

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20250902**

**Docket: A-242-24**

**Citation: 2025 FCA 154**

**CORAM: DE MONTIGNY C.J.  
GOYETTE J.A.  
BIRINGER J.A.**

**BETWEEN:**

**PROFESSIONAL ASSOCIATION OF FOREIGN SERVICE OFFICERS**

**Applicant**

**and**

**PATRICE LAQUERRE**

**Respondent**

Heard at Ottawa, Ontario, on September 2, 2025.

Judgment delivered from the Bench at Ottawa, Ontario, on September 2, 2025.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**BIRINGER J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Ottawa, Ontario, on September 2, 2025).**

**BIRINGER J.A.**

[1] The applicant, the Professional Association of Foreign Service Officers, seeks judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the Board): 2024 FPSLREB 83 (Decision). The Board found that the applicant, the respondent's bargaining agent, had failed to seriously consider the respondent's grievance, violating the

union's duty of fair representation: Decision at paras. 90-92. The grievance concerned an education allowance for Mr. Patrice Laquerre's stepdaughters, a matter arising under a directive incorporated by reference into the governing collective agreement.

[2] The standard of review for the Board's decision is reasonableness: *Burns v. Unifor Local 2182*, 2025 FCA 39, at para. 3; *Walcott v. Public Service Alliance of Canada*, 2024 FCA 68, at para. 5; *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at para. 85 [*Vavilov*].

[3] The applicant submits that the Board's decision was unreasonable because it applied excessive scrutiny to the bargaining agent's decision and improperly determined that the bargaining agent's decision was arbitrary. The applicant also submits that the Board unreasonably second-guessed the bargaining agent's determination, substituting its own conclusion on the merits of the respondent's grievance. We disagree.

[4] The duty of fair representation owed by a union to its members is codified in section 187 of the *Federal Public Sector Labour Relations Act*, S.C. 2003, c. 22, s. 2 (the Act) which provides as follows:

**Unfair representation by bargaining agent**

187 No employee organization that is certified as the bargaining agent for a bargaining unit, and none of its officers and representatives, shall act in a manner that is arbitrary or discriminatory or that is in bad faith in the representation of any employee in

**Représentation inéquitable par l'agent négociateur**

187 Il est interdit à l'organisation syndicale, ainsi qu'à ses dirigeants et représentants, d'agir de manière arbitraire ou discriminatoire ou de mauvaise foi en matière de représentation de tout fonctionnaire qui fait partie de l'unité dont elle est

the bargaining unit.

l'agent négociateur.

[5] A bargaining agent may refuse to present an individual's grievance but this discretion "must be exercised in good faith, objectively and honestly, after a thorough study of the grievance and the case", balancing the significance of the grievance to the employee and the interests of the union: *Canadian Merchant Service Guild v. Gagnon et al.*, [1984] 1 S.C.R. 509, at p. 527 (S.C.C.) [*Gagnon*].

[6] As the respondent's grievance involved interpretation of the collective agreement, the respondent could not grieve the matter independently: subsection 208(4) of the Act. The Board reasonably concluded that heightened scrutiny of the bargaining agent's representation is warranted where the employee requires the union's assistance to bring a grievance: Decision at paras. 75-76; *Noël v. Société d'énergie de la Baie James*, 2001 SCC 39, [2001] 2 S.C.R. 207, at paras. 50-55.

[7] The Board also considered whether the bargaining agent's decision was arbitrary, in light of relevant case law that asks whether the bargaining agent "has seriously turned its mind to an employee's situation": Decision at para. 78; see also *Gendron v. Supply and Services Union of the Public Service Alliance of Canada, Local 50057*, [1990] 1 S.C.R. 1298, at pp. 1328-29 (S.C.C.) and *Gagnon* at p. 527. Ultimately, whether a bargaining agent has acted arbitrarily is a deeply factual matter to be determined based on all of the relevant circumstances: *Judd v. C.U.P.E., Local 2000* (2003), 91 C.L.R.B.R. (2d) 33, 2003 CanLII 62912, at para. 47 (B.C.L.R.B.).

[8] The Board recognized the bargaining agent’s expertise and deep knowledge of the matter at issue but concluded that this very knowledge “closed his mind” and led to an analysis that was “superficial” and “cursory”, and therefore arbitrary: Decision at paras. 88-93. It was open to the Board to come to this conclusion based on the particular facts of this case.

[9] Further, the applicant alleges that the Board disregarded its “core argument”—the bargaining agent’s interest in maintaining a consistent interpretation of the collective agreement, which was challenged by the respondent’s novel interpretation. It is unclear whether the respondent was told that this was a reason for refusing to pursue the grievance or how the respondent’s interpretation would be adverse to other union members or undermine relations with the employer or other bargaining units. However, any dispute over interpreting the collective agreement would not have altered the union’s duty to adequately consider the significance of the grievance to the respondent. The Board reasonably concluded that this duty was not fulfilled.

[10] Finally, we reject the submission that the Board relied on its own analysis of the merits of the respondent’s claim. The Board expressly stated that this was not the basis for its decision, and we find that the Board’s reasons and order reflect this: Decision at paras. 25, 57, 73, 86, 93.

[11] In our view, the applicant has not identified any reviewable error in the Board’s decision. The Board’s reasons for finding a violation of the duty of fair representation bear the hallmarks of reasonableness—justification, transparency, and intelligibility—and are justified in relation to the factual and legal constraints: *Vavilov* at para. 99.

[12] The application will be dismissed, without costs.

“Monica Biringer”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-242-24

**STYLE OF CAUSE:** PROFESSIONAL ASSOCIATION  
OF FOREIGN SERVICE  
OFFICERS v. PATRICE  
LAQUERRE

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** SEPTEMBER 2, 2025

**REASONS FOR JUDGMENT OF THE COURT BY:** DE MONTIGNY C.J.  
GOYETTE J.A.  
BIRINGER J.A.

**DELIVERED FROM THE BENCH BY:** BIRINGER J.A.

**APPEARANCES:**

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