

CANADA / JUDGMENT

Saint-Denis v. Canada (Attorney General)

2025 FC 339

COURT

Federal Court

DECIDED

5 March 2025

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Saint-Denis v. Canada (Attorney General)

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Decision Content

Date: 20250305

Docket: T-103-24

Citation: 2025 FC 339

[ENGLISH TRANSLATION]

Ottawa, Ontario, March 5, 2025

PRESENT: Madam Associate Chief Justice St-Louis

BETWEEN:

FRANCE SAINT-DENIS

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction [1] As detailed below, on November 29, 2023, an investigator [Investigator] issued a final investigation report [Investigation Report] related to the complaint filed by France Saint-Denis on March 14, 2021 [Complaint of March 14, 2021].

[2] On January 4, 2024, Ms. Saint-Denis wrote to Isabelle Evans, manager of Intake and Processing at the Royal Canadian Mounted Police's Independent Centre for Harassment Resolution [ICHR] [Manager], asking her to appoint a new competent investigator to complete the investigation and provide a new report. On January 5, 2024, the Manager refused this request [Decision].

[3] Ms. Saint-Denis seeks judicial review of that Decision. As a remedy, Ms. Saint-Denis asks that the Court:

declare invalid the decision of January 5, 2024, refusing to appoint a new investigator and provide a new investigation report related to her Complaint of March 14, 2021;

declare invalid the investigation report dated November 29, 2023;

direct the ICHR to appoint a new competent investigator to complete the investigation and provide a new investigation report that includes the Complaint of March 14, 2021;

award the costs of this application to her; and

award such further and other relief as this Honourable Court may deem just and appropriate.

[4] In her application record, Ms. Saint-Denis filed (1) her own affidavit, dated February 29, 2024, to which she attached 15 documents (Exhibits 1 to 15); (2) the Manager's affidavit, dated April 12, 2024; and (3) the certified tribunal record. Neither Ms. Saint-Denis nor the Manager were cross-examined.

[5] In her memorandum of fact and law, Ms. Saint-Denis argues that the Decision should be reviewed on the reasonableness standard. She adds that the Decision is unreasonable (1) in part because it is based on the flawed Investigation Report produced in violation of the protections afforded by the rules of procedural fairness; more specifically, the violation of the rules of procedural fairness led to an unreasonable decision because the Manager breached Ms. Saint-Denis's right to be heard and failed to consider the documents relevant to the case; and (2) because the Manager failed to address the central issues related to the request for a new investigation, thereby making the Decision unreasonable.

[6] Also in her memorandum, Ms. Saint-Denis alleges more specifically that the Investigation Report's flaw stems from (a) a lack of reasons in support of the findings; (b) a lack of consideration of the essential elements of her Complaint of March 14, 2021, i.e., the

allegation of psychological abuse that resulted in the file being referred to the ICHR was not considered and is absent from the Investigation Report; (c) a failure to assess the credibility of the witnesses; and (d) the Investigator's misapprehension of the Complaint itself, as the Investigation Report focused on harassment, not on psychological abuse.

- [7] At the hearing of this application, Ms. Saint-Denis acknowledged and confirmed that the current regulatory framework no longer provides a mechanism for challenging the Investigation Report. However, she argued that someone should nevertheless be granted the authority to verify whether the investigation process was properly conducted and whether the resulting report is adequate. Ms. Saint-Denis argued that a manager who receives an investigation report has the power and duty to verify that, in substance, it addresses the elements of the complaint, results from a fair process, and is reasonable. Ms. Saint-Denis alleges that, in this case, the Manager failed to conduct this verification and that the process was thus tainted.
- [8] The Attorney General of Canada [AGC] started by pointing out that some of the grounds raised by Ms. Saint-Denis before the Court had not previously been raised before the Manager. The AGC then responded that the Decision was reasonable because (a) there was no reason to doubt the Investigator's impartiality and methodology; and (b) the Decision itself and its justification bear the hallmarks of reasonableness, and the Decision was justified in relation to the relevant factual and legal constraints. In addition, the AGC submitted that Ms. Saint-Denis has presented no evidence showing that the investigation was unfair.
- [9] At the hearing, the AGC noted that the Investigation Report is consistent with the applicable statutory framework and that nothing confers on managers the power or duty to examine an investigation process or an investigation report as Ms. Saint-Denis suggests.
- [10] For the reasons that follow, Ms. Saint-Denis's application for judicial review will be dismissed. First, the Court will not consider arguments that could have been submitted to the Manager but were not. Second, Ms. Saint-Denis has not convinced the Court that the Manager had the power or duty to verify the Investigation Report as she suggests, that her Decision not to conduct a new investigation was unreasonable, or that she breached the principles of procedural fairness.

II. Background [11] Ms. Saint-Denis has been an employee of the Royal Canadian Mounted Police [RCMP] since March 2009. She currently works in Ottawa as legal counsel.

- [12] On March 13, 2021, Ms. Saint-Denis filed a grievance challenging the performance evaluation prepared by her immediate supervisor. In her affidavit, Ms. Saint-Denis indicates that a decision on this grievance has not yet been rendered.

- [13] On March 14, 2021, Ms. Saint-Denis filed a complaint with the RCMP's Office for the Coordination of Harassment Complaints [OCHC] alleging three ethics breaches on the part of her immediate supervisor. In the first of these three ethics allegations, Ms. Saint-Denis stated that she had been the victim of psychological abuse. She attached Form 3919, as then in effect, titled "Harassment Complaint".
- [14] On March 15, 2021, the new version of Form 3919, "Notice of Occurrence – Work Place Harassment and Violence", was sent to Ms. Saint-Denis.
- [15] On May 30, 2021, Ms. Saint-Denis sent this second form to the OCHC. In it, she raised 11 occurrences and, under occurrence number 9, she provided details of the allegation of psychological abuse.
- [16] On June 30, 2021, the ICHR was established as a centralized, independent body responsible for all matters relating to the resolution of occurrences of harassment and/or violence affecting RCMP employees.
- [17] On March 30, 2023, the ICHR appointed the Investigator from an external firm to conduct the investigation. Between April and December 2023, the Investigator met with eight people, including Ms. Saint-Denis and her supervisor.
- [18] The investigation was then conducted using the mechanism set out in the Work Place Harassment and Violence Prevention Regulations, SOR/2020-130 [Regulations].
- [19] On November 29, 2023, the Investigator released her Investigation Report, which Ms. Saint-Denis received on December 15, 2023. The Investigation Report presents the 11 occurrences raised by Ms. Saint-Denis and includes information from witnesses in connection with those occurrences. The Investigator noted the definition of "harassment" set out in the Canada Labour Code, RSC 1985, c L-2 [CLC] and the reasonable person test. After analyzing all of the evidence gathered, she concluded that the person who was the subject of the complaint, namely, Ms. Saint-Denis's immediate supervisor, had conducted herself appropriately and that her actions complied with section 3.1.9 of the applicable policy.
- [20] At paragraph 128 of the Investigation Report, under the heading "Root Cause Analysis", the Investigator noted, among other things, that:
128. There was a lack of understanding or awareness of what is harassment and of the policies and procedures. If employees are not adequately trained on what constitutes harassment and how to report it, they may be more likely to make false allegations or misunderstand the nature of the behavior they are experiencing.
- [21] Finally, the Investigator made three recommendations intended to eliminate or minimize the risk of reoccurrence.

[22] On December 21, 2023, Ms. Saint-Denis asked the Manager if there was a process for appealing or reviewing the Investigation Report. On January 2, 2024, the Manager replied that there was not.

[23] On January 4, 2024, Ms. Saint-Denis sent an email to the Manager asking her to appoint a new competent investigator to complete the investigation and provide a new report. That email read as follows:

[translation]

Ms. Evans,

I have serious issues with the investigation, which did not assess the credibility of the witnesses. On its face, the investigation was poorly conducted. If you have conflicting versions, you have to decide who is the most credible, because that will change the facts! The investigator in this case simply ignored the evidence I submitted that contradicted several facts provided by the Respondant [sic] Party. In her report, she does not indicate how she assessed the witnesses' credibility, and that is an error that may be reviewed by the Federal Court.

In addition, there are several other serious errors in the report. Here is an example. I never alleged harassment, and yet the investigator concluded the following at paragraph 128 of her report as the root cause of the situation: "There was a lack of understanding or awareness of what is harassment and of the policies and procedures. If employees are not adequately trained on what constitutes harassment and how to report it, they may be more likely to make false allegations or misunderstand the nature of the behavior they are experiencing." This error alone calls into question the investigator's competence.

I ask that you appoint a new competent investigator to complete the investigation and provide a new report.

France Saint-Denis

[24] On January 5, 2024, the Manager noted that [translation] "one of the investigator's goals in the CLC investigation includes making a finding establishing whether harassment or violence occurred". She adds that the applicable process is in fact for harassment and violence, in accordance with the notice of occurrence submitted on March 14, 2021, and that this is what the Investigator was mandated to investigate. The Manager invited Ms. Saint-Denis to consult with her union representative and/or legal counsel if she had any doubts as to the manner in which the investigation was conducted, the results of the investigation, or the Investigator's conduct, and she confirmed that there would be not be another investigation.

[25] On January 11, 2024, the RCMP, as the employer, and the work place committee determined that the three recommendations made by the Investigator in her report would not be implemented as they could not be put in place at the local level because they related to a subject that is determined at the divisional/national level. The recommendations were then forwarded to the committee responsible for the divisional level for consideration.

III. Issues [26] The Court must first determine whether the arguments that were not before the Manager can be raised before the Court.

[27] Then, as Ms. Saint-Denis and the AGC indicate, the Court must determine (1) the applicable standard of review; (2) whether Ms. Saint-Denis has shown that the Decision was unreasonable; and (3) whether Ms. Saint-Denis has demonstrated that the Manager breached the principles of procedural fairness.

IV. Analysis A. Arguments that are not properly before the Court [28] In his memorandum, the AGC noted that certain grounds raised by Ms. Saint-Denis in her memorandum of fact and law had not been raised in the email she sent to the Manager on January 4, 2024.

[29] As discussed at the hearing, it is settled law that an applicant cannot raise before this Court arguments on judicial review that could have been but were not raised before the administrative decision maker (*Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at paras 22–23; *Kiame v Union of National Employees (Public Service Alliance of Canada)*, 2024 FCA 103 at para 16; *Kalonji v Canada (Attorney General)*, 2018 FCA 8 at para 7; *Joseph v Canada (Citizenship and Immigration)*, 2020 FC 735 at para 8).

[30] Consequently, the Court will not take into account the arguments that Ms. Saint-Denis is raising for the first time before this Court, namely those related to (a) the lack of reasons in support of the findings of the Investigation Report; (b) the lack of consideration of the essential elements of her Complaint of March 14, 2021; and (c) the allegations against the investigative process and the Investigator of a breach of procedural fairness.

B. Statutory and regulatory framework [31] Under subsection 157(1) of the CLC, the Governor in Council may, among other things, make regulations prescribing anything that by Part II is to be prescribed concerning occupational health and safety and define the expressions “harassment” and “violence” for the purposes of Part II. Harassment and violence are defined together in a joint definition in subsection 122(1) of the CLC:

Canada Labour Code, RSC 1985, c L-2

Code canadien du travail, LRC 1985, ch L-2

Definitions

Définitions

122(1) harassment and violence means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment; (harcèlement et violence)

122(1) harcèlement et violence Tout acte, comportement ou propos, notamment de nature sexuelle, qui pourrait vraisemblablement offenser ou humilier un employé ou lui causer toute autre blessure ou maladie, physique ou psychologique, y compris tout acte, comportement ou propos réglementaire. (harassment and violence)

[32] On June 17, 2020, the first version of the Regulations came into force, replacing Part XX of the Canada Occupational Health and Safety Regulations, SOR/86-304 [COHSR].

[33] Among other things, the Regulations set out the process for resolving complaints of harassment and violence in the workplace. Accordingly, a person who is the object of an occurrence of harassment and violence in the work place, referred to as the “principal party”, may provide notice of an occurrence against the person alleged to be responsible for the occurrence, referred to as the “responding party”, to the employer or designated recipient (subsections 1(1) and 15(1) of the Regulations). In this case, as of June 30, 2021, the designated recipient is the ICHR.

[34] As noted by the AGC, a notice of occurrence does not automatically trigger an investigation. When a notice of occurrence is filed, the Regulations provide that the parties must make every effort to resolve the occurrence by negotiated resolution (section 23), that they may attempt to resolve the occurrence by conciliation (section 24), and that, in the absence of resolution, an investigation of the occurrence must be carried out if the principal party requests it (section 25).

[35] When an investigation is requested, an investigator is selected in the manner provided for (ss 27–28) and the employer or designated recipient provides the investigator with all information that is relevant to the investigation (s 29).

[36] The investigator’s report must not reveal the identity of the persons involved in an occurrence, and a copy must be provided to the principal party, the responding party and, where applicable, the designated recipient, among others (ss 30(2) and (3)). According to the Regulations (s 30(1)), the report must set out the following information:

(a) a general description of the occurrence;

(b) the investigator’s conclusions, including those related to the circumstances in the work place that contributed to the occurrence; and

(c) the investigator’s recommendations to eliminate or minimize the risk of a similar occurrence.

- [37] The Regulations specifically provide that the resolution process for an occurrence is completed when any of the conditions set out in section 32 is met. Consequently, in the event of an investigation, the process is completed when the employer and the work place committee or the health and safety representative have implemented the recommendations that they have jointly determined from those set out in the investigation report (ss 31 and 32(c)).
- [38] The Court notes that the employer may decide not to determine any of the investigator's recommendations and thus implement none of them. That is what the employer chose to do in this case, and it is also what the employer chose to do in *Marentette v Canada (Attorney General)*, 2024 FC 676 [Marentette], cited by Ms. Saint-Denis.

C. Standard of review [39] As noted by the parties, the Decision is to be reviewed on the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [Vavilov]). In analyzing the reasonableness of a decision, a reviewing court “must begin its inquiry ... by examining the reasons provided with ‘respectful attention’ and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion” (Vavilov at para 84; see also *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 60). Reasonableness is not a “line-by-line treasure hunt for error”; rather, it is a holistic exercise in which a reviewing court must consider the record as a whole to understand the decision. The reasonableness standard thus requires that a reviewing court defer to such a decision (Vavilov at para 85). The Court must determine whether the decision is based on an internally coherent and rational chain of analysis and can be justified in relation to the facts and law that constrain the decision maker (Vavilov at paras 15, 24, 85–86).

- [40] In applying the reasonableness standard, the Court must also defer to the decision maker's findings of fact and assessment of the evidence and refrain from reweighing and reassessing the evidence (Vavilov at para 125; *Desgagnés Marine Petro Inc v Broudic*, 2024 FCA 178 at para 6, citing *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at para 61).
- [41] In matters of procedural fairness, the Court's exercise “is ‘best reflected in the correctness standard’” (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [Canadian Pacific Railway Company]). As the Federal Court of Appeal noted, it is necessary to consider whether the party was given a right to be heard and the opportunity to know the case against them, and procedural fairness is not to be sacrificed on the altar of deference (*Canadian Pacific Railway Company* at para 56).
- [42] Furthermore, and in connection with the argument raised by Ms. Saint-Denis, if it is shown that there has been a breach of the principles of procedural fairness and that this breach is fatal, the decision may be set aside and the application allowed on that basis, without the decision being found unreasonable.

D. Arguments raised by the parties (1) Ms. Saint-Denis [43] As mentioned above, some of the arguments raised by Ms. Saint-Denis before the Court were not raised with the Manager and will therefore not be addressed in this case. Before the Manager, Ms. Saint-Denis argued that (1) the

Investigator was required to assess the credibility of the witnesses and she failed to do so; and (2) she never alleged harassment but the Investigator addressed only harassment, without dealing with violence. Thus, the Court will focus on the arguments raised by Ms. Saint-Denis with respect to the credibility of the witnesses and the Investigator's misapprehension of the complaint.

- [44] As regards procedural fairness, the Court can only consider the arguments raised in connection with the process that led to the impugned Decision since, as mentioned above, Ms. Saint-Denis did not raise any procedural fairness arguments in relation to the Investigation Report before the Manager. Before the Court, Ms. Saint-Denis alleges that the Manager breached the principles of procedural fairness by violating her right to be heard and by failing to consider certain documents.
- [45] In addition, Ms. Saint-Denis argued at the hearing that the Manager had an obligation to verify that, in substance, the Investigation Report addressed the elements of the complaint, resulted from a fair process and was reasonable. Ms. Saint-Denis clarified that the new Regulations do not provide for the possibility of challenging an investigation report or a mechanism by which to do so, as was previously the case, citing *Pothier v Canada (Attorney General)*, 2024 FC 478 [Pothier]. Ms. Saint-Denis submitted that such a mechanism was necessary and that it must exist despite the regulatory change.
- [46] Specifically, Ms. Saint-Denis argued that someone should be responsible for verifying, on their own initiative, the quality of the investigation process and the investigation report. Ms. Saint-Denis added that someone had to ensure that the process was fair, that the principles of procedural fairness had been respected and that the investigation report was reasonable and complete, and that it addressed the elements of the complaint. Ms. Saint-Denis noted that it was normal for the employer's manager to be the person in charge of this task since the employer is responsible for choosing and hiring the investigator, pays the investigator's salary and therefore largely controls the investigation process. Thus, Ms. Saint-Denis argued that, in this case, the Manager had an obligation to "verify" the investigation report in the manner described above, which she failed to do, and that the Decision is consequently unreasonable and unfair.
- [47] Also at the hearing, Ms. Saint-Denis stated that paragraph 128 of the Investigation Report should obviously have sent a clear signal to the Manager that the Investigation Report was not reasonable since it addressed only harassment and not violence, which was the sole subject of her complaint.
- (2) Attorney General of Canada [48] The AGC first responds that it is not the role of this Court to reassess an investigator's evidence on judicial review (*Vavilov* at para 125; *Green v Canada (Aboriginal Affairs and Northern Development)*, 2017 FC 1121 at paras 50–51; *Lewis v Canada (Attorney General)*, 2021 FC 1385 at paras 42–43). In this case, the AGC submits that the Investigation Report is complete and that it was open to the Investigator to conclude that the occurrences did not meet the definition of "harassment and violence" set out in the CLC.

- [49] He adds that the Investigator clearly identified the issue to be decided as part of the investigation, and the 11 occurrences are consistent with the notice of occurrence filed by Ms. Saint-Denis. The AGC alleges that the Investigator concluded that the supervisor behaved in an appropriate, measured and respectful manner, among other things, after considering the documentary evidence and the testimonies of Ms. Saint-Denis, the supervisor and the six other witnesses. The AGC notes that the Investigator considered the definition of “harassment and violence” set out in the CLC.
- [50] In the AGC’s view, the reasons and conclusion in the Investigation Report are therefore justified, intelligible and transparent. The AGC notes that Ms. Saint-Denis’s arguments demonstrate nothing more than her disagreement with the conclusion reached by the Investigator.
- [51] Next, the AGC submits that the Decision bears the hallmarks of reasonableness and that it is justified in relation to the relevant factual and legal constraints.
- [52] The AGC distinguishes Pothier, cited by Ms. Saint-Denis, from the facts of this case, since the statutory and regulatory framework in effect in that case no longer applies. The AGC notes that the new Regulations no longer provide a mechanism for challenging the investigation report.
- [53] The AGC also argues, among other things, that (a) the purpose of the investigation was to investigate allegations of “harassment and violence”, in accordance with the Regulations, and not specifically psychological abuse; and (b) the Investigator was the only person who could determine the credibility of the witnesses. On the latter point, the AGC adds that the Investigator noted the reasonable person principle in her Investigation Report and stated that she had considered all applicable policies and regulations and analyzed all of the evidence gathered in making her findings and recommendations.
- [54] Finally, the AGC notes that the role of the Court is not to reweigh and reassess the evidence in the record (Vavilov at para 125) and that the Court’s intervention is not warranted in this case.

E. Ms. Saint-Denis has not shown that the Decision was unreasonable [55] First, it should be recalled that Ms. Saint-Denis’s application for judicial review concerns the Decision not to conduct a new investigation; it does not concern the Investigation Report or the investigation process.

- [56] Ms. Saint-Denis’s main argument, as she confirmed it at the hearing, is that the Manager had an obligation to verify the quality and fairness of the investigation process and the reasonableness of the Investigation Report. Ms. Saint-Denis argues that this obligation stems from the realization that the current Regulations now provide no recourse, even though this type of administrative verification process is necessary.

- [57] With respect, the Court is of the view that this argument cannot succeed, as the Regulations simply make no such provision. Parliament replaced the regulatory framework under the COHSR with a streamlined scheme that does not provide for an internal review process like the one that existed before and that this Court dealt with in *Pothier*. The parties confirmed unequivocally at the hearing that the scheme that was in effect and applicable to the facts of the decision in *Pothier*—a scheme that specifically provided for the option of filing a new complaint to challenge an investigation report under subsection 127.1(1) of the CLC—no longer exists. However, Ms. Saint-Denis did not challenge the legality or constitutional validity of the new scheme, and her position is not supported by the current statutory and regulatory framework. Obviously, the Court cannot create the law; it can only apply it.
- [58] In *Marentette*, Justice Henry S. Brown outlined the goals of enacting the Regulations as expressed in the executive summary of the Regulatory Impact Analysis Statement published in the *Canada Gazette*, Part I, Volume 153, Number 17. At paragraph 49, Justice Brown, quoting the Impact Analysis Statement executive summary, specifically highlighted the following:

By creating a single, streamlined regime that would encompass the full continuum of actions from teasing and bullying to physical violence, the legislation and the Regulations will increase protections for workers and eliminate the current duplication regarding prevention of work place harassment and violence.

- [59] The Court notes in passing that in *Marentette*, the application for judicial review specifically addressed the investigation that led to the report and the final investigation report itself. Justice Brown found that there had been breaches of procedural fairness in the investigation that fatally tainted the process, such that he did not have to make a determination on the reasonableness of the investigation report. That decision does not really apply to the facts of this case, since Ms. Saint-Denis's application does not relate to the Investigation Report but rather to the Decision.
- [60] Ms. Saint-Denis has not otherwise shown that the Decision was unreasonable. First of all, as the person who met with and heard the witnesses, the Investigator was the one who could rule on their credibility. There is no indication that the Manager has the authority to assess an investigator's findings in this regard. It is therefore not unreasonable for the Manager not to have agreed to Ms. Saint-Denis's request on this ground. Moreover, Ms. Saint-Denis has not detailed how the credibility of the witnesses was actually at issue or provided specific examples in which the witnesses allegedly presented conflicting versions.
- [61] The Court reaches the same conclusion after examining the second ground put forward by Ms. Saint-Denis regarding the Investigator's misapprehension of the Complaint of March 14, 2021. Ms. Saint-Denis referred to the element of violence in one of the occurrences in her complaint; however, in her email of January 4, 2024, she made no reference to violence and merely emphasized that her complaint did not concern harassment. In her email dated January 5, 2024, the Manager nevertheless replied that, in accordance with the Complaint of

March 14, 2021, the process addressed harassment and violence.

[62] Subsection 122(1) of the CLC, above, provides only a joint definition for the terms “violence” and “harassment”, making no distinction between the two. This definition of harassment and violence is also quoted on the first page of the Form 3919 that Ms. Saint-Denis submitted on May 30, 2021. The Investigator also referred to the same definition on the first page of the Investigation Report and quoted it again in paragraph 122. Without clarification from Ms. Saint-Denis and given the conflation of harassment and violence in the definition set out in the CLC, the appellant has failed to demonstrate that it is unreasonable for the Manager to have concluded that the process followed by the Investigator concerned harassment and violence.

[63] Thus, Ms. Saint-Denis has not convinced the Court that the Investigator misapprehended the essence of the complaint. In the context of this case, the Investigator’s failure to mention violence in addition to harassment in her Investigation Report is not sufficiently central or significant to render the Manager’s Decision unreasonable (Vavilov at para 100).

F. Ms. Saint-Denis has failed to demonstrate that the Manager breached the principles of procedural fairness [64] At the hearing, Ms. Saint-Denis explained that the argument regarding her right to be heard was based on the fact that the fears she expressed in her email of January 4, 2024, had not been addressed by the Manager.

[65] In *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at 838–840 [Baker], the Supreme Court of Canada established the rights arising from the duty of procedural fairness:

28 ... The values underlying the duty of procedural fairness relate to the principle that the individual or individuals affected should have the opportunity to present their case fully and fairly, and have decisions affecting their rights, interests, or privileges made using a fair, impartial, and open process, appropriate to the statutory, institutional, and social context of the decision.

[66] At paragraph 127 of Vavilov, the Supreme Court of Canada stated that “[t]he concept of responsive reasons is inherently bound up with this principle [of the right to be heard], because reasons are the primary mechanism by which decision makers demonstrate that they have actually listened to the parties” [emphasis in original].

[67] Here, Ms. Saint-Denis has not convinced the Court that the Manager breached the principles of procedural fairness. There is no indication that Ms. Saint-Denis did not know the case to meet or that she was prevented from presenting her arguments to the Manager. On the contrary, email exchanges between the Manager and Ms. Saint-Denis tend to show that Ms. Saint-Denis had an opportunity to share her concerns about the Investigation Report. The following excerpt from the Manager’s email of January 2, 2024, to Ms. Saint-Denis is particularly telling in this regard:

[translation]

Hello France,

There is no process for grieving or appealing the final investigation report or our process.

If you like, you may share your concerns and/or issues with the report with me for our information only. However, if you have any doubts regarding the manner in which the investigation was conducted, the results of the investigation, or the investigator's conduct, you should consult with your union representative and/or legal counsel.

[68] Then, in her email of January 5, 2024, the Manager reiterated the Investigator's mandate and told Ms. Saint-Denis that, if she had any doubts regarding the investigation and/or the Investigation Report, she could consult with her union representative and/or her legal counsel.

[69] Given these exchanges, the Court is satisfied that Ms. Saint-Denis's argument actually expresses her disagreement with the Decision, which does not breach her right to be heard.

[70] Furthermore, Ms. Saint-Denis did not specify which relevant documents the Manager allegedly failed to consider. Accordingly, and assuming that the Manager was even required to consider them before making her Decision, this argument cannot succeed.

V. Conclusion [71] Ms. Saint-Denis has not demonstrated that the Manager has the power or the duty to verify the Investigation Report to ensure that, in substance, it addresses the elements of the complaint, results from a fair process, and is reasonable, nor has she demonstrated that the Decision is unreasonable. Finally, Ms. Saint-Denis has not convinced the Court that the Manager breached the principles of procedural fairness.

[72] Therefore, the application for judicial review will be dismissed.

[73] At the hearing, the AGC requested costs in a lump sum amount of \$500, while Ms. Saint-Denis requested solicitor-client costs of \$5,000. Considering the outcome of this application, the Court awards costs to the AGC in the amount of \$500.

JUDGMENT in T-103-24

THIS COURT'S JUDGMENT is that:

The application for judicial review is dismissed.

Costs in the amount of \$500 are awarded to the AGC.

"Martine St-Louis"

blank

Associate Chief Justice

Certified true translation

Vera Roy, Senior Jurilinguist

FEDERAL COURT

SOLICITORS OF RECORD

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T-103-24

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PLACE OF HEARING:

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January 29, 2025

JUDGMENT AND REASONS BY:

ST-LOUIS ACJ

DATED:

March 5, 2025

APPEARANCES:

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For the applicant

Marc Séguin

For the respondent

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