

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20110223**

**Docket: A-74-10**

**Citation: 2011 FCA 124**

**CORAM: LÉTOURNEAU J.A.  
NADON J.A.  
SEXTON J.A.**

**BETWEEN:**

**WAYWAYSEECAPPO FIRST NATION**

**Appellant**

**and**

**STEPHANIE COOKE**

**Respondent**

Heard at Winnipeg, Manitoba, on February 23, 2011.

Judgment delivered from the Bench at Winnipeg, Manitoba, on February 23, 2011.

REASONS FOR JUDGMENT OF THE COURT BY:

SEXTON J.A.

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Winnipeg, Manitoba, on February 23, 2011)**

**SEXTON J.A.**

[1] We are unable to conclude that the arbitrator or the motion judge erred in concluding that the applicant had failed to demonstrate that there had been a discontinuance of a function within the meaning of section 242(3.1) of the *Canada Labour Code*, R.S.C. 1985, c. L-2, as amended.

[2] The appeal will therefore be dismissed and the matter will be returned to the adjudicator for hearing on the issue of unjust dismissal and damages. In view of the very late filing of the memorandum of fact and law by the respondent, there will be no order as to costs.

"J. Edgar Sexton"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-74-10

**STYLE OF CAUSE:** Waywayseecappo First Nation v.  
Stephanie Cooke

**PLACE OF HEARING:** Winnipeg, Manitoba

**DATE OF HEARING:** February 23, 2011

**REASONS FOR JUDGMENT OF THE COURT BY:** Létourneau, Nadon and Sexton JJ.A.

**DELIVERED FROM THE BENCH BY:** Sexton J.A.

**APPEARANCES:**

Norman Boudreau FOR THE APPELLANT

Victor Olson FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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