84) that the Court also stated in *Blood Tribe* (at para. 22) that the courts' power to review a document to determine a claim for privilege was derived from their power "to adjudicate disputed claims over legal rights", and that the Privacy Commissioner has no such power. Further, the Court said (at para. 23) that, unlike a court, the Commissioner could become adverse in interest to the person resisting disclosure, with the result that the Commissioner may lack the appearance of impartiality in deciding the question of privilege.

[23] The Board distinguished *Blood Tribe* on the ground that, unlike the Commissioner, it is an adjudicator and is impartial between the contesting parties before it. Like the courts, the Board reasoned, its power to determine claims for legal privilege is inherent in its adjudicative functions and the fact that it never becomes adverse in interest to a party.

[24] The Board saw no basis for excluding the determination of claims to legal privilege from its implicit statutory power to decide questions of law necessary to dispose of a matter properly before it. Indeed, to hold otherwise, it said, would unduly disrupt the Board's proceedings. This would thwart Parliament's intention that the Board should render its decisions with a minimum of delay and expense in order to promote good labour relations in the federal public service. These arguments, the Board noted, had recently been accepted by the Ontario Labour Relations Board in *Proplus Construction & Renovation Inc.*, [2008] O.L.R.D. No. 4940.

[25] The Board declined to consider at this stage the CRA's submission that no exception to legal privilege existed in this case, because it was not yet dealing with the merits of the claim for privilege, but only with its authority to decide it.

[26] Dismissing the CRA's objection that it had no authority to decide the privilege question, the Board ordered the CRA to provide to the Board, with a copy to Mr Quadrini, an affidavit sworn by the CRA's solicitor clearly establishing the nature of the contents of the redacted pages and explaining why they are subject to solicitor-client privilege.

[27] On a motion to this Court, the Attorney General argued that the Board's order was a breach of solicitor-client privilege and requested a stay pending the disposition of this application for judicial review. The stay was granted on February 17, 2010.

Analysis

[28] The term "solicitor-client privilege" may refer to two distinct forms of privilege: legal advice privilege and litigation privilege. Somewhat different considerations apply to each. The privilege claimed in the present case is for legal advice.

[29] It is widely acknowledged that the protection of the confidentiality of legal advice communicated by lawyers to their clients is of fundamental importance to the administration of justice. Incursions are to be kept to an absolute minimum. Disclosure is permitted only when it is an "absolute necessity … as restrictive a test as can be formulated short of an absolute prohibition in

every case": *Goodis v. Ontario (Correctional Services)*, 2006 SCC 31, [2006] 2 S.C.R. 32 at para. 20.

[30] Whether or not a tribunal has the legal authority to determine if documents are subject to solicitor-client privilege, it may conduct a preliminary screening, without inspecting them or issuing an order that would breach the privilege if validly claimed. A bare assertion of privilege should not be allowed to automatically derail the conduct of a proceeding if the tribunal has no authority to decide the validity of the claim, any more than a tribunal with authority to decide a privilege claim should inspect the document the moment a party challenges the validity of the claim.

[31] If a tribunal is not satisfied on the basis of the information available to it that the documents in question are capable of being the subject of a valid claim for solicitor-client privilege, it can admit them or order their production. If the tribunal is not satisfied that the documents may be relevant to issues in dispute before it, it will exclude them or not order their production on this ground. In either case, the tribunal's rulings would be subject to appeal or judicial review.

(i) *nature of the communication*

[32] It may be apparent from the surrounding circumstances whether or not a communication could possibly fall within a category to which legal privilege could attach. If it does not meet this threshold, the tribunal may call for its production or admit it into evidence, subject to an appeal or an application for judicial review by the party claiming privilege. If, on the other hand, it is plausible

to think that the communication may be privileged, the tribunal will proceed to the next stage and ask if it may be relevant to the issues in dispute before it.

[33] In the present case, the CRA says that the basis of its claim is that the redacted pages comprise a series of e-mails containing legal advice to it from its legal advisors and are thus presumptively subject to solicitor-client privilege. This is the reason that the pages were not disclosed by the CRA in response to Mr Quadrini's *Privacy Act* request, in which he asked for the production of, among other things, legal advice obtained by the CRA in connection with his situation.

[34] In his submissions to the Board, Mr Quadrini did not admit that the redacted pages were subject to legal privilege. He said that it was not clear that a lawyer was involved in the communication or that, even if the communication was from a lawyer, its subject was legal advice, as opposed to policy advice. Finding that Mr Quadrini had conceded only that the redacted pages may be a legal opinion, the Board said (at para. 72) that the validity of the CRA's claim for solicitor-client privilege remained a live issue.

[35] However, in his oral submissions before this Court, Mr Quadrini accepted that the redacted pages contained legal advice to the CRA. This is sufficient for the CRA's claim to satisfy an initial screening. "Legal advice" in this context is understood broadly and can include advice as to what it may be prudent to do in a particular legal situation: *International Minerals & Chemical Corp. (Canada) v. Commonwealth Insurance Co*. (1991), 47 C.C.L.I. 196 (Sask. Q.B.); *Canadian Jewish*

Congress v. Canada (Minister of Employment and Immigration), [1996] 1 F.C. 268 at 294 (T.D.); *Phipson on Evidence*, 16th edn. (London: Sweet & Maxwell Ltd., 2005), 23: 62-64.

(ii) *relevance*

[36] To be admissible in legal proceedings, evidence must be relevant to the subject matter of the proceeding, a principle that applies to proceedings before both courts and adjudicative administrative tribunals. If the decision-maker is not satisfied that the document is relevant, it should be excluded and no order made for its production.

[37] In the present case, the Board may order the production of documents "that may be relevant" (paragraph 40(1)(*h*) of the Act). When privilege is claimed for documents, an assessment of relevance at the initial screening stage must take into account the fact that neither the decision-maker nor the party seeking to adduce it or obtain its production has seen the material in question. Nonetheless, the party seeking production must establish a realistic possibility that the documents may be relevant to an issue in dispute in proceedings before the Board. Mere speculation as to their possible relevance is not sufficient.

[38] The applicable law is accurately described in *MacMillan Bloedel Ltd. v. British Columbia* (1984), 16 D.L.R. (4th) 151 (B.C. S.C.) (*MacMillan Bloedel*). In that case, McLachlin J. (as she then was) stated that the relevance of documents for which Crown privilege (as public interest privilege was then known**)** is claimed should be determined, at least in a preliminary manner, before the court examines them to determine the validity of the claim for privilege.

[39] For the purpose of this preliminary screening exercise, the Judge adopted the classic test of relevance on discovery in *Cie. Financière & Commerciale du Pacifique v. Peruvian Guano Co.* (1882), 11 Q.B.D. 55 at 63 (Eng. C.A.) as including every document

> …which it is reasonable to suppose, contains information which may – not which must – either directly or indirectly enable the party requiring … [it] either to advance his own case or to damage the case of his adversary.

McLachlin J. went on to say (at 156) that if documents satisfied this test of relevance at the screening stage, and were not shown to be inadmissible on some other ground, the court would determine their actual relevance on inspecting them.

[40] *MacMillan Bloedel* was addressing the procedure to be followed by courts when a claim for Crown privilege is raised in a proceeding before a court. However, in my opinion, McLachlin J.'s analysis is equally applicable to claims for solicitor-client privilege in proceedings, regardless of the adjudicative forum where they are made. Thus**,** administrative tribunals should conduct an initial screening for relevance, regardless of whether they have the legal authority to determine the validity of claims for privilege: see *Ontario (Human Rights Commission) v. Dofasco Inc.* (2001), 57 O.R. (3d) 693 at para. 57 (C.A.).

[41] If the document is found not to be relevant, it will be unnecessary for a tribunal to refer the matter to the Court to determine the privilege claim, assuming that it does not have the authority to do so itself. So, too, a tribunal with power to determine privilege claims will not need to inspect the document for this purpose if it is clearly irrelevant. As the Court said in *Blood Tribe* (at para. 17):

> Even courts will decline to review solicitor-client documents to adjudicate the existence of privilege unless evidence or argument establishes the necessity of doing so to fairly decide the issue.

[42] A tribunal with legal authority to decide privilege claims has not completed its task when, after inspecting the documents, it concludes that they are indeed relevant. It may not order production of the documents until it is also satisfied that none of the limited exceptions to the general rule precluding the production of material containing legal advice applies: see *Smith v. Jones*, [1999] 1 S.C.R. 445 at para. 74; *R. v. McClure*, 2001 SCC 14, [2001] 1 S.C. R. 445 at paras. 34-38.

[43] In the decision under review, the Board did not apply the test identified in *MacMillan Bloedel* for making an initial determination of the relevance of documents for which privilege is claimed before they are inspected by the decision-maker. Thus, the Board stated (at para. 73):

> In the situation that arose at the hearing, I was unable to rule on the possible relevance of pages 000007 to 000011 because of the uncertainty about the exact nature of their contents. For the purpose of these reasons, I must assume their potential relevance.

[44] It was an error of law for the Board to "assume" the relevance of the redacted pages without forming a view of relevance on the basis of the above test. On the Board's approach, nearly all documents would pass the initial relevance test because, according to the Board, it was sufficient for this purpose if there was any doubt about their content.

[45] Solicitor-client privilege is of central importance to the proper functioning of the legal system and is beyond the specialized expertise of the Board. Accordingly, despite the strong preclusive clauses in the Act and the judicial deference normally afforded to the Board's decisions, its determinations of questions of law relating to privilege claims are subject to review on a standard of correctness: *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 60.

[46] This is sufficient to set aside the Board's order requiring the CRA's solicitor to swear an affidavit specifying the nature of the contents of the redacted pages. However, I am also satisfied that, if the Board had applied the correct legal test, only one conclusion was reasonably open to it: the redacted pages were not relevant to the issues raised by Mr Quadrini's complaint. Accordingly, it is unnecessary to remit the question for the Board's determination.

[47] Mr Quadrini stated that the CRA had refused to tell him the basis of its decision not to hire him when his position was directly affected by the transfer of functions from the OMoR to the CRA. However, Mr Hillier's letter of September 13, 2007, advising Mr Quadrini that he would not be hired by the CRA, refers specifically to the settlement of the grievance arising from the termination of his employment for allegedly taking other employment while on paid sick leave from the CRA.

[48] It seems clear from this letter that the CRA's decision was based on Mr Quadrini's previous misconduct as a CRA employee, and the CRA's refusal to, as it saw it, "undo" the settlement of the

grievance contained in the memorandum of agreement by re-hiring him. This point was repeated in the CRA's written representations to the Board (at para. 34):

> It is clear from the complaint that the basis of the Employer's decision not to re-employ the complainant was due to his previous misconduct and is in no way related to the fact that he presented a grievance challenging the Employer's decision to terminate his employment in 2003.

[49] The essence of Mr Quadrini's unfair labour practice complaint is that the CRA refused to hire him as a reprisal for grieving his dismissal in 2003, and not, as the CRA alleges, because of his misconduct, and the full and final settlement of his grievance. However, he has not explained how the legal advice contained in the redacted pages may be relevant to this issue, nor has he provided any evidential basis from which relevance could be inferred.

[50] Hypothetically, the redacted pages might reveal that the CRA was asking for legal advice about how to disguise the fact that it was not prepared to hire Mr Quadrini because he had grieved his dismissal for misconduct in 2003 through the channels legally open to him.

[51] On its face, this possibility is far-fetched. It is not supported by the e-mails that Mr Quadrini obtained from the CRA under the *Privacy Act*. The e-mails were exchanged among CRA officials between September 11, 2008 and early in the morning of September 13, the day when Mr Hillier sent the letter advising Mr Quadrini that he would not be receiving an offer of employment from the CRA.

[52] The e-mails disclose that officials were concerned about the mechanics of informing Mr Quadrini that the CRA would not be offering him a job. The questions raised in them include the following. Should he be contacted directly by mail addressed to his home, or should the letter be sent to him *via* the OMoR? Should the letter be sent in a double envelope to ensure confidentiality? Should it be signed by someone who had been involved in terminating his employment in 2003 and in negotiating the settlement of the subsequent grievance? If different officials signed it, would this expose the CRA to an allegation that it had divulged information in breach of the confidentiality clause of the memorandum of agreement with Mr Quadrini? Should the letter to him be signed by the person who signed the letters offering employment to the OMoR employees whose positions were also affected by the transfer of functions?

[53] An e-mail dated September 11, 2008, states that the writer drafted the letter to be sent to Mr Quadrini and "received legal's input". The draft was attached, and the recipient of the e-mail was asked to call "if it isn't okay."

[54] These communications indicate that the CRA paid considerable attention to the details of the letter of September 13, 2008, and that legal advice was obtained on its wording. Given the history of the previous employment relationship between the CRA and Mr Quadrini, and his propensity to litigation, it is hardly surprising that the CRA approached with caution the wording and mode of delivery of the letter.

[55] If the redacted pages contain advice from the CRA's lawyers on the drafting of the letter (which the CRA has not admitted), these e-mails provide no support for the notion that the redacted pages may be relevant to Mr Quadrini's complaint that he was not hired because he had grieved his dismissal in 2003.

[56] Mr Quadrini also suggested that the legal advice contained in the redacted pages might pre-date the settlement of his grievance in 2004 and reveal that the CRA was then considering how it could avoid hiring him if his position with the OMoR were affected by a future transfer of functions. Again, this is mere speculation, and provides no basis for establishing a realistic possibility that the redacted pages may be relevant to the determination of the issues in dispute in his complaint.

Conclusions

[57] For these reasons, I would allow the application for judicial review, set aside the decision of the Board, and remit the matter with a direction that the Board resume its hearing on the merits of Mr Quadrini's complaint.

"John M. Evans"

J.A.

"I agree
K. Sharlow J.A."

"I agree
J.D. Denis Pelletier J.A."

APPENDIX

Public Service Labour Relations Act, S.C. 2003, c. 22

40. (1) The Board has, in relation to any matter before it, the power to	**40.** (1) Dans le cadre de toute affaire dont elle est saisie, la Commission peut :
…	[…]
(h) compel, at any stage of a proceeding, any person to produce the documents and things that may be relevant;	*h)* obliger, en tout état de cause, toute personne à produire les documents ou pièces qui peuvent être liés à toute question dont elle est saisie;
(2) The Board may dismiss summarily any application or complaint that in its opinion is frivolous or vexatious.	(2) La Commission peut rejeter de façon sommaire toute demande ou plainte qu'elle estime frustratoire.
185. In this Division, "unfair labour practice" means anything that is prohibited by subsection 186(1) or (2), section 187 or 188 or subsection 189(1).	**185.** Dans la présente section, « pratiques déloyales » s'entend de tout ce qui est interdit par les paragraphes 186(1) et (2), les articles 187 et 188 et le paragraphe 189(1).
186. (2) Neither the employer nor a person acting on behalf of the employer, nor a person who occupies a managerial or confidential position, whether or not that person is acting on behalf of the employer, shall	**186.** (2) Il est interdit à l'employeur, à la personne qui agit pour le compte de celui-ci et au titulaire d'un poste de direction ou de confiance, que ce dernier agisse ou non pour le compte de l'employeur :
(a) refuse to employ or to continue to employ, or suspend, lay off or otherwise discriminate against any person with respect to employment, pay or any other term or condition of employment, or intimidate, threaten or otherwise discipline any person, because the person	*a)* de refuser d'employer ou de continuer à employer une personne donnée, ou encore de la suspendre, de la mettre en disponibilité, ou de faire à son égard des distinctions illicites en matière d'emploi, de salaire ou d'autres conditions d'emploi, de l'intimider, de la menacer ou de prendre d'autres mesures disciplinaires à son égard pour l'un ou l'autre des motifs suivants :
…	

	[…]
(iii) has made an application or filed a complaint under this Part or presented a grievance under Part 2, or	(iii) elle a soit présenté une demande ou déposé une plainte sous le régime de la présente partie, soit déposé un grief sous le régime de la partie 2,
(iv) has exercised any right under this Part or Part 2;	(iv) elle a exercé tout droit prévu par la présente partie ou la partie 2;
190. (1) The Board must examine and inquire into any complaint made to it that	**190.** (1) La Commission instruit toute plainte dont elle est saisie et selon laquelle :
…	[…]
(g) the employer, an employee organization or any person has committed an unfair labour practice within the meaning of section 185.	*g)* l'employeur, l'organisation syndicale ou toute personne s'est livré à une pratique déloyale au sens de l'article 185.
191. (3) If a complaint is made in writing under subsection 190(1) in respect of an alleged failure by the employer or any person acting on behalf of the employer to comply with subsection 186(2), the written complaint is itself evidence that the failure actually occurred and, if any party to the complaint proceedings alleges that the failure did not occur, the burden of proving that it did not is on that party.	**191.** (3) La présentation par écrit, au titre du paragraphe 190(1), de toute plainte faisant état d'une contravention, par l'employeur ou la personne agissant pour son compte, du paragraphe 186(2), constitue une preuve de la contravention; il incombe dès lors à la partie qui nie celle-ci de prouver le contraire.

Privacy Act, R.S.C. 1985, c. P-21

26. The head of a government institution may refuse to disclose any personal information requested under subsection 12(1) about an individual other than the individual who made the request, and shall refuse to disclose	**26.** Le responsable d'une institution fédérale peut refuser la communication des renseignements personnels demandés en vertu du paragraphe 12(1) qui portent sur un autre individu que celui qui fait la demande et il est tenu

such information where the disclosure is prohibited under section 8.

de refuser cette communication dans les cas où elle est interdite en vertu de l’article 8.

27. The head of a government institution may refuse to disclose any personal information requested under subsection 12(1) that is subject to solicitor-client privilege.

27. Le responsable d’une institution fédérale peut refuser la communication des renseignements personnels demandés en vertu du paragraphe 12(1) qui sont protégés par le secret professionnel qui lie un avocat à son client.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

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APPEARANCES:

Caroline Engmann	FOR THE APPLICANT
Rudy Quadrini	ON HIS OWN BEHALF
Barbara A. McIsaac, Q.C. Jack Hughes	FOR THE INTERVENER PSLRB

SOLICITORS OF RECORD:

Myles J. Kirvan Deputy Attorney General of Canada	FOR THE APPLICANT
Borden Ladner Gervais LLP Ottawa, Ontario	FOR THE INTERVENER PSLRB