

CANADA / JUDGMENT

Podmoroff v. Canada (Attorney General)

2026 FC 61

COURT

Federal Court

DECIDED

15 January 2026

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Podmoroff v. Canada (Attorney General)

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Decision Content

Date: 20260115

Docket: T-2715-24

Citation: 2026 FC 61

Saskatoon, Saskatchewan, January 15, 2026

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

SCOTT PODMOROFF

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

- [1] This is an application for judicial review of a decision by a Final Level Adjudicator [FLA] in the Royal Canadian Mounted Police [RCMP] grievance system issued on August 28, 2024, pursuant to section 31 of the Royal Canadian Mounted Police Act, RSC 1985, c R-10 [RCMP Act]. The FLA directed a new selection process for a promotional opportunity to be conducted by an independent line officer.
- [2] On May 11, 2021, in Court file number T-760-20, I granted an application for a judicial review of a decision by an FLA in a workplace grievance, dated June 12, 2020 (*Podmoroff v Canada (Attorney General)*, 2021 FC 421 [Podmoroff]). The decision related to a promotion competition in Staffing Action File [SAF] #442-37-E-291-15-16. I ordered that decision quashed and sent back to be redetermined by a different decision maker.
- [3] The Applicant, Scott Podmoroff, now brings an application for judicial review of the redetermination of that final level decision made by a new FLA. The Applicant requests an order setting aside the FLA's decision, an order backdated to 2015 promoting him to Sergeant, and aggravated and punitive damages.
- [4] For the reasons that follow, I conclude that the FLA's decision was reasonable and procedurally fair. Therefore, I will dismiss this application for judicial review.

I. Background [5] The Applicant represents himself in this application and has a deep emotional investment in its outcome, having been a member of the RCMP since March 11, 1996. He currently holds the rank of Corporal in the RCMP Southeast District of British Columbia, known as "E" Division, in Kelowna, British Columbia.

- [6] In 2015, the Applicant applied to an advertised promotional opportunity in SAF #442-37-E-291-15-16, which carried the rank of Sergeant. His application was unsuccessful.
- [7] On December 29, 2015, the Applicant disputed the outcome of the SAF by commencing a grievance (file number 20163357 [the Primary Grievance]) against the Officer-in-Charge [OIC] of the RCMP's National Promotions Unit [NPU], arguing that the successful candidate was not the right fit for the job, as the Applicant believed that he was more qualified and should have been selected.
- [8] The Applicant subsequently discovered that two candidates for the SAF, including the one who was selected for promotion, had received unauthorized assistance from the Staff Sergeant, who also assisted with the selection and ranking of candidates in the promotional process as a Subject Matter Expert [SME].

- [9] On November 5, 2019, an Initial Level Adjudicator [ILA] found that the Applicant demonstrated a real likelihood of bias at the selection stage, holding that the SME should have recused himself when asked by the Selecting Line Officer [SLO] to review the successful candidate's application package.
- [10] The ILA directed identification of a new SLO and SME. The new SLO was tasked with comparing the Applicant's application package with the successful candidate's application package. Upon doing so, the new SLO was directed to either select the Applicant for promotion or provide a new rationale explaining why the Applicant was unsuccessful.
- [11] The Applicant presented his grievance to the second, final level. He argued that the ILA's directed redress did not return to the proper point of error, which was when the successful candidate had received unauthorized assistance in preparing application materials.
- [12] On June 12, 2020, an FLA upheld the ILA's decision. As the Applicant remained unsatisfied with the inclusion of the initially successful candidate in the redress, he sought judicial review of the FLA's decision. The Applicant presented additional grievances relating to a delay in implementing the directed redress (file number 2020335671) and its outcome (file number 2020335887), as it resulted in a reselection of the originally successful candidate.
- [13] On May 11, 2021, I granted the application for judicial review, determining that the FLA's decision was unreasonable. I found that it was unreasonable for the ILA and FLA not to recognize that a reasonable apprehension of bias, if not actual bias, arose earlier in the process from the Staff Sergeant providing unauthorized assistance to two candidates (Podmoroff at paras 30, 44). Accordingly, I found that the FLA's decision, which upheld the ILA's directed redress, was unreasonable (Podmoroff at para 47).
- [14] I ordered that the FLA's decision was quashed, and that the matter was sent back for redetermination by a different adjudicator. Additionally, I awarded costs to the Applicant. I suggested that the redetermination should be conducted by someone outside of "E" Division (Podmoroff at para 50).
- [15] On June 16, 2021, the Applicant and the "E" Division's Employee Management Relations Office [EMRO] agreed to place the Applicant's outstanding grievances into abeyance while engaging in an informal resolution process for a global settlement. No settlement was reached, and the abeyance was ultimately lifted on January 3, 2023, recommencing the redetermination of the grievance.
- [16] Given my finding regarding the promotion competition being unfair to the Applicant and the NPU deciding thus it was unfair as well to the other candidates who had not received unauthorized assistance, the NPU chose to run the competition again. In June 2022, the OIC of the NPU initiated a group redress process for all shortlisted candidates in the underlying SAF (excluding the two who had received assistance) to be conducted by an SLO from outside of "E" Division.

- [17] When notified of the group redress plan, the Applicant filed another grievance (file number 2022335403). A member of the NPU's advisory team informed the Applicant that the group redress was "not intended to replace or override any future redress" arising from the redetermination of the final level decision in the Primary Grievance.
- [18] Another shortlisted candidate was selected through the group redress process. The Applicant filed another grievance regarding the outcome (file number 2022335616).
- [19] Once the grievances were removed from abeyance, the Applicant proceeded to seek disclosure of all notes and correspondence regarding the NPU's dealings with the "E" Division EMRO, the "E" Division Human Resources Officer [HRO], and the National Advisory Service [NAS]. Some relevant email correspondence regarding the decision made by the NPU's OIC to proceed with a group redress was shared with the Applicant in an email dated June 21, 2023.
- [20] As the decision to implement group redress was not made by the EMRO, HRO, or NAS, there was no disclosure from them. The Applicant was informed that the NPU had no information concerning settlement attempts, discussions, or outstanding matters, but did know of his request to place his grievances in abeyance. The email stated that "the NPU does not have the authority to offer a backdated promotion in an informal agreement" but would implement whatever was directed by the FLA in the redetermination decision for the Primary Grievance.
- [21] The Applicant formally pursued further disclosure as a collateral issue in the redetermination of the Primary Grievance, arguing that the additional disclosure would provide documentary evidence that the NPU redetermined the SAF outside of the grievance process, in violation of both the Federal Court's directions and the parties' agreement to place and keep the grievances in abeyance.
- [22] In a final decision on this collateral issue, dated March 4, 2024, the adjudicator denied the disclosure request, finding that the Applicant had not established on a balance of probabilities that the requested information: existed in written form, was under the control of the RCMP, was relevant, or was reasonably required to properly present the grievance, pursuant to subsection 31(4) of the RCMP Act.
- [23] The FLA commented that the Applicant had provided 80 pages of materials prior to the formal exchange of submissions allowed by the grievance process. The Applicant's submissions comprised of 5 pages of arguments and 27 pages of attachments, with a rebuttal comprised of 4 pages of arguments and 25 pages of attachments. Citing section 6.1.1.1 of the National Guidebook – Grievance Procedures, which limits a party to submitting 5 pages of arguments with 25 pages of attachments, the FLA declined consideration of the 80 pages of additional documents that were tendered outside of formal submissions.

- [24] At any rate, the FLA explained, the reason for denying the disclosure request was that it was made in support of arguments regarding the group redress process, which were not relevant or reasonably required to make submissions on the appropriate redress in the grievance at issue.
- [25] The final level decision on the merit of the grievance was issued on August 28, 2024. The FLA considered and rejected the Applicant's requests for redress in the form of a direct promotion or an individualized review, finding that such remedies would fail to return the matter to the point of error.
- [26] The Applicant has since applied for judicial review of another decision by another FLA, dated February 3, 2025, in Court file number T-855-25. The underlying grievance in that matter (file number 2017335826) relates to the Applicant's unsuccessful application for a different promotional opportunity (SAF #442-37-E-587-16-17). In that application, much like this one, the Applicant requests a backdated promotion as a remedy in his written submissions.

II. Issues [27] The Respondent raised two preliminary issues: first, that the Applicant's supporting affidavit and exhibits should be struck in their entirety; and second, that the nature of this application is unclear.

- [28] The determinative issue raised by the Applicant is whether the FLA's decision was unreasonable, although his supporting arguments intertwine allegations of procedural unfairness.

III. Standard of Review [29] The standard of review is reasonableness (Canada (Minister of Citizenship and Immigration), 2019 SCC 65 at para 23 [Vavilov]). In conducting a reasonableness review, "the reviewing court must consider only whether the decision made by the administrative decision maker — including both the rationale for the decision and the outcome to which it led — was unreasonable" (Vavilov at para 83).

- [30] Issues of procedural fairness are reviewable on a standard that is similar to correctness (Canadian Pacific Railway Company v Canada (Attorney General), 2018 FCA 69 at para 54).

IV. Applicable Law [31] The relevant provisions of the RCMP Act and Commissioner's Standing Orders (Grievances and Appeals), SOR/2014-289 [CSO (Grievances and Appeals)] are reproduced in Appendix A.

- [32] Because the Primary Grievance was filed on December 29, 2015, the applicable version of the Act and regulations are those which were in force on that date. However, I note in passing that all relevant provisions appear to be unchanged in the current versions of each.

V. Analysis A. Preliminary issues [33] The Respondent argued that the Applicant's affidavit should be struck in its entirety, pursuant to Rule 81(1) of the Federal Courts Rules, SOR/98-106 [the Rules]:

Content of affidavits

81 (1) Affidavits shall be confined to facts within the deponent's personal knowledge except on motions, other than motions for summary judgment or summary trial, in which statements as to the deponent's belief, with the grounds for it, may be included.

- [34] Rule 81 requires the contents of affidavits to be limited to facts within the deponent's personal knowledge. The Federal Court of Appeal has explained that the purpose of an affidavit is "to adduce facts relevant to the dispute without gloss or explanation" (*Canada (Attorney General) v Quadrini*, 2010 FCA 47 at para 18 [Quadrini], citing *Duyvenbode v Canada (Attorney General)*, 2009 FCA 120 at para 2). Affidavits, or portions of them, may be struck "where they are abusive or clearly irrelevant" and "where they contain opinion, argument or legal conclusions" (Quadrini at para 18, citing *McConnell v Canadian Human Rights Commission*, 2004 FC 817, *aff'd* 2005 FCA 389).
- [35] Though the Applicant is self-represented, he is an experienced litigant and will be taken to understand the general rule that, in an application for judicial review, evidence that was not before the decision maker cannot be considered by the reviewing court in assessing the reasonableness of a decision (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19 [Access Copyright]). The Court cannot grant a self-represented litigant additional rights or special dispensations from complying with the Rules or governing laws (Rule 122(a); *Mentis v Canada (Revenue Agency)*, 2025 FC 1446 at para 37).
- [36] I agree with the Respondent that the Applicant's affidavit includes duplicated information, hearsay, improper arguments, legal conclusions, and materials that were not in the grievance materials or considered by the adjudicator.
- [37] Additionally, I agree that the information included in the affidavit does not fall within the recognized exceptions to the general rule against receiving new evidence, as it neither provides general background information assisting the Court nor establishes that there was a complete absence of evidence on a particular finding. To the extent that the affidavit brings attention to alleged procedural defects, the information within cannot be extricated from legal arguments and conclusions, such as at paragraphs 13, 16, and 18–20 (Access Copyright at para 20).
- [38] I find that paragraphs 2–20 and all four exhibits, constituting almost the entirety of the affidavit, are not properly before this Court. The affidavit cannot be rendered helpful through severance. It is therefore properly struck in its entirety.
- [39] The second preliminary issue concerns exactly what is being argued in this application for judicial review. To the Applicant, all the submitted materials and circumstances discussed above appear relevant and related to his goal of being promoted. However, this Court cannot embark on a review of such global scope. The proper focus of an application for judicial review is the administrative decision.

- [40] Pursuant to Rule 302, a judicial review is limited to a single order. The decision under review in this case is only the redetermination of the final level decision for the Primary Grievance, dated August 28, 2024.
- [41] Some attention will nevertheless be given to the adjudicator's final decision on the collateral issue of disclosure, dated March 4, 2024, in relation to the Applicant's allegations of procedural unfairness. Although the Applicant raises concerns about other grievances as they relate to alleged procedural unfairness and futility of the grievance process, such arguments fall outside the scope of what this Court must consider and determine in this application.
- [42] A further concern was raised by the Respondent related to the relief sought by the Applicant. Given the outcome of this application, it is not necessary to deal with this issue.

B. Applicant's arguments [43] While at the hearing, the Applicant presented a considerable amount of evidence in the form of emails, directions, and other documents, much of it is irrelevant to the decision under review. Instead, much of the argument presented was related to the Applicant's overall impression of his being "blacklisted" and subjected to a conspiracy ensuring that he is not promoted, general faults within the RCMP grievance and promotion frameworks, and alleged collusion by RCMP staff to prevent him from having recourse to a fair process in the aftermath of his successful application in Podmoroff. I will not ingeminate on the evidence presented in oral arguments.

- [44] At paragraph 46 of his Memorandum of Fact and Law, the Applicant argues that the decision by the FLA not to admit an email related to settlement negotiations is simultaneously unreasonable, a breach of this Court's order in Podmoroff, and a breach of the Applicant's right to be heard as a matter of procedural fairness.
- [45] The exclusion of the email will be discussed below (at paras 51–53). I will begin by addressing the Applicant's argument that the RCMP did not comply with this Court's order, which appears to underpin several other claims that his right to procedural fairness was violated.
- [46] I disagree that the RCMP did not comply with my order. Toward the end of my reasons for judgment in Podmoroff, upon finding the previous FLA's decision to be unreasonable, I considered the appropriate remedy. I refused to grant the Applicant's requests for a backdated promotion and removal of the successful candidate (Podmoroff at para 48). In this context, it was mentioned that the Applicant would be allowed to present further material as part of the redetermination process (Podmoroff at para 49).
- [47] This was not ordered or directed (see paragraph 13, above), as it was not mentioned in either the conclusion of the reasons (Podmoroff at para 50) or the entered judgment. It was merely a comment in the reasons. Accordingly, any procedural fairness arguments related to an entitlement arising from this part of the reasons will fail in the context of this judicial review though I note below that it was followed.

- [48] Generally, when an administrative decision is quashed and sent back for redetermination, the decision maker uses the powers afforded to it by Parliament to “reconsider the decision, this time with the benefit of the court’s reasons” (Vavilov at para 141). Given the passage of time, this comment was intended to reflect the fact that the Applicant may have had updated qualifications or experiences that would be relevant for the decision maker to consider.
- [49] The record nevertheless indicates that the Respondent was entirely alert and sensitive to this aspect of the reasons and treated it as if it was a direction from the Court. The FLA in both the concluding directions of the decision on the collateral issue of disclosure and the background facts of the decision on merit, the FLA expressly recognized that the opportunity to present additional submissions was “contemplated by paragraph 49 of the Federal Court decision” and accordingly sought them from both parties. I find no reviewable error.
- [50] The Applicant also disputes the FLA’s refusal to consider the 80 pages of documents that he provided in addition to his formal submissions on the collateral issue of disclosure. The Applicant argues that the FLA erred, since section 15 of the CSO (Grievances and Appeals) provides that an adjudicator “may accept any evidence submitted by a party.” However, the language of section 15 is permissive, not mandatory. The FLA’s compliance with section 6.1.1.1 of the National Guidebook – Grievance Procedures did not amount to a breach of procedural fairness.
- [51] The adjudicator did not allow the email at issue because of s 9(5) of the CSO (Grievances and Appeals), which provides that:

Any communications that pass among persons as a part of an informal resolution process are confidential, without prejudice to the parties and must not be disclosed unless the disclosure is

- (a) agreed to by the parties;
- (b) required by law;
- (c) required for the purpose of reaching or implementing an agreement made as a part of the process; or
- (d) required to protect the health or safety of any person.

- [52] The Applicant’s argument that he and his counsel refused to enter into “without prejudice” discussions is not sufficient to overcome this provision, nor does it matter that Applicant received the email through the disclosure process in a separate grievance. This email passed among members of the NPU, and it related to settlement attempts during the informal resolution process when all the Applicant’s outstanding grievances were in abeyance. I see no error in the adjudicator’s interpretation of this email as falling within the scope of subsection 9(5) of the CSO (Grievances and Appeals).

- [53] It is established law that an administrative body is the master of its own procedure (*Knight v Indian Head School Division No 19*, 1990 CanLII 138 (SCC), [1990] 1 SCR 653 at 685). Here, the FLA allowed the Applicant to make fresh submissions (see above para 49) to the extent that they were compliant with the governing laws and policies. The Applicant had an opportunity to be heard and was provided with a rational explanation for why the email and 80 pages of additional documents were not admissible. I find that the FLA's decision was both reasonable and procedurally fair on the issue of new submissions.
- [54] The Applicant's final and seemingly most central argument is that the group redress constituted an inappropriate "usurpation" of adjudicative power. I do not agree. After Podmoroff, the RCMP appropriately pursued an avenue of redress that was fair to all five qualified candidates while seeking an informal resolution with the Applicant respecting all his outstanding grievances. The fact that the Applicant grieved the SAF underlying the group redress did not disentitle the other qualified candidates from consideration, contrary to his suggestion. Nor does it automatically entitle him to a backdated promotion or to individualized review.
- [55] The Applicant alleges that the implementation of a group redress plan gave rise to a reasonable apprehension of bias against him, which was "cemented" once the FLA heard evidence of it. In support of this, the Applicant raised another host of arguments, asserting that the FLA's decision not to admit additional evidence (discussed at paras 45–53, above) demonstrated bias; that the FLA would have known who the successful candidate of the group redress was, but pretended not to know; that the FLA failed to explain why the group redress was permissible despite the abeyance of the Applicant's grievances; and that the FLA ignored the issue of bias.
- [56] The test for a reasonable apprehension of bias is whether a reasonable, informed person would find that there is a "real likelihood or probability of bias" showing that a decision maker would, consciously or unconsciously, not decide fairly. The party alleging bias bears the high burden of proving it (*Yukon Francophone School Board, Education Area #23 v Yukon (Attorney General)*, 2015 SCC 25 at paras 20–21, 25, 26).
- [57] I find that the Applicant has not discharged this burden. His allegation of "creeping determinism arising from both ... hindsight bias and foresight bias" amounts to a bald assertion that is not borne out by evidence. The FLA cannot be impugned as biased because of rulings on the admissibility of evidence which were unfavourable to the Applicant, nor because of allegations made without any evidentiary basis.
- [58] In effect, the Applicant argues that an unfavourable decision in the group redress — meaning the selection of someone other than him for promotion — was guaranteed and deliberately chosen to prevent him from attaining the promotion. This is entirely speculative, and I will dismiss this argument.

- [59] What is the central issue in this application is the reasonableness of the FLA's decision? After providing background information, summarising the parties' submissions, and refusing to admit the email as evidence, the FLA recognized that the merit of the grievance was not in question, given this Court's decision in Podmoroff. The remainder of the reasons accordingly relates to consideration of the appropriate redress. The adjudicator agreed with both parties that appropriate redress must return to the point of error, which was when the Staff Sergeant provided two candidates with unauthorized assistance in preparing their application packages.
- [60] To ensure that redress returned the matter to the point of error, the adjudicator ordered the selection of a new SLO with no knowledge of the candidates and no history of work with "E" Division to carry out the selection process without considering the applications that received assistance from the Staff Sergeant.
- [61] The Court must look at the reasonableness of the redress ordered by the adjudicator (Vavilov at para 15). The FLA noted that the parties agreed that the redress directed in redetermination must recognize and return to the point of error.
- [62] I find it was reasonable for the adjudicator to refrain from awarding a promotion. His reason for abstaining from doing so was to defer to policies and the expertise of officers responsible for promotional decisions. The adjudicator acknowledged a jurisdictional limitation on his ability to provide such redress, reasoning that he was not qualified to determine which applicants are best for a promotion. He found that that power is properly held by an SLO and the OIC of the NPU. Granting a promotion as redress without a competitive process, he said, would bypass RCMP policies and not return the matter to the point of error.
- [63] The adjudicator did not provide statutory citations for this conclusion but nevertheless reasoned correctly on this point. Under subsection 5(1) of the RCMP Act, the Commissioner of the RCMP has control and management of the Force and all matters connected with it. Under subsection 7(1), the Commissioner may appoint members, other than officers, and may promote members to higher ranks or levels. Under subsection 5(2), the Commissioner may delegate powers, duties, and functions.
- [64] The Applicant relies on subparagraph 18(1)(b)(iii) of the CSO (Grievances and Appeals), which provides that an FLA may dispose of a grievance by "directing any appropriate redress." However, this provision cannot be interpreted to allow adjudicators to exceed their jurisdiction. Considering the grammatical and ordinary meaning of the text, "appropriate" redress must be limited to what an adjudicator is actually permitted to authorize. Grievance adjudicators do not have the authority to award a promotion, as such authority has not been delegated to them.

- [65] Under section 1.2 in Chapter 4 of the Career Management Manual [CMM], the authority to promote an RCMP member to the rank of Sergeant has been delegated to the Delegated Manager for Human Resources [DMHR] or their delegate. Section 1.14 provides that only the Chief HRO or the DMHR may approve changes of status to rank and level.
- [66] The Federal Court of Appeal has held that promotions are part of the Commissioner's control and management of the RCMP. In making decisions relating to promotions, the Commissioner or their delegate must draw upon their knowledge, experience, and expertise regarding the needs of the police force (*Canada (Attorney General) v Boogaard*, 2015 FCA 150 at paras 39, 42, 46 [Boogaard]; *Swann v Canada (Attorney General)*, 2023 FC 1294 at para 50).
- [67] The Court of Appeal has emphasized that an RCMP member does not have a right to a promotion, since they are discretionary decisions based on evolving organizational needs rather than legal entitlements:
- [51] While in this case the promotion is of great importance to the respondent, normally we do not think of people having a "right" to a promotion. Often in promotion decisions, only a few win, many more lose, and the difference between winning and losing can legitimately turn upon fine things, sometimes subjective or subtle things. For example, usually we describe people who have been promoted as "deserving" or "lucky." We do not say that people have been promoted because the employer was legally forced to do it.
- [52] Further, a promotion decision, such as the one in this case, is not a simple one, arrived at by processing information objectively and logically against fixed, legal criteria. Rather, it is a complex, multifaceted decision involving sensitive weighings of information, impressions and indications using criteria that may shift and be weighed differently from time to time depending upon the changing and evolving needs and priorities of the organization. What are the needs and priorities of the organization, both now and in the future, perhaps years later? What is the nature of the position the applicant seeks? Does the applicant have the skills, judgment, experience, reliability, integrity, character and personality to carry out the responsibilities of the position and supervise others? Does the applicant exemplify the values and culture of the organization? How does the applicant compare to others who have previously been promoted and others who now seek promotion? How will others react? The questions could go on and on.
- (Boogaard at paras 51–52)
- [68] The FLA appropriately recognized that the myriad factors which contribute to staffing and promotional decisions are not sufficiently known or understood by an adjudicator and are best left to qualified individuals. Accordingly, the adjudicator's refusal to grant a promotion as redress for the grievance was reasonable.

[69] The Applicant had himself previously argued, and I agreed, that the error in the SAF occurred when two candidates received unauthorized assistance from the SME (see paras 11, 13, above). The Applicant's request for personalized redress is inappropriate for the same reason.

[70] I find that the Applicant has not discharged his burden of demonstrating that the decision under review has sufficiently serious shortcomings such that it cannot be said to exhibit the requisite degree of justification, intelligibility, and transparency (Vavilov at para 100).

VI. Conclusions [71] The adjudicator's decision is based on internally coherent reasoning, and it is justified in relation to the relevant constellation of law and facts (Vavilov at paras 99–100, 105).

[72] I will dismiss the application.

VII. Costs [73] Costs are at the discretion of this Court under Rule 400(1). The Respondent sought costs in the amount of \$2,500. I will grant those costs upon considering the factors under Rule 400(3), including the result of the proceeding, the amount of work necessary given the size of the file, and the length of the Applicant's submissions at the hearing.

JUDGMENT in T-2715-24

THIS COURT'S JUDGMENT is that:

The application is dismissed.

Costs are awarded in the amount of \$2,500, payable forthwith to the Respondent by the Applicant.

blank

"Glennys L. McVeigh"

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Judge

Appendix A

The following legislations are applicable:

Royal Canadian Mounted Police Act, RSC 1985, c R-10:

Appointment

5 (1) The Governor in Council may appoint an officer, to be known as the Commissioner of the Royal Canadian Mounted Police, to hold office during pleasure, who, under the direction of the Minister, has the control and management of the Force and all matters connected with the Force.

Delegation

- (2) The Commissioner may delegate to any member, subject to any terms and conditions that the Commissioner directs, any of the Commissioner's powers, duties or functions under this Act, except the power to delegate under this subsection, the power to make rules under this Act and the powers, duties or functions under subsections 45.4(5) and 45.41(10).

...

Appointment and designation

7 (1) The Commissioner may appoint members of the Force other than officers and, by way of promotion, appoint a member other than an officer to a higher rank, other than to the rank of Deputy Commissioner, or to a higher level, for which there is a vacancy.

Nomination

5 (1) Le gouverneur en conseil peut nommer, à titre amovible, un officier appelé commissaire de la Gendarmerie royale du Canada, qui, sous la direction du ministre, a pleine autorité sur la Gendarmerie et tout ce qui s'y rapporte.

Délégation

- (2) Le commissaire peut déléguer à tout membre, aux conditions qu'il fixe, les pouvoirs ou fonctions que lui attribue la présente loi, à l'exception du pouvoir de délégation que lui accorde le présent paragraphe, du pouvoir que lui accorde la présente loi d'établir des règles et des pouvoirs et fonctions visés aux paragraphes 45.4(5) et 45.41(10).

...

Nomination et désignation

7 (1) Le commissaire peut nommer les membres qui ne sont pas officiers et, par voie de promotion, nommer un membre qui n'est pas officier à un grade ou échelon supérieur, autre qu'au grade de sous-commissaire, pour lequel il existe une vacance.

Commissioner's Standing Orders (Grievances and Appeals), SOR/2014-289

Initial level grievance

7 (1) A grievor presents a grievance at the initial level by filing a grievance form with the OCGA or the grievor's supervisor that includes the following information:

- (a) the grievor's name and employee number;

- (b) particulars concerning the decision, act or omission that is the subject of the grievance and the name of the person the grievor believes made the decision, did the act or made the omission;
- (c) the date on which the grievor knew of the decision, act or omission;
- (d) a concise statement of the grounds on which the grievance is based;
- (e) particulars concerning the prejudice the grievor claims to have suffered as a result of the decision, act or omission; and
- (f) particulars concerning the redress requested.

Final level grievance

- (2) A grievor presents a grievance at the final level by filing with the OCGA or the grievor's supervisor
 - (a) a grievance form that includes the following information:
 - (i) the reasons why the grievor is presenting the grievance at the final level and, in particular, the reasons why the decision rendered by the adjudicator at the initial level contravenes the principles of procedural fairness, is based on an error of law or is clearly unreasonable, and
 - (ii) particulars concerning the redress requested; and
 - (b) a copy of the decision rendered by the adjudicator at the initial level as to the disposition of the grievance.

Transmission of grievance

- (3) A supervisor presented with a grievance form must forward it, together with any request submitted under subsection 8(1), to the OCGA as soon as feasible.

Transmission of copy of grievance

- (4) The OCGA must forward a copy of any grievance form that it receives to the respondent and to the person who holds the first position of officer or its equivalent in the respondent's chain of command, or to the person named in the decision rendered under subsection 8(3).

...

Grief de premier niveau

7 (1) Le grief de premier niveau est présenté par le dépôt auprès du BCGA ou du superviseur du plaignant d'un formulaire de grief accompagné des renseignements suivants :

- a) le nom et le numéro d'employé du plaignant;

- b) les faits relatifs à la décision, l'acte ou l'omission qui fait l'objet du grief et le nom de la personne qui, selon le plaignant, a rendu la décision, a commis l'acte ou l'omission;
- c) la date à laquelle le plaignant a pris connaissance de la décision, de l'acte ou de l'omission;
- d) un bref énoncé des motifs du grief;
- e) les détails relatifs au préjudice allégué par le plaignant du fait de la décision, de l'acte ou de l'omission;
- f) le détail de la réparation demandée.

Grief de dernier niveau

- (2) Le grief de dernier niveau est présenté par le dépôt auprès du BCGA ou du superviseur du plaignant :
 - a) d'un formulaire de grief accompagné des renseignements suivants :
 - (i) les raisons pour lesquelles le plaignant présente son grief au dernier niveau et celles pour lesquelles la décision rendue par l'arbitre de premier niveau contrevient aux principes d'équité procédurale, est entachée d'une erreur de droit ou est manifestement déraisonnable,
 - (ii) le détail de la réparation demandée;
 - b) d'une copie de la décision rendue par l'arbitre de premier niveau quant à la disposition du grief.

Transmission du grief

- (3) Le superviseur qui reçoit un formulaire de grief, le transmet dès que possible au BCGA accompagné de toute demande visée au paragraphe 8(1).

Transmission d'une copie du grief

- (4) Le BCGA transmet une copie du formulaire de grief à l'intimé et à la personne occupant le premier poste d'officier ou l'équivalent dans la chaîne de commandement de l'intimé ou à la personne identifiée dans la décision rendue au titre du paragraphe 8(3).

...

Communications confidential and without prejudice

9 (5) Any communications that pass among persons as a part of an informal resolution process are confidential, without prejudice to the parties and must not be disclosed unless the disclosure is

- (a) agreed to by the parties;

- (b) required by law;
- (c) required for the purpose of reaching or implementing an agreement made as a part of the process; or
- (d) required to protect the health or safety of any person.

...

Confidentialité des communications

9 (5) Les communications échangées dans le cadre d'un processus de règlement informel entre les participants sont confidentielles, ne peuvent être dévoilées et ne peuvent porter atteinte aux droits des parties, sauf si :

- a) les parties y consentent;
- b) la loi l'exige;
- c) la conclusion ou la mise en oeuvre d'une entente dans le cadre du processus l'exige;
- d) la protection de la santé ou de la sécurité d'une personne l'exige.

...

Evidence

15 An adjudicator, when considering a grievance or any matter arising in the context of a grievance, may accept any evidence submitted by a party.

...

Preuve

15 L'arbitre qui étudie un grief ou une question s'y rattachant peut accepter tout élément de preuve produit par les parties.

...

Decision at final level

18 (1) An adjudicator may dispose of a grievance at the final level by rendering a decision

- (a) dismissing the grievance and confirming the decision rendered at the initial level; or
- (b) allowing the grievance and
 - (i) remitting the matter, with directions for reconsidering the decision, act or omission, to the respondent or to the person who is responsible for the reconsideration,
 - (ii) remitting the matter, with directions for rendering a new decision to the adjudicator at the initial level or to another adjudicator, or

(iii) directing any appropriate redress.

Considerations

- (2) An adjudicator, when rendering the decision, must consider whether the decision at the initial level contravenes the principles of procedural fairness, is based on an error of law or is clearly unreasonable.

Non-compliance with direction

- (3) Despite subsection (2), the adjudicator may, subject to the principles of procedural fairness, dispose of a grievance against the interests of a party that has failed to comply with any of their directions.

Décision au dernier niveau

18 (1) L'arbitre qui dispose d'un grief de dernier niveau peut rendre une décision :

- a) le rejetant et confirmant la décision de premier niveau;
- b) l'accueillant et :
 - (i) renvoyant l'affaire avec des directives relatives au réexamen de la décision, de l'acte ou de l'omission à l'intimé ou à la personne chargée de faire un tel réexamen,
 - (ii) renvoyant l'affaire à l'arbitre qui a rendu la décision au premier niveau ou à un autre arbitre, avec des directives en vue d'une nouvelle décision,
 - (iii) ordonnant la réparation qui s'impose.

Éléments à considérer

- (2) Lorsqu'il rend la décision, l'arbitre évalue si la décision de premier niveau contrevient aux principes d'équité procédurale, est entachée d'une erreur de droit ou est manifestement déraisonnable.

Décision — non-respect des directives

- (3) Malgré le paragraphe (2), l'arbitre peut, sous réserve des principes d'équité procédurale, disposer du grief à l'encontre des intérêts de la partie qui ne respecte pas l'une de ses directives.

Opportunity to make submissions

19 (1) The adjudicator at the final level must, before rescinding or amending a decision under subsection 32(3) of the Act, give the parties an opportunity to make submissions.

Service

- (2) If the adjudicator rescinds or amends the decision, they must cause a copy of the notice of rescission or a copy of the amended decision to be served on the parties.

Soumission des observations

19 (1) Avant d'annuler ou de modifier sa décision conformément au paragraphe 32(3) de la Loi, l'arbitre de dernier niveau donne aux parties la possibilité de soumettre des observations.

Signification

- (2) Si l'arbitre annule ou modifie sa décision, il fait signifier aux parties copie de l'avis d'annulation ou copie de la décision modifiée.

FEDERAL COURT

SOLICITORS OF RECORD

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MCVEIGH J.

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APPEARANCES:

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For The Applicant

(Self-Represented)

Thomas Bean

For The Respondent

SOLICITORS OF RECORD:

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Vancouver, British Columbia

For The Respondent

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