

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251007

Docket: A-50-25

Citation: 2025 FCA 181

**CORAM: GLEASON J.A.
ROUSSEL J.A.
WALKER J.A.**

BETWEEN:

NICOLAS JUZDA

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on September 24, 2025.

Judgment delivered at Ottawa, Ontario, on October 7, 2025.

REASONS FOR JUDGMENT BY:

ROUSSEL J.A.

CONCURRED IN BY:

**GLEASON J.A.
WALKER J.A.**

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REASONS FOR JUDGMENT

ROUSSEL J.A.

[1] Mr. Juzda appeals from a judgment of the Federal Court (2025 FC 63) dated January 13, 2025, dismissing his application for judicial review of a decision rendered by the Official Delegated by the Head of Compliance and Enforcement (Head) at the Labour Program of Employment and Social Development Canada (ESDC). The Head concluded that Mr. Juzda's

refusal to work was frivolous pursuant to paragraph 129(1)(b) of the *Canada Labour Code*, R.S.C. 1985, c. L-2 and did not require further investigation.

[2] Mr. Juzda's refusal to work was initiated pursuant to subsections 128(1) and 128(6) of the Code on March 3, 2023. The refusal was based on Mr. Juzda's continuing concerns regarding the COVID-19 pandemic and followed the implementation by his employer, Elections Canada, of the Treasury Board Secretariat (TBS) directive requiring government employees to return to work at their office location at least two days per week. Mr. Juzda alleged that COVID-19 was a highly contagious airborne illness that could have long-term effects and that, while his employer's precautions met the minimum standards set by the TBS, they were insufficient to create a safe work environment or to discharge the employer's obligations under the Code.

[3] The Employer Report prepared pursuant to subsection 128(7.1) of the Code, and the Employee Workplace Committee Report, prepared pursuant to subsection 128(10.1) of the Code, both concluded that Mr. Juzda's allegations of danger were without basis. Mr. Juzda maintained his refusal to work, and the matter was referred to the Head pursuant to subsection 128(16) of the Code.

[4] On November 1, 2023, the Head determined that Mr. Juzda's refusal to work was frivolous in the sense that it lacked legal basis or legal merit, had little prospect of success, or was not serious or reasonably purposeful. The Head found in particular that Mr. Juzda's concerns regarding his health were speculative and hypothetical, and that he did not consider the control

measures his employer put in place, which adhered to governmental safety guidelines and were frequently assessed and communicated to all staff.

[5] Mr. Juzda sought judicial review, claiming that the Head's decision was unreasonable and that it had been rendered in a procedurally unfair manner. The Federal Court disagreed.

[6] In my view, much of Mr. Juzda's submissions on appeal revolve around the adequacy of the reasons provided by the Head. While the reasons could have been more fulsome, I am satisfied that they meet the requirements of a reasonable decision when read in light of the relevant legal and factual constraints. Reasons need not be perfect and cannot be divorced from the institutional context in which the decision was made (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65).

[7] The decision not to investigate a refusal to work pursuant to paragraph 129(1)(b) of the Code involves a broad exercise of discretion in a process that is neither adjudicative nor adversarial in nature and which is intended to screen out work refusals expeditiously (*Duiker v. Canada (Attorney General)*, 2024 FCA 195 at para. 12; *Gupta v. Canada (Attorney General)*, 2017 FCA 211 at para. 31; *Duiker v. Canada (Attorney General)*, 2023 FC 701 at paras. 54, 67, 75; *Burlacu v. Canada (Attorney General)*, 2022 FC 1223 at para. 21). As such, one cannot expect the Head to provide as full and as detailed reasons as one would expect from adjudicative tribunals (*Goldberg v. Canada (Attorney General)*, 2024 FC 1046, at paras. 2, 17, 20, 27-28).

[8] I am also satisfied that the reasons sufficiently grapple with the key concerns raised by Mr. Juzda in his refusal to work. Although it is unfortunate that the Head's reasons mention only the notion of "imminent danger", the failure to refer to the "serious threat" posed by a return to the workplace as raised by Mr. Juzda does not render the decision unreasonable. The Head had the benefit of the earlier Workplace Committee Report, which considered Mr. Juzda's allegations and found that no imminent danger or serious threat had been identified. I also note that Mr. Juzda had not claimed that his workplace was subject to any specific risk greater than the risk elsewhere in the government or society in general. In my view, his refusal to work stemmed more from a disagreement about the adequacy of the policies and safety recommendations adopted by the governmental authorities in response to their assessment of the threat posed by COVID-19, than from an allegation that a "serious threat" existed in light of circumstances specific to him or his workplace.

[9] As for the allegation of a reasonable apprehension of bias on the part of the ESDC health and safety officer appointed to conduct a preliminary review of the refusal to work, I find that Mr. Juzda has not met the high threshold for establishing real or perceived bias (*R. v. S. (R.D.)*, [1997] 3 S.C.R. 484 at paras. 36-37, 49, 113; *Committee for Justice and Liberty et al. v. National Energy Board et al.*, [1978] 1 S.C.R. 369 at 394). The record establishes that the health and safety officer only made his recommendations after consulting with several employees within the ESDC Occupational Health and Safety apparatus. Further, to the extent Mr. Juzda was concerned that the decision whether to investigate his work refusal would be tainted by the officer's alleged bias, he should have raised his concerns with the Head at that time.

[10] Moreover, notwithstanding Mr. Juzda's allegation regarding his inability to submit the recordings of past interviews, the record shows that Mr. Juzda had the opportunity to present his case fully and fairly, and that he actively participated in the whole process relating to his refusal to work. The degree of procedural fairness owed to Mr. Juzda was at the lower end of the scale, and I am satisfied that there was no unfairness having regard to all the circumstances.

[11] Since this is an appeal from an application for judicial review before the Federal Court, I am required to step into the shoes of the Federal Court and focus on the Head's decision under *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36. However, when the Federal Court appears to have given a complete answer to the arguments advanced by the appellant on judicial review, as is the case here, the appellant bears a strong tactical burden to demonstrate on appeal that the Federal Court's reasoning is flawed and justifies appellate intervention (*Bank of Montreal v. Canada (Attorney General)*, 2021 FCA 189 at para. 4, leave to appeal to SCC refused 39899 (7 April 2022)). Mr. Juzda has not demonstrated any such flaw.

[12] For the reasons provided by the Federal Court, I agree that Mr. Juzda has not met his burden of demonstrating that the Head's decision is unreasonable or that it was rendered in a procedurally unfair manner (*Vavilov* at para. 100; *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69).

[13] I would therefore dismiss the appeal with costs in the all-inclusive amount of \$500.

"Sylvie E. Roussel"

J.A.

"I agree.

Mary J.L. Gleason J.A."

"I agree.

Elizabeth Walker J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-50-25

STYLE OF CAUSE: NICOLAS JUZDA v. THE
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: SEPTEMBER 24, 2025

REASONS FOR JUDGMENT BY: ROUSSEL J.A.

CONCURRED IN BY: GLEASON J.A.
WALKER J.A.

DATED: OCTOBER 7, 2025

APPEARANCES:

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ON HIS OWN BEHALF

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