Federal Court Cour fédérale

Date: 20260402

Docket: T-1685-25

Citation: 2026 FC 429

Ottawa, Ontario, April 2, 2026

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

BRADLEY HART

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Constable Hart [Applicant], a member of the Royal Canadian Mounted Police [RCMP], asks the Court to set aside a final level decision on his grievance appeal concerning his pay. Prior to joining the RCMP Constable Hart was a member of the Canadian Armed Forces [CAF]. Constable Hart's RCMP recruiter did not advise him of a Treasury Board Directive [the Directive] which, under specified conditions, allows CAF members to retain their current rate of pay when they become RCMP members.

Background

[2] Constable Hart resigned his commission in the CAF on December 2, 2018. Rather than resigning, he could have asked to be placed on leave without pay until he became a member of the RCMP. Had he done so, Constable Hart asserts that he would have benefitted financially from the Directive with an increased salary when he became a member of the RCMP. He estimates that his loss is approximately $17,000.

[3] Constable Hart commenced RCMP basic training on January 24, 2019. On successful completion, he became a member of the RCMP in late July 2019.

[4] On May 29, 2019, during a basic training information session on pay and benefits, Constable Hart first learned of the Directive. In an affidavit sworn in support of this application, he attests:

> During the pay compensation lecture, I became aware of the above minimum rate of pay ("AMRP"), which allows persons appointed in the core public administration to retain their prior rate of pay upon joining the RCMP. I was unsure if I qualified for the AMRP as RCMP's National Recruiting agents did not disclose this information to me throughout the recruitment process, though I made them aware that I was still working with the CAF. [emphasis added]

[5] In November 2019, Constable Hart made his initial inquiry as to the application of the Directive to him:

> I am a new Regular Member and during a Pay/Comp lecture at Depot, I was made aware of an incentive for CAF Members, who join the RCMP on LWOP, could retain their military pay rate. I was not made aware of this policy through my CAF Release

> Centre, nor my RCMP Recruiter and as such, released from the CAF before accepting a troop at Depot. Had I been made aware of this policy, I would have sought LWOP instead of release from the Royal Canadian Navy. It should be noted that I disclosed my employment in the CAF to my RCMP recruiter prior to submitting my release documents.
>
> I retained some RM benefits, as I joined the RCMP within 6 months (43 days) of releasing from the CAF - my initial move from Depot to first post was under the RM Policy. Is there a way to retain my previous CAF pay rate? I have attached my MPRR, which shows my release date of Dec. 2, 2018; and my Depot troop started on Jan. 14, 2019. [emphasis added]

[6] In the November 26, 2019 response, Constable Hart was advised that he was not eligible to benefit from the Directive, because he had a break in service:

> I just had a Regular Member who was CAF prior to joining the RCMP, inquire about Above Minimum Rate of Pay (AMRP) and after checking with National Pay Operations they were not eligible as they resigned / were released from the CAF prior to attending training at Depot. The date that is important, is the day you engage as a Regular Member which is when you graduate from Depot and not the date you start training at Depot.
>
> The issue with your case is that you need to show that you were employed without a break in service with the CAF up to the engagement date as an [*sic*] Regular Member (RM). In this case, the information you provided shows you were released from the CAF on Dec. 2, 2018. The time spent at Depot does not count as continuous employment as cadets receive an allowance and are not considered employed at that point.
>
> Therefore, there is a break in your service. As such, per the policy, you would not be entitled to an above minimum salary upon engagement. If a member takes a Leave Without Pay from a Federal Government Department without a break in service prior to attending training at Depot, they may qualify for an above minimum. However, if there is a break there is no above minimum. Again, the information you provided indicates you were released from the CAF and were not on a Leave Without Pay during your time at Depot. I am sorry you are not eligible.

[7] Upon receipt of this information, Constable Hart submitted a grievance on December 23, 2019, to Office of the Coordination of Grievances and Appeals pursuant to subsection 31(1) of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10 [the *RCMP Act*].

[8] The grievance form asks the grievor to indicate the basis of the decision, act or omission being grieved and how he has been aggrieved by the act or omission. Constable Hart wrote that Treasury Board - Directive on Terms and Conditions of Employment s. 2.2.l.2(a-b) was the basis of the act or omission and that he was aggrieved as follows:

> Failure of Recruiting Analysts to disclose Treasury Board AMRP policy available to CAF members has resulted in forfeiture of approximately $17,000. This has caused additional and unnecessary financial hardship, as I am the sole breadwinner for my family of four.

[9] Constable Hart sought the following redress:

> I request AMRP be approved and my pay rate be adjusted, with retroactive pay, from the date eligible. Had I been made aware of the AMRP, I would have requested LWOP from the CAF instead of releasing. Please see attached email confirming my Recruiting Analyst was aware that, at the time, I was a serving member of the CAF and should have been made aware of the relevant policy.

[10] Some 18 months after filing the grievance, the assigned Initial Adjudicator issued a direction seeking submissions on a preliminary issue he identified as to the timeliness of the grievance:

> Given that the Grievor acknowledges having learned of the above minimum rate of pay provision of the Treasury Board Directive on Terms and Conditions of Employment in May 2019, this calls into question whether this Grievance was submitted within the 30-day statutory time limitation when he filed it on December 23, 2019.

[11] On February 21, 2023, the Initial Adjudicator issued a decision dismissing the grievance:

> In accordance with my mandate, I find that the Grievor has failed to establish that the Grievance was presented within the 30-day time limitation period, in accordance with paragraph 31(2)(a) of the *RCMP Act*. I also find that a retroactive extension of time is not justified in this matter. Therefore, the Grievance is dismissed.

[12] This timeliness decision was premised on the Initial Adjudicator's finding that "the subject of the grievance is the **omission** by the National Recruiting Program to inform the Grievor of the AMRP eligibility requirements" [emphasis added, bolding in original]. It was found as a fact that Constable Hart learned of this omission as early as May 22 or 23, 2019.

[13] As to the subsequent inquiry Constable Hart made as to the applicability of the Direction to his circumstances, the Initial Adjudicator took the view that the response on November 26, 2019, "only confirmed what he already knew on May 22 or 23, 2019 - the National Recruiting Program did not specifically inform the Grievor of the AMRP provisions from the TB Directive."

[14] Constable Hart sought a review of the initial level decision. The Appeal Adjudicator dismissed the appeal finding that "the Grievor has failed to establish that the initial level decision is procedurally unfair, is based on an error of law or is otherwise clearly unreasonable" [the Decision]. The Appeal Adjudicator agreed that the Grievance was not timely, stating that "the Grievor is contesting the Respondent's failure to inform him of a Treasury Board Directive provision while he was still a serving member of the Canadian Armed forces (CAF)." [emphasis added]

[15] The Appeal Adjudicator recognized that "the clock could not start in May 2019, as the Grievor was not yet a member at that time." He was a cadet, and cadets do not have the right to grieve under the *RCMP Act*.

[16] Accepting that the limitation period began in late July 2025, the date of Constable Hart's appointment as a member of the RCMP, the Appeal Adjudicator found that the grievance was filed after the expiry of the 30-day period.

The Issue

[17] The issue for determination is whether the Appeal decision upholding the initial level decision on timeliness is reasonable.

[18] I agree with the parties that the Decision is reviewable on the standard of reasonableness, as articulated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. None of the exceptions based in legislative intent or the rule of law, as articulated by the Supreme Court in *Vavilov* and *Society of Composers, Authors and Music Publishers of Canada v Entertainment Software Association*, 2022 SCC 30, apply to displace the presumption of reasonableness as the standard of review.

[19] The Supreme Court of Canada instructs that reasonableness is a deferential, yet robust, standard of review: *Vavilov* at paras 12-13. A court must give considerable deference to the decision-maker, recognizing that this entity is empowered by Parliament and equipped with

specialized knowledge and understanding of the "purposes and practical realities of the relevant administrative regime" and "consequences and the operational impact of the decision" that the reviewing court may not be attentive to: *Vavilov* at para 93. Judicial intervention is warranted only when the flaws or shortcomings are "sufficiently serious… such that [the decision] cannot be said to exhibit the requisite degree of justification, intelligibility and transparency:" *Vavilov* at para 100. Absent exceptional circumstances, reviewing courts must not interfere with the decision maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker: *Vavilov* at para 125.

[20] The Applicant submits that the Decision on the timeliness of his grievance is unreasonable because the Appeal Adjudicator:

i. Unreasonably narrowed the scope of the grievance;

ii. Unreasonably concluded that generally becoming aware of a policy triggers the grievance timeline before an employee learns if and how they are personally aggrieved by the policy;

iii. Failed to meaningfully grapple with a key issue; and

iv. Made contradictory findings, given that she acknowledged that the timeline to grieve could not have started earlier but nonetheless concluded that the grievance was presented outside the statutory timeline.

Analysis

I. The Scope of the Grievance

[21] The Applicant submits that the decision-maker "limited the issues in dispute in the grievance to the Respondent's failure to disclose the AMRP provisions prior to the Applicant's

resignation from the CAF." He asserts that in so doing, the true nature of the dispute was mischaracterized. He says that his "grievance disputes the November 2019 decision to deny the Applicant's entitlement to the AMRP given his unique circumstances involving the Respondent's negligence; not just the Respondent's negligence during the recruitment process."

[22] I am unable to accept the Applicant's submission. The grievance clearly states that he is aggrieved by the "failure of Recruiting analysts to disclose Treasury Board AMRP policy available to CAF members…" He makes no direct mention of the November 2019 decision. Additionally, it is not the case that the fact of the later decision was not considered by the Appeal Adjudicator. At paragraphs 33-35 of the Decision, the Applicant's argument was considered and rejected:

> At the final level, the Grievor claims that the initial level decision is clearly unreasonable because he could not have known he was aggrieved until he learned that he was not eligible for the AMPR in November 2019.
>
> I must disagree. At issue in this Grievance is the confusion of two matters. The first is the November 2019 decision that the Grievor is not eligible for the AMRP, which the Grievor is not contesting with this Grievance. The second, which is the subject of this Grievance, is the Respondent's omission to disclose a Treasury Board Directive to the Grievor prior to his joining the Force.
>
> The Grievor has indicated numerous times throughout this Grievance that he is contesting the second issue: the Respondent's **omission to disclose the Treasury Board Directive prior to his resignation from the CAF** (Record, pages 6, 18 to 20, 115 to 119, 135 to 138, 177 to 179). The Grievor indicates that he initially learned of the Treasury Board Directive while he was at Depot in May 2019. By his own admission, the Grievor is confirming that he became aware that the Respondent had **omitted** to communicate this information to him at that time.
>
> I appreciate that a decision was ultimately made regarding his eligibility for the AMRP. However, since the topic of this

> Grievance is the Respondent's **omission to disclose a directive**, the clock must start sooner. [bolding in original]

[23] Having reviewed the record and considered the submissions of the parties, I conclude that the Appeal Adjudicator did not restrict the scope of the grievance. Rather, as noted in the Decision, the subject of the grievance was properly identified and addressed.

II. Unreasonably concluded that generally becoming aware of a policy triggers the grievance timeline before an employee learns if and how they are personally aggrieved by the policy

[24] I agree with the Respondent that the Appeal Adjudicator properly considered the facts and law in determining when the limitation period began. It is not disputed that the Applicant learned of the Directive in May 2019 during his Cadet training and it is accepted that this was the first he had heard of it.

[25] In making her determination on the issue of the date the period begins, the Appeal Adjudicator applied subsection 31(2) of the *RCMP Act*, which informs that the "grievance must be presented at the initial level in the grievance process, within thirty days after the day on which the aggrieved member knew or reasonably ought to have known of the decision, act or omission giving rise to the grievance."

[26] Noting that Cadets do not have the right to grieve, the Appeal Adjudicator concluded that the time limit could not begin until the Applicant became a member of the RCMP at the end of July 2019. Accordingly, when the Applicant became a member of the RCMP, the clock began to run.

[27] I find that this is to be a reasonable and justifiable aspect of the Decision.

III. Failed to meaningfully grapple with a key issue

[28] It is submitted that the "Appeal Adjudicator also failed to meaningfully grapple with the Applicant's key argument that the November 2019 decision constituted a fresh exercise of discretion that can be grieved separately."

[29] With respect, as noted previously the grievance was not directed to the November 2019 decision, which itself may have been grieved. Accordingly, there was no obligation that the Appeal Adjudicator consider this "key argument" beyond that which she did.

IV. Made contradictory findings, given that she acknowledged that the timeline to grieve could not have started earlier but nonetheless concluded that the grievance was presented outside the statutory timeline

[30] The Applicant submits that although "the Appeal Adjudicator acknowledged that the Applicant could not have grieved in May 2019, she nonetheless concluded that the grievance should have been filed earlier [than it was]." It is submitted that the Appeal Adjudicator did not indicate when she believed the clock began to run.

[31] I am unable to agree. The Appeal Adjudicator correctly acknowledged that it is only RCMP members who have grievance rights, and therefore the Applicant had none until July 2019. It is obvious from the Decision that the clock began to run at that point, and the Applicant had to file the grievance within the 30-day period thereafter.

Conclusion

[32] I have found that the Decision meets the reasonableness standard set by *Vavilov*, and accordingly this application must be dismissed.

[33] The parties informed the Court that they agree that costs should be fixed at $2500.

[34] Costs are always a matter within the full discretion of the hearing judge*: Federal Courts Rules*, SOR/98-106, subsection 400(1).

[35] I am of the same mind as the Initial Level Adjudicator who wrote: “Based on a *prima facie* examination, I find that there may be potential merit to the Grievance.”

[36] It is important to recruits coming from the CAF to the RCMP to be told of the Directive and thus having the possibility of maintaining their current pay level by utilizing a leave without pay to bridge the gap. The failure of the RCMP and its recruiters to so inform potential recruits is arguably actionable for those who suffered loss as a consequence.

[37] Unfortunately, Mr. Hart cannot recover his damages through the grievance route; however, I will not add to his loss by imposing costs upon him. Each party will bear its own costs.

JUDGMENT IN T-1685-25

THIS COURT'S JUDGMENT is that this application is dismissed, without costs.

"Russel W. Zinn"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1685-25
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APPEARANCES:

ZAKIA JAHAN	FOR THE APPLICANT
BRENDEN CARRUTHERS	FOR THE RESPONDENT

SOLICITORS OF RECORD:

NELLIGAN O'BRIEN PAYNE LLP OTTAWA, ONTARIO	FOR THE APPLICANT
ATTORNEY GENERAL OF CANADA OTTAWA, ONTARIO	FOR THE RESPONDENT