

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250602

Docket: A-288-24

Citation: 2025 FCA 108

**CORAM: BOIVIN J.A.
ROUSSEL J.A.
PAMEL J.A.**

BETWEEN:

R. MAXINE COLLINS

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on May 29, 2025.

Judgment delivered at Ottawa, Ontario, on June 2, 2025

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

CONCURRED IN BY:

**ROUSSEL J.A.
PAMEL J.A.**

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REASONS FOR JUDGMENT

BOIVIN J.A.

[1] This is an appeal from the decision of the Federal Court rendered on August 9, 2024 (2024 FC 1250, the Decision). The Decision granted the Respondent's motion, brought in writing pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106, requesting that the Appellant's action be removed from the operation of the rules for simplified actions and that, pursuant to subsection 221(1) of the *Federal Courts Rules*, the Appellant's Statement of Claim

be struck in its entirety without leave to amend and that the action be dismissed. The Appellant, Ms. Collins, opposed the motion and requested an oral hearing.

[2] The Federal Court determined that the central issue before it, whether the Appellant improperly named the Attorney General of Canada (AGC) as the Defendant in the action, was a legal question and as such an oral hearing was not warranted (Decision at para. 3). The Federal Court then concluded that the AGC was improperly named as a party to the action, and also struck the Statement of Claim as it did not disclose a reasonable cause of action against the AGC (Decision at para. 4).

[3] Before this Court, the Appellant essentially alleges that the Federal Court erred in its treatment of the Respondent's motion. In particular, the Appellant argues that the Federal Court erred by failing to apply this Court's decision in *Mohr v. National Hockey League*, 2022 FCA 145 [*Mohr*]. The Appellant also raises what she characterizes as a deficiency in the Respondent's Notice of Motion. Further, the Appellant has brought a motion before this Court pursuant to subsection 221(1) of the *Federal Courts Rules*, to strike paragraphs 11 and 12 of the Respondent's Memorandum of Fact and Law.

[4] The applicable standard of review in this case is as set out in *Housen v. Nikolaisen*, 2002 SCC 33 (CanLII), [2002] 2 S.C.R. 235 (*Housen*).

[5] Following a careful review of the Appellant's submissions and having considered the arguments she made before us, I am not persuaded by the Appellant's argument that the Federal

Court erred in failing to apply the principles set out by this Court *in Mohr*. I also find that the Federal Court did not err in determining that the AGC was improperly named as a party to the action. The Federal Court properly identified the criteria for striking the Statement of Claim at paragraphs 31 and 32 of its Decision; it then thoroughly reviewed the Appellant's Statement of Claim, the applicable jurisprudence, and the relevant statutory provisions. In my view, the Federal Court did not err in concluding that the Statement of Claim, as pleaded, had no possibility of success against the AGC and that it could not be drafted in such a way as to require the AGC to respond, in the circumstances of this case (Decision at para. 54), such that it was plain and obvious that the Statement of Claim disclosed no reasonable cause of action against the AGC.

[6] With respect to the removal of the Appellant's action from the operation of simplified action rules and its refusal of the Appellant's request for an oral hearing, it was open to the Federal Court to exercise its discretion as it did, and the Appellant has not demonstrated any error in that regard. I am also not persuaded that the Respondent's Notice of Motion was deficient in any way.

[7] Finally, regarding the Appellant's motion requesting that two paragraphs of the Respondent's Memorandum of Fact and Law be struck, I have not been convinced that these paragraphs raise a new jurisdictional argument that was not before the Federal Court, as alleged by the Appellant.

[8] For the foregoing reasons, the motion is dismissed, and this appeal is dismissed with costs in the all-inclusive amount of \$1,000.

"Richard Boivin"

J.A.

"I agree.

Sylvie E. Roussel J.A."

"I agree.

Peter G. Pamel J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-288-24

STYLE OF CAUSE: R. MAXINE COLLINS v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: MAY 29, 2025

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: ROUSSEL J.A.
PAMEL J.A.

DATED: JUNE 2, 2025

APPEARANCES:

R. Maxine Collins FOR THE APPELLANT
ON HER OWN BEHALF

Taylor Andreas FOR THE RESPONDENT
Adam Lupinacci

SOLICITORS OF RECORD:

Shalene Curtis-Micallef FOR THE RESPONDENT
Deputy Attorney General of Canada