

CANADA / JUDGMENT

Rouet v. Canada (Attorney General)

2024 FC 1315

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Federal Court

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Rouet v. Canada (Attorney General)

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T-1674-11

Decision Content

Date: 20240823

Docket: T-1674-11

Citation: 2024 FC 1315

[ENGLISH TRANSLATION]

Ottawa, Ontario, August 23, 2024

PRESENT: Madam Justice St-Louis

BETWEEN:

MARC-ANDRÉ ROUET

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction [1] On June 6, 2011, the applicant, Marc-André Rouet, filed a grievance challenging the decision of his employer, the Department of Justice Canada [Department], to terminate his employment less than one year after he was hired and while Mr. Rouet was still on probation.

[2] Mr. Rouet's grievance was dismissed at the first two levels of the process, and on September 16, 2011, the Assistant Deputy Minister of the Department's Management Sector [Decision-Maker] dismissed the grievance at the third level. In short, the Decision-Maker concluded, among other things, that Mr. Rouet's rejection on probation was not contrary to the employer's policies and/or guidelines. The Decision-Maker therefore found no reason to intervene and did not overturn the decisions rendered at the first two levels of the process [Decision].

[3] Mr. Rouet is seeking judicial review of this Decision. His only argument is that the Decision, as well as his rejection on probation, were fatally vitiated by breaches of the principles of natural justice and procedural fairness.

[4] Essentially, Mr. Rouet submits that the Department carried out Mr. Rouet's last performance review without providing supporting documents, thus contravening the policy on employee appraisals and performance reviews [Policy] in effect at the time of the facts. Mr. Rouet adds that this deprived him of information in the form of documents that, he claims, were never given to him during the grievance process, namely:

a. An abridged report on the employee's appraisal and performance review prepared on May 20, 2011, to which a narrative signed on June 7, 2011, is appended [Review completed in June] (Exhibit E to the affidavit of Guy Desjardins, RR at 2935–2941); and

b. A chronological summary [Chronological Summary] (which the parties sometimes also call a narrative) of the events, prepared by Mr. Rouet's former supervisor (Exhibit L to the affidavit of Guy Desjardins, RR at 2996–3020). This Chronological Summary is not dated, but the last entry was made on June 22, 2011; it is attached to a document referred to as a draft briefing note [Briefing Note] (Exhibit K to the affidavit of Guy Desjardins, RR at 2988–2994).

[5] Mr. Rouet asserts that the evidence shows that the principles of natural justice and procedural fairness were breached during the performance review that led to the decision to terminate his employment. He adds that these breaches were aggravated by an additional breach committed during the grievance process, through the [translation] “non-delivery” of the Review completed in June, and that everything did not become visible to him until well after September 2011, when the Decision was rendered. Mr. Rouet argues that he therefore could not [translation] “get it right” during the grievance process. Mr. Rouet essentially

submits that he did not know the case he had to meet since he did not have the documents he needed to fully challenge his termination and since the Decision-Maker likely had documents that he, Mr. Rouet, did not, namely the above-mentioned Review completed in June and Chronological Summary.

- [6] In the notice of application for judicial review that he filed in 2011, Mr. Rouet did not include a request for the material in the possession of the administrative decision-maker as permitted by Rule 317 of the Federal Courts Rules, SOR/98-106 [Rules], nor did he submit such a request even after learning about the Review completed in June. As a result, no record was prepared and certified by the Decision-Maker and no certified tribunal record [CTR] was provided to the parties, who therefore obviously did not file it with the Court.
- [7] In the applicant's record before the Court, and in addition to his memorandum, Mr. Rouet submitted (1) his own affidavit, sworn on May 22, 2023, and introducing 10 exhibits into evidence; (2) the affidavit of Guy Desjardins, a witness for the Department, sworn on June 26, 2023, and introducing 13 exhibits into evidence; (3) the written questions Mr. Rouet put to Mr. Desjardins on cross-examination; and (4) the affidavit of Mr. Desjardins in response to the written cross-examination.
- [8] At the hearing of this application for judicial review, and since the parties had not addressed the issue of Rule 317 in their respective memoranda, the Court gave the parties the opportunity to make additional representations as to the impact of Mr. Rouet's failure to rely on Rule 317 to obtain the CTR. The Court referred the parties to *Merchant (2000) Ltd v Canada (Attorney General)*, [2000] FCJ No 1044 [Merchant] and *Rock v Conseil des Innus de Pessamit*, 2022 FC 702 [Rock] in particular. The parties used this opportunity to each make additional written representations.
- [9] Mr. Rouet essentially alleges that it is not necessary to make a request under Rule 317 and to obtain the CTR given the arguments he has raised against the Decision. Mr. Rouet adds that his testimony; the initial written representations of the respondent, the Attorney General of Canada [AGC]; and the subsequent silence of the AGC are sufficient to demonstrate what he, Mr. Rouet, did not know and what the Decision-Maker had in his possession.
- [10] The AGC points out that Mr. Rouet is mainly arguing that he did not have enough information to challenge his termination and that the Decision-Maker had documents that Mr. Rouet did not have. The AGC notes the argument raised by Mr. Rouet and responds that it is therefore important to find out what was before the Decision-Maker by making a request under Rule 317 of the Rules. The AGC adds that his written representations cannot be used to establish what was actually before the Decision-Maker.
- [11] First, and as the Court mentioned at the hearing, it could be problematic to find that the Decision-Maker, in rendering his Decision, considered documents that Mr. Rouet did not have and did not even know about. However, the Court cannot determine whether this happened here as Mr. Rouet did not make a request under Rule 317 and no CTR was prepared and certified. In the absence of a CTR, the Court does not know which documents

were before the Decision-Maker; cannot determine whether the Decision-Maker had the above-mentioned documents, which Mr. Rouet claims he never received; and cannot find out whether the Decision-Maker actually considered those documents in rendering his Decision. Nor can the Court know how and from whom the Decision-Maker would have received these documents and whether they were sent to Mr. Rouet as part of the grievance process.

[12] Mr. Rouet has not satisfied the Court that his testimony, the written representations, and/or the silence of the AGC can substitute for the use of Rule 317 and the certification of a decision-maker to confirm the documents and information that the decision-maker considered. I note that Mr. Rouet did not cross-examine the AGC's witness on the documents at issue and submitted no case law confirming that his testimony, the written representations, and/or the AGC's silence can replace or compensate for the CTR; on the contrary, the Federal Court of Appeal's case law establishes the importance of using Rule 317 (see, in particular, *Merchant*).

[13] For the reasons detailed below, the application for judicial review will be dismissed. Mr. Rouet, the applicant in this proceeding, bore the burden of showing that the principles of natural justice and procedural fairness were breached, as he alleges. However, he has not discharged this burden; the Court does not have the information it needs to assess the allegations.

II. Background [14] On April 12, 2010, Mr. Rouet began his duties as a lawyer in the Department's tax affairs branch. At the time, Mr. Rouet was appointed to a full-time, indeterminate position. His employment was subject to a 12-month probationary period in accordance with section 61 of the Public Service Employment Act, SC 2003, c 22 [PSEA].

[15] In July 2010, the Department, noting shortcomings, implemented an action plan for Mr. Rouet. In the fall of 2010, Mr. Rouet's supervisor reviewed his performance for the April to September 2010 period. Mr. Rouet's participation in this review began in November 2010, when his supervisor gave him a preliminary written report. On December 20, 2010, Mr. Rouet met with his supervisor, and a written appraisal and performance review report was signed by both parties. This report contains an appendix to the employee's 2010 appraisal and performance review report with detailed feedback on Mr. Rouet's performance.

[16] On March 31, 2011, before the end of the probationary period, the Department terminated Mr. Rouet's employment under section 62 of the PSEA and provided him with a letter notifying him of the termination. In that letter, the Department indicated that it had determined that Mr. Rouet had not achieved the level of performance expected for the position he held in the organization. The Department noted, among other things, that despite the numerous meetings and training sessions as well as the frequent follow-ups from which Mr. Rouet had benefited, Mr. Rouet had not sufficiently improved so as to reach the level expected by management and had not achieved the level of autonomy required for his position.

- [17] In his affidavit, Mr. Rouet states that at this March 31, 2011 meeting, the people he spoke to simply told him that his employment was being terminated because he was not suitable for the position. Mr. Rouet also asserts that he had to insist that the facts that were taken into consideration as part of his termination be communicated to him. He argues that his supervisor then referred to an event, namely Mr. Rouet's performance before the Tax Court of Canada on January 31, 2011; that his supervisor had noted at that time that Mr. Rouet had not requested a proceeding he should have known about; and that she therefore could not, in complete confidence, send him to plead simple cases alone.
- [18] Also in his affidavit, Mr. Rouet states that he reviewed his employee file in the presence of a human resources employee on April 11, 2011, and noted that said file did not contain any documents relating to the Department's decision to terminate his employment. Mr. Rouet also claims to have received, on the same day and at his request, two sealed envelopes containing his employee file.
- [19] On May 6, 2011, Mr. Rouet filed a grievance challenging the Department's decision to terminate his employment during his probationary period. Mr. Rouet argued that his termination did not comply with the Treasury Board Guidelines for Rejection on Probation [Guidelines] and that the termination letter was too vague for him to know precisely why the Department had concluded that he had not [translation] "... achieved the level of autonomy expected for his position". He then requested the following two corrective actions: (1) the overturning of his termination; and (2) reinstatement to his position without loss of pay or benefits, and under the authority of a different team leader.
- [20] Mr. Rouet attached an appendix to his grievance form, Appendix A, in which he set out his version of the facts and of the applicable law. In this appendix, Mr. Rouet also included the elements to which he objected, namely:
- a. the lack of reasons in the written notice of March 31, 2011, which contravenes the Guidelines and opens the door to all kinds of camouflage and shams;
 - b. the attempt to conceal the reason for his termination during the meeting at which this notice was given to him;
 - c. the real reason for his termination was his appearance before the Tax Court of Canada on January 31, 2011;
 - d. a more experienced colleague had proposed the approach taken at the January 31, 2011 hearing, making his termination contrary to the Guidelines, in addition to being arbitrary and in bad faith;
 - e. he was not informed in advance of performance expectations regarding his appearance before the Tax Court of Canada on January 31, 2011;

- f. the Department's expectations were inconsistent with the Code of Professional Conduct of Lawyers in Quebec, which imposes on lawyers a duty of competence and a requirement to act in the best interests of the person they are representing; and
 - g. the Department improperly interfered in the solicitor–client relationship by having an expectation contrary to the interests of the Minister of National Revenue, who was the client in the January 31, 2011 case.
- [21] On May 30, 2011, the Department's director of tax affairs rendered the decision at the first level of the grievance process and dismissed Mr. Rouet's grievance. The director noted that, in making her decision, she had reconsidered Mr. Rouet's grievance and the termination letter dated March 31, 2011. She indicated that the Department's reasons for terminating Mr. Rouet's employment were explicitly mentioned in the termination letter. The director therefore dismissed the grievance, finding that nothing made it possible to revise the decision to terminate Mr. Rouet's employment.
- [22] On June 30, 2011, the Department's regional director general rendered the decision at the second level of the grievance process. He stressed that he had carefully analyzed Mr. Rouet's allegations as well as the file for his rejection on probation. The regional director general concluded that, on the basis of the information on hand, Mr. Rouet's termination had been carried out in accordance with the Guidelines and that the elements brought before him suggested that Mr. Rouet had not shown that he had all the qualifications required for the position. The regional director general found that the decision to terminate Mr. Rouet's employment during the probationary period was directly related to the job. He dismissed the grievance and refused to grant the requested corrective actions.
- [23] On September 16, 2011, the Decision-Maker issued the Decision at the third level. The Decision-Maker indicated that, before rendering his Decision, he had carefully examined and taken into consideration all of the evidence in the record, including Mr. Rouet's grievance and its appendices (containing his written submissions), as well as the representations that Mr. Rouet had made at the hearing. The Decision-Maker noted that Mr. Rouet had stated at the hearing that all the reasons supporting his position were clearly set out in his grievance and its appendices and that the Decision-Maker could use them to render a decision on the matter.
- [24] The Decision-Maker also pointed out that the probationary period allows the employer to review the performance of a person recruited from outside the public service, and that deciding to proceed with a rejection on probation is part of the employer's prerogatives and management rights. He added that the onus is on the employee to demonstrate, during this period, that he or she has all the skills and qualifications needed for the position.
- [25] The Decision-Maker found that Mr. Rouet's rejection on probation did not violate the employer's policies and/or Guidelines. Rather, the Decision-Maker stated that he understood that Mr. Rouet's employment was terminated because he had not reached the level of autonomy expected of a lawyer occupying a position at his group and level. The Decision-

Maker reiterated that the burden to show, on a prima facie basis, that Mr. Rouet had achieved the level of performance required for his position rested on Mr. Rouet, and he indicated that Mr. Rouet had not met this burden.

- [26] The Decision-Maker stated that he had identified no reason to intervene in the matter and would therefore not overturn the lower-level decisions regarding the grievance. As a result, the Decision-Maker dismissed Mr. Rouet's grievance at the final level of the grievance process and denied the corrective actions requested by Mr. Rouet.
- [27] On September 30, 2011, Mr. Rouet referred his grievance to the Public Service Labour Relations Board [Board] for adjudication.
- [28] On October 13, 2011, Mr. Rouet applied for judicial review of the Decision—which is the purpose of these proceedings—and on November 11, 2011, the Court suspended the time limits relating to this application until the Board rendered a final decision.
- [29] Between December 13, 2016, and May 25, 2017, the Board held hearings over six days. Mr. Rouet states in his affidavit that he then learned that his supervisor had prepared a review about him in May and June 2011, a document to which Mr. Desjardins refers in his affidavit as the [translation] “employee appraisal and performance review abridged report” and which has been defined above as the Review completed in June. Mr. Rouet also states that this review was not in the employee file that had been given to him in sealed envelopes in April 2011, as revealed when these envelopes were opened before the Board.
- [30] On June 1, 2021, the Board rendered its decision (*Rouet v Deputy Head (Department of Justice)*, 2021 FPSLRB 59). It considered that the evidence presented by Mr. Rouet did not demonstrate, on a balance of probabilities, that his rejection on probation was based on anything other than bona fide dissatisfaction by the Department with Mr. Rouet's ability to perform the duties of his position. The Board found that Mr. Rouet had not met his burden to show that his termination was based on a contrived reliance on the PSEA, a sham, or a camouflage. The Board therefore allowed the Department's objection that the Board did not have the jurisdiction to hear a case involving termination under the PSEA, and it dismissed the grievance.
- [31] On March 7, 2023, the Federal Court of Appeal dismissed Mr. Rouet's application for judicial review of the Board's decision (*Rouet v Canada (Justice)*, 2023 FCA 50).

III. Positions of the parties [32] In his memorandum of fact and law, and as stated in his affidavit, Mr. Rouet indicates that he learned at the hearing before the Board (2016–2017) that a form and a narrative had been prepared in May and June 2011 by his supervisor. He claims that these documents were never given to him. Mr. Rouet disputes the fact that he was not informed of the existence of what he describes as a secret review, at the end of which his supervisor explained that his employment had been terminated. He submits that if he had had these documents, he could have required the Department to follow the rules applicable to the review process; would not have failed to provide comments and taken the opportunity to discuss with the reviewer; and

would have, if necessary, asked that a review officer step in.

- [33] Mr. Rouet asks the Court to make several findings of fact, in particular regarding the fact that he did not know about the above-mentioned documents whereas the Decision-Maker had access to them, which violates procedural fairness and the principles of natural justice. Mr. Rouet also asks the Court to conclude that the director at the first level was in a conflict-of-interest situation because she had attended the termination meeting. However, there is no indication that Mr. Rouet raised this argument as soon as possible, as required by the case law, either before the director herself or before the other two decision-makers in the grievance process (*Teksavvy Solutions Inc v Bell Canada*, 2024 FCA 121 at para 58). This argument therefore cannot succeed.
- [34] In his additional submissions to the Court in relation to Rule 317 of the Rules, Mr. Rouet confirms that he is challenging the third-level Decision, not by targeting the [translation] “intellectual production” of the Decision-Maker, but by arguing that defects in terms of natural justice and procedural fairness tainted the grievance process and the related termination decision. He argues that, on account of breaches by the Department, he did not know the case he had to meet or the arguments to be defended.
- [35] Thus, Mr. Rouet contends that Rule 317 is not at issue here since, essentially, [translation] “whatever was before the Decision-Maker, his decision should be set aside without even considering the issue of its reasonableness, as [the Department’s] breaches deprived the public servant [Mr. Rouet] of information that he needed to properly dispute his termination”. Mr. Rouet uses the example of the Review completed in June to argue that what is important to his position is not to establish that these documents were before the Decision-Maker, but to show that these documents were not given to him, because these documents were fundamental to fully challenging the termination decision. Mr. Rouet adds that if the Decision-Maker knew about these documents, Mr. Rouet should have been able to make representations in connection with them, and that if the Decision-Maker did not know about them, he should have been able to bring them to his attention and make representations about them.
- [36] Finally, Mr. Rouet submits that the lack of request under Rule 317 should not give rise to any particular suspicion, that his affidavit and the AGC’s affidavit should be admitted to set out what was or was not in his possession and in the possession of the Decision-Maker, and that his position does not require evidence of what the Decision-Maker had before him.
- [37] In his initial memorandum, the AGC responds that the Decision is reasonable and that there was no breach of procedural fairness. At paragraph 41 of his memorandum, the AGC emphasizes that applications for judicial review must be decided on the basis of the material available to the administrative decision-maker at the time of the decision under review. Also in his initial memorandum, the AGC lists the documents that were apparently considered by the Decision-Maker.

[38] In his additional representations in relation to Rule 317, the AGC describes the Federal Court of Appeal's case law respecting this Rule and notes that if the documents or material elements relevant to the application before the reviewing court are inadequate, this can "immunize the administrative decision-maker from review on certain grounds" (Canadian Copyright Licensing Agency (Access Copyright) v Alberta, 2015 FCA 268 at para 14 [Access Copyright]). He concludes by stating that since the basis for the administrative decision-maker's decision is not before this Court, Mr. Rouet cannot meet his burden of proof and therefore cannot show that the decision-maker's discretion was exercised in an unreasonable manner.

IV. Issues [39] Mr. Rouet alleges only that the principles of natural justice and procedural fairness were breached because he never received the Review completed in June and the Chronological Summary. He argues that he was unable to fully challenge his termination as he did not know the case he had to meet, and that the process was flawed because the Decision-Maker had documents that he did not have. Mr. Rouet is not disputing the reasonableness of the Decision.

[40] Mr. Rouet bears the burden of demonstrating that the alleged breaches occurred. The Court must therefore determine whether he has discharged his burden and established the alleged breaches.

V. Discussion [41] Without question, what is before the Court here is the third-level Decision. The allegations that the principles of natural justice and procedural fairness in connection with Mr. Rouet's termination were breached will consequently not be analyzed.

[42] As stated earlier, Mr. Rouet claims that he never received the Review completed in June and the Chronological Summary in which more than 30 events are included. Furthermore, the documents the AGC entered in his record suggest that the Decision-Maker had these documents in his evidentiary record and that he considered them, since he indicated that he had taken into account all the evidence in the record.

[43] As previously mentioned, it would be problematic to find that the Decision-Maker had considered documents to which Mr. Rouet, the grievor, did not have access. Mr. Rouet is "entitled to know the case against him . . . and to be provided a full and fair opportunity to respond" (Khawaja v Canada (Attorney General), 2007 FCA 388 at para 114; Argüello v Canada (Attorney General), 2023 FC 986 at para 18; see Canadian Pacific Railway Company v Canada (Attorney General), 2018 FCA 69 at para 56). If Mr. Rouet did not have access to all the evidence, he cannot have had a full and fair opportunity to respond to it. Finally, although the level of procedural fairness to which an employee is entitled in an internal grievance process falls in the lower zone of the spectrum, the employee has the right to be informed of and respond to the facts adverse to his or her position (Canada (Attorney General) v Allard, 2018 FCA 85 at para 41; De Santis v Canada (Attorney General), 2020 FC 723 at para 28).

[44] However, in light of the circumstances of this case, it was not established what documents were before the Decision-Maker or what documents he considered in making his Decision. Indeed, as already indicated, Mr. Rouet did not request the material in the Decision-Maker's possession under Rule 317 of the Rules. Thus, the Court does not have a certification of the documents that were before the Decision-Maker, nor does it know how the Decision-Maker obtained those documents, if he did. This information would have shed light on the procedure that was followed.

[45] The first subsection of Rule 317 provides the following:

Material from tribunal

Matériel en la possession de l'office fédéral

317 (1) A party may request material relevant to an application that is in the possession of a tribunal whose order is the subject of the application and not in the possession of the party by serving on the tribunal and filing a written request, identifying the material requested.

317 (1) Toute partie peut demander la transmission des documents ou des éléments matériels pertinents quant à la demande, qu'elle n'a pas, mais qui sont en la possession de l'office fédéral dont l'ordonnance fait l'objet de la demande, en signifiant à l'office une requête à cet effet puis en la déposant. La requête précise les documents ou les éléments matériels demandés.

[46] The Federal Court of Appeal underscored the following in *Access Copyright*:

[13] Rule 317 reflects the reality today that the permissible grounds for judicial review are broader than they once were. It entitles the requesting party to receive everything that was before the decision-maker at the time it made its decision and that the applicant does not have in its possession: *Access Information Agency Inc. v. Canada (Attorney General)*, 2007 FCA 224, 66 Admin. L.R. (4th) 83 at paragraph 7. This allows parties "to effectively pursue their rights to challenge administrative decisions from a reasonableness perspective" and "have the reviewing court [that is engaged in reasonableness review] consider the evidence presented to the tribunal in question": *Hartwig v. Saskatchewan (Commission of Inquiry)*, 2007 SKCA 74, 284 D.L.R. (4th) 268 at paragraph 24 (commenting on a rule similar to Rule 317).

[47] An applicant is certainly not obliged to rely on Rule 317 of the Rules. However, and as the undersigned indicated in *Rock*, citing the Federal Court of Appeal in *Merchant*, there may be consequences for failing to do so.

[48] As stated earlier, Mr. Desjardins introduced into evidence the Briefing Note, which itself lists documents in an appendix. Mr. Desjardins does not confirm which documents were actually before the Decision-Maker, nor those that the Decision-maker considered in rendering his Decision: how could he?

- [49] Indeed, it is not up to the AGC to confirm whether a document was before the Decision-Maker when he made his Decision, let alone to determine what the Decision-Maker considered to render said Decision. In this regard, the Court quotes the Federal Court of Appeal in *Rémillard v Canada (National Revenue)*, 2022 FCA 63 [Rémillard]:
- [74] As noted above, the procedure set out in rules 317 and 318 is optional and is carried out on the applicant's initiative. It is up to applicants to determine whether they have all the relevant documents to complete their application for judicial review. If there is any doubt, or if applicants wish to supplement their record to ensure that they have exactly the same information as the administrative decision-maker had in making its decision, applicants may avail themselves of this mechanism provided for in the Rules; it is up to applicants to determine the number of documents sought. . . .
- [50] Rule 318 provides for how administrative decision-makers must respond to requests under Rule 317, stating that the tribunal shall transmit within 20 days a certified copy of the requested material, namely, the CTR, to the Registry and to the party making the request. In the absence of such certification by the decision-maker, the parties and the Court can only speculate as to the content of the evidentiary record that was before the decision-maker and as to the documents that the decision-maker did or did not consider.
- [51] The Court notes that for the purposes of Rules 317 and 318, a document is relevant if it "may have affected the decision of the [t]ribunal or . . . may affect the decision that this Court will make on the application for judicial review" (*Jolivet v Canada*, 2011 FC 806 at para 26 [Jolivet], citing *Maax Bath Inc v Almag Aluminum Inc*, 2009 FCA 204 at para 9). In other words, if a document was before the decision-maker when he or she made the decision, this document must be presumed relevant and should be produced by the tribunal, unless an exception applies (*Jolivet* at para 27).
- [52] In this case, the CTR, if it had been produced, would have provided the parties, and the Court, with the necessary insight into the content of the record and of the documents considered by the Decision-Maker.
- [53] However, Mr. Rouet, who claims to have learned about the two determinative documents in 2016 or 2017, never asked the Decision-Maker to confirm which documents he had before him, as no CTR had been produced. He also did not cross-examine Mr. Desjardins on these documents. Neither the parties nor the Court therefore has the benefit of a CTR, and the Court cannot ascertain for itself the evidentiary record that was before the Decision-Maker.
- [54] The onus was on Mr. Rouet, as the applicant in this judicial review, to establish that the Decision-Maker had documents that he, Mr. Rouet, did not have (*Rémillard* at para 74; *Merchant* at para 10). Again, Mr. Rouet did not submit any authoritative source to confirm that his affidavit, the representations of the AGC and/or the silence of the AGC could replace the request under Rule 317 and the certification of the record by the decision-maker.

[55] Incidentally, the Court notes that some matters could probably be decided without a CTR, but that this is not the case here given the argument raised by Mr. Rouet.

[56] Therefore, Mr. Rouet has not discharged his burden and has not demonstrated that the principles of natural justice or procedural fairness have been breached. As a result, the Court will dismiss the application for judicial review.

JUDGMENT in T-1674-11

THIS COURT'S JUDGMENT is as follows:

1.The applicant's application for judicial review is dismissed.

2.No costs are awarded.

"Martine St-Louis"

Judge

Certified true translation

Melissa Paquette, Senior Jurilinguist

FEDERAL COURT

SOLICITORS OF RECORD

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ST-LOUIS J

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AUGUST 23, 2024

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(SELF-REPRESENTED)

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