Federal Court Cour fédérale

Date: 20251219

Docket: T-1137-24

Citation: 2025 FC 2011

Ottawa, Ontario, December 19, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

DANIEL STEFFES

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Constable Daniel Steffes, seeks judicial review of the April 9, 2024 decision of the Royal Canadian Mounted Police (RCMP) Final Level Adjudicator (FLA), who upheld the Initial Level Adjudicator (ILA) decision dismissing his grievance. The grievance relates to a delay in the transfer of Cst. Steffes to an Indigenous Policing Services (IPS) position.

[2] This judicial review is granted as I have concluded that the findings on the reasons for the delay in Cst. Steffes transfer and the interpretation of chapter 3 section 1.1.15 of the RCMP Career Management Manual (CMM) are not reasonable.

I. Background

[3] Cst. Steffes is an RCMP member who was selected on July 8, 2020 for a lateral transfer to an IPS position with Sidney/North Saanich. The next day, July 9, 2020, Staff Sgt. Conley advised Cst. Steffes that his transfer depended on three other personnel moves that were anticipated to be completed by September 2020.

[4] In August 2020, RCMP Inspector Stewart advised Staff Sgt. Conley that another RCMP Officer was selected by the Indigenous community for the IPS position, and that member was expected to file a grievance. Consequently, Staff Sgt. Conley kept the position vacant pending the outcome of the grievance.

[5] Cst. Steffes filed a grievance on October 21, 2020. Cst. Steffes was ultimately transferred to the IPS position on March 22, 2021, prior to hearing of his grievance.

A. *The ILA decision – January 16, 2023*

[6] As a preliminary matter, the ILA determined that the grievance was not moot, because the outcome had tax implications for Cst. Steffes.

[7] On the merits of the grievance, the ILA considered Cst. Steffes' position that his transfer was delayed because of a grievance filed by another RCMP Officer, contrary to the RCMP's CMM chapter 3 section 1.1.15 (the "Policy"), which states that "[t]he presentation of a grievance or an appeal will not suspend or otherwise delay the transfer process". The ILA rejected this argument, determining that the provision only "applies to situations where a grievor is grieving their own transfer".

[8] The ILA accepted the Respondent's position that the delay was due to normal administrative processes and COVD-19. A July 9, 2020 email stated that Cst. Steffes' transfer was contingent on staffing and logistical considerations, and according to CMM chapter 3 section 6.1.2, the Delegated Manager for Human Resources may cancel or delay a transfer "[w]hen the circumstances warrant". The ILA found that the Respondent was authorized to delay the transfer and that the explanation for the delay was reasonable, and dismissed the grievance.

[9] Cst. Steffes challenged the ILA's decision to the Final Level.

B. *Decision under review - FLA decision – April 9, 2024*

[10] The FLA first considered Cst. Steffes' request for further disclosure by the RCMP. Specifically, Cst. Steffes sought documents relating to verbal discussions he had about the reasons for his delayed transfer. The FLA rejected this request, because Cst. Steffes did not know what specific documents he sought and the *Royal Canadian Mounted Police Act*, RSC 1985, c

R-10, ss 31(4) requires the person seeking the documents to establish that they exist in written form.

[11] The FLA then found that there was no error in law or procedural fairness issues in the ILA's decision. As such, the FLA could only overturn the decision if it were "clearly unreasonable". The FLA noted Federal Court jurisprudence equating the "clearly unreasonable" standard with the "patently unreasonable" standard.

[12] The FLA found that the ILA had properly characterized the evidence of the Respondent in reaching the conclusion that the delay was for reasons unrelated to the third-party grievance. The FLA also accepted the ILA's conclusion that the Policy does not apply to third-party grievances.

II. Issues

[13] On this judicial review, Cst. Steffes submits that the FLA's decision is unreasonable on the following two grounds:

A. first, the FLA misapprehended the evidence on the cause of the delayed transfer; and

B. second, the FLA erred in their interpretation of the provisions of the CMM.

III. Standard of review

[14] The standard of review for RCMP internal grievance decisions is reasonableness (*Poiron v Canada (Attorney General)*, 2021 FC 1175 at para 27). Reasonableness also applies to the review of the FLA consideration of the "patently unreasonable" standard (*McGillivray v Canada (Attorney General)*, 2021 FC 443 at para 27).

IV. Analysis

A. *FLA misapprehended the evidence on the cause of the delayed transfer*

[15] Cst. Steffes argues that FLA's decision is unreasonable for upholding the ILA finding that the transfer was delayed for reasons other than the third-party grievance. He submits that there is no evidence on the record to support that finding.

[16] The FLA upheld the ILA finding, stating:

> [34] At the initial level, the Respondent argued that the Grievor was informed, on July 8, 2020, of being the selected candidate for the Indigenous Policing position. However, in the email sent on July 9, 2020, the Grievor was also informed that he would assume his new role after a replacement for his current position was found. The Respondent disclosed an email dated February 15, 2021, from the Career Development and Resourcing Advisor, which states that the Grievor's transfer was proceeding.
>
> [35] At paragraph 34 of her decision, the initial level adjudicator states that she accepts the Respondent's statement that the delay was affected by logistical and staffing matters. I find that the initial level decision properly characterized the evidence provided by the Respondent.

[17] The finding of the ILA is as follows:

> [34] The Record reflects that several members involved in the Grievor's transfer process were of the impression that the Grievor's transfer was delayed as a result of another member grieving their non-selection for the position. However, the Respondent presents evidence that the transfer was affected by logistical and staffing matters. Thus, I find that the Respondent provided a reasonable explanation for the delay.

[18] The July 9, 2020 email from Staff Sgt. Conley to Cst. Steffes, which is relied upon by the ILA and in turn the FLA, states :

> As discussed today the staffing of the Sidney First Nation policing position will involve your internal transfer from a General Duty position to the First Nation policing position. The timing of this transfer is dependent upon the return of one constable on GRW, the incoming transfer of one constable from Port McNeil and the completion of field training by one constable on D Watch. Once these changes are in place and there are no unforeseen or new resource shortages we will proceed with the internal transfer. The anticipated timing of this change is in late September when Constable Gunton completes his field training. The one caveat to any change in this planning would be an unexpected shortage of resources that changes the priority for delivery of policing services by our detachment. There will also be a requirement to transfer a replacement member for the vacant general duty position and we will work with our local CDRA for those staffing actions.

[19] Both the ILA and the FLA rely upon the July 9, 2020 email as evidence to find that "the delay was affected by logistical and staffing matters". However, the July 9, 2020 email, which was sent the day after Cst. Steffes was advised that he was selected for the IPS position, only states that Cst. Steffes would be transferred in September 2020, provided there were "no unforeseen or new resource shortages" in filling his position. The email does not state that there were "logistical and staffing" issues but merely notes these factors might be considerations. The

Respondent did not provide any evidence to the Adjudicator to establish that the delay was in fact due to “logistical and staffing” issues.

[20] In contrast, the record contains multiple pieces of evidence supporting Cst. Steffes’ claim that the delay was due to a grievance filed by another RCMP member. For example, a September 18, 2020 email from the IPS Advisory NCO Sgt. Michael Carey to Staff Sgt. Conley states:

> I met with Cst Pam Bolton yesterday who is fully committed and would like to proceed with the Sidney/North Saanich IPS position. Pam added how an investigator has been assigned and been in contact about her grievance. I recall you were hoping to place Cst Steffes in the IPS position this month however I'd recommend this position be left vacant for the time being until we have further discussions on next steps which include the grievance process.

[21] An email dated November 20, 2020 from Staff Sgt. Conley states “[a]nother member has also filed a grievance and I have been requested not to proceed with filling the position pending a decision by senior management”.

[22] In sum, the evidence before the ILA does not support a finding of fact that the delay was due to staffing issues. While the ILA may have assumed that was the case, based on the July 9, 2020 email, this assumption is directly contradicted by the evidence indicating that the delay was due to the filing of a grievance by a third-party.

[23] Deference is owed to findings of fact made by the ILA (and accepted by the FLA) under the patently unreasonable standard, unless “the evidence, viewed reasonably, is incapable of

supporting a [decision maker's] findings of fact" (*British Columbia (Workers' Compensation Appeal Tribunal) v Fraser Health Authority*, 2016 SCC 25 at para 30 [*BC (Workers' Compensation Appeal Tribunal*], citing *Toronto (City) Board of Education v OSSTF, District 15*, 1997 CanLII 378 (SCC) at para 45). "Because a court must defer where there is evidence *capable of supporting* (as opposed to *conclusively demonstrating*) a finding of fact, patent unreasonableness is not established where the reviewing court considers the evidence merely to be insufficient" (*BC (Workers' Compensation Appeal Tribunal)* at para 30). [Emphasis in original.].

[24] In my view, the evidence before the Adjudicator does not support the finding of fact made, accordingly, no deference is owed to the conclusions of the ILA and the FLA. This is not a situation where there was "insufficient evidence" on the issue of the delay in transfer; rather, there was evidence before the Adjudicator in direct contradiction to the factual finding made. A finding of fact is patently unreasonable if the evidence, viewed reasonably, cannot support the finding of fact (*BC (Workers' Compensation Appeal Tribunal)* at para 30).

[25] In upholding the ILA's decision, the FLA misconstrued the only evidence relied upon. It was not reasonable to find that the July 9, 2020 email, which provided conditions precedent for the transfer, was proof that those conditions actually existed during the delay period between September 2020 to February 2021. There was no evidence supporting the ILA finding that the delayed transfer was due to staffing and logistical issues, but there was significant evidence opposing this finding. As such, the FLA's conclusion, that the ILA's finding of fact was not patently unreasonable, is outside a range of possible and acceptable outcomes and therefore is

unreasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 86 [*Vavilov*]).

B. *FLA erred in their interpretation of the provisions of the CMM*

[26] Cst. Steffes argues that the ILA interpretation of the CMM policy 3.1.1.15 is devoid of any analysis and merely makes conclusory statements and the FLA repeated this error by simply accepting the ILA position that the provision did not apply. Cst. Steffes argues that this provision was being improperly used as a basis to delay his transfer.

[27] The CMM Policy 3.1.1.15 states that "[t]he presentation of a grievance or an appeal will not suspend or otherwise delay the transfer process."

[28] The ILA found as follows on this issue:

> Policy at CMM 3.1.1.15 explicitly states that a transfer will not be delayed or suspended due to a grievance. However, this section applies to situations where a grievor is grieving their own transfer. In this case, another member was grieving not being selected for the Indigenous Policing position for which the Grievor was selected. As such, I find that CMM 3.1.1.15 does not apply to the Grievor's circumstances.

[29] The FLA upheld the ILA's conclusion, stating:

> Furthermore, the Grievor had argued that the delay was due to a third-party grievance. The initial level adjudicator addressed this argument by noting that though the Respondent did not agree with this, there was nothing in policy that prevented the Respondent from delaying a lateral transfer as a result of a third-party grievance.

[30] The ILA concluded that the Policy does not apply to third-party grievances, despite the Policy only stating that the "presentation of a grievance or an appeal will not suspend or otherwise delay the transfer process". The ILA did not conduct any contextual analysis of the wording of the Policy or grapple with the fact that the words "third-party grievance" do not appear in that section. The FLA deferred to the ILA's finding and did not itself consider or conduct any analysis of this provision of the Policy.

[31] Even accepting that the ILA's interpretation of the RCMP Policy is owed deference, *Vavilov* states that "deference under the reasonableness standard is best given effect when administrative decision makers provide intelligible and transparent justification for their decisions" (*Vavilov* at para 98, citing *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at para 54). Further, any interpretation "must be consistent with the text, context and purpose of the provision" (*Vavilov* at para 120). Here the FLA provided no justification for upholding the ILA's interpretation of the Policy and therefore is not owed deference.

[32] Reasonableness requires a decision to be transparent, justified, and intelligible, as part of the "culture of justification" emphasized in *Vavilov* (at paras 14, 86). The FLA's decision, in simply upholding the ILA's interpretation, renders this finding unreasonable.

V. Conclusion

[33] This judicial review is granted and Cst. Steffes is entitled to costs.

JUDGMENT IN T-1137-24

THIS COURT'S JUDGMENT is that:

1. The Applicant's judicial review application is granted;

2. The Final Level decision of April 9, 2024 is set aside and the matter is to be redetermined by a different final level adjudicator; and

3. The Respondent shall pay the Applicant's costs in the all-inclusive amount of $3.000.00.

"Ann Marie McDonald"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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