

Federal Court of Appeal



Cour d'appel fédérale

Date: 20260127

Docket: A-393-24

Citation: 2026 FCA 15

**CORAM: LEBLANC J.A.
HECKMAN J.A.
ROCHESTER J.A.**

BETWEEN:

POND INLET HOUSING ASSOCIATIONJ

Applicant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

Heard at Ottawa, Ontario, on January 27, 2026.
Judgment delivered from the Bench at Ottawa, Ontario, on January 27, 2026.

REASONS FOR JUDGMENT OF THE COURT BY:

ROCHESTER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on January 27, 2026).

ROCHESTER J.A.

[1] The applicant, Pond Inlet Housing Association, seeks judicial review of a decision of the Canada Industrial Relations Board (the Board) dated November 13, 2024. The applicant, an employer, had sought a review and reconsideration of the bargaining certificate held by the respondent, a union, to exclude the position of assistant manager from the bargaining unit. In its

decision, the Board concluded that it could not exclude the position without sufficient evidence that the assistant manager was actually performing management functions or was acting in a confidential capacity in matters relating to industrial relations.

[2] The applicant submits that the Board failed to properly address the evidence contained in the job description, the lack of objection from the respondent, and that the change in duties for the position had been deferred pending the Board's decision.

[3] This argument must fail for two reasons. First, the applicant's submission is, in our view, ultimately an invitation to reweigh the evidence. As instructed by the Supreme Court, a reviewing court must refrain from reweighing or reassessing the evidence considered by the decision maker and must not, absent exceptional circumstances, interfere with factual findings: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 125 (*Vavilov*). Second, and more importantly, the Board relied on a well established line of caselaw as it is entitled to do which recognized that, in light of the fundamental nature of the collective bargaining rights that are removed by a decision to exclude a position from the bargaining unit, the Board must be persuaded that the individuals proposed for exclusion actually exercise the functions attributed to their position: *Captains and Chiefs Association v. Algoma Central Marine, a division of Algoma Central Corporation*, 2010 CIRB 531, aff'd in *Algoma Central Marine v. Captains and Chiefs Association*, 2011 FCA 94.

[4] The applicant pleads that the Board tacitly held that the applicant needed to create "chaos" by actually having the assistant manager position assume the duties—thus leading to an

unreasonable interpretation of section 3(1) of the *Code*. While, like the Board, we are not unsympathetic to the applicant's position, we underscore that it is not our role to conduct a *de novo* analysis or seek to determine the correct solution to the problem, which is the opposite of the deference reasonableness review requires: *Vavilov* para. 83.

[5] For these reasons, and despite counsel for the applicant's able oral submissions, this application for judicial review will be dismissed. Given the circumstances in the present case, we will exercise our discretion not to award costs in the present judicial review.

“Vanessa Rochester”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-393-24

STYLE OF CAUSE: POND INLET HOUSING
ASSOCIATION v. PUBLIC
SERVICE ALLIANCE OF
CANADA

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: JANUARY 27, 2026

REASONS FOR JUDGMENT OF THE COURT BY: LEBLANC J.A.
HECKMAN J.A.
ROCHESTER J.A.

DELIVERED FROM THE BENCH BY: ROCHESTER J.A.

APPEARANCES:

Stephen Bird FOR THE APPLICANT

Andrew Astritis FOR THE RESPONDENT
Claire Boychuk

SOLICITORS OF RECORD:

Bird Richard FOR THE APPLICANT
Ottawa, Ontario

RavenLaw LLP FOR THE RESPONDENT
Ottawa, Ontario