

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251230

Docket: A-154-24

Citation: 2025 FCA 233

[TRANSLATION]

**CORAM: LOCKE J.A.
ROUSSEL J.A.
ROCHESTER J.A.**

BETWEEN:

KARINE LAVOIE AND SLIM REHIBI

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on December 17, 2025.

Judgment delivered at Ottawa, Ontario, on December 30, 2025.

REASONS FOR JUDGMENT BY:

ROCHESTER J.A.

CONCURRED IN BY:

**LOCKE J.A.
ROUSSEL J.A.**

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REASONS FOR JUDGMENT

ROCHESTER J.A.

[1] The applicants seek judicial review of a decision by the Federal Public Sector Labour Relations and Employment Board (the Board) dated March, 28, 2024 (2024 FPSLREB 47). In its decision, the Board concluded that it did not have jurisdiction over the applicants' grievances referred to adjudication under paragraph 209(1)(b) of the *Federal Public Sector Labour Relations Act*, S.C. 2003, c. 22, s. 2 (the *Act*). Under that legislative provision, the grievances

must relate to “[...] a disciplinary action resulting in termination, demotion, suspension or financial penalty”.

[2] The Board dismissed the applicants’ grievances contesting the *Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police* (the *Policy*). The Board found that while the *Policy* did have adverse consequences for the applicants, it was essentially an administrative measure intended, among other things, to protect the health and safety of federal public service employees rather than a disguised disciplinary measure intended to punish employees who refused to be vaccinated. In the Board’s view, the applicants had not demonstrated that their grievances concerned a disguised disciplinary measure and could therefore be referred to adjudication to the Board under paragraph 209(1)(b).

[3] Now, on judicial review before this Court, the applicants raise numerous issues, both in their memorandum of fact and law and in their oral arguments. Certain issues raised in the memorandum were abandoned at the hearing. Nevertheless, I have carefully considered each one.

[4] At the hearing, the parties acknowledged that the applicable standard of review is reasonableness, as set out in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [*Vavilov*]. It is the applicants who bear the onus of demonstrating that the Board’s decision is unreasonable: *Vavilov* at paragraph 100.

[5] Having considered the record before the Court, including the parties' written and oral submissions, as well as the applicable law, I have not been persuaded that the Board's decision is unreasonable. It is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the Board: *Vavilov* at paragraph 85.

[6] The Board correctly identified the issue it was required to decide, namely whether placing the applicants on leave without pay constituted a disguised disciplinary measure. It reviewed the parties' submissions, considered their extensive evidence, and provided detailed reasons in support of its findings. The decision considers the constraints imposed by the applicable legislative framework, namely paragraph 209(1)(b) of the *Act* and relevant case law.

[7] A considerable portion of the applicants' oral submissions at the hearing focused on the alleged failure of the Board to give meaningful consideration to the protections afforded by the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, c. 11 [*Charter*], particularly the right to security of the person guaranteed by section 7, and the impact of the *Policy* thereon.

[8] I am not persuaded that the Board erred in this regard. On the contrary, the Board meaningfully considered the applicants' submissions on the *Charter* and thoroughly addressed the issues raised, however it ultimately concluded that the applicants were unable to demonstrate that the effect of the decision to place them on unpaid leave for failing to comply with the *Policy* was disproportionate to the administrative justification provided by the employer.

[9] The applicants further submit that the Board acted unreasonably by failing to take into consideration certain evidence, including evidence relating to vaccination rates, accommodation measures, and working-from-home arrangements, among other things. I disagree. The Board considered these elements. Rather, the applicants ultimately disagree with how the Board chose to characterize the evidence. While the applicants sought to demonstrate that the *Policy* was punitive and coercive, the Board found it to be administrative in nature. In the context of an application for judicial review, the reviewing court must refrain from reweighing and reassessing the evidence considered by the decision maker and, absent exceptional circumstances, will not interfere with its factual findings: *Vavilov* at paragraph 125. I recognize that the applicants would have liked the Board to treat the evidence differently, but I am not persuaded that there is any reason to intervene on this basis.

[10] In summary, given the facts at issue and the evidence presented to it, it was open to the Board to conclude that the grievances did not raise a question of disguised discipline.

[11] Finally, during the hearing, the applicants raised several issues that were not before the Board or in their memorandum of fact and law. For this reason, they are not properly the subject of this application for judicial review, nor shall they be addressed in the present reasons.

[12] For these reasons, I would dismiss the present application for judicial review, with costs in favour of the respondent in the all-inclusive amount of \$1,500.

"Vanessa Rochester"

J.A.

"I agree.

George R. Locke J.A. "

"I agree.

Sylvie E. Roussel J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-154-24

STYLE OF CAUSE: KARINE LAVOIE AND SLIM
REHIBI v. ATTORNEY GENERAL
OF CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: DECEMBER 17, 2025

REASONS FOR JUDGMENT BY: ROCHESTER J.A.

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

DATED: DECEMBER 30, 2025

APPEARANCES:

Myriam Bohémier FOR THE APPLICANTS

Karl Chemsî FOR THE RESPONDENT

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