Federal Court Cour fédérale

Date: 20251125

Docket: T-1285-17

Citation: 2025 FC 1863

Ottawa, Ontario, November 25, 2025

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

DONGMEI YE

Applicant

and

THE ATTORNEY GENERAL OF CANADA and HONOURABLE JUSTICE I.V.B. NORDHEIMER

Respondents

JUDGMENT AND REASONS

I. Overview

[1] This decision addresses an application for judicial review brought by the Applicant, Ms. Dongmei Ye, challenging a decision of the Executive Director [ED] of the Canadian Judicial Council [CJC], dated June 19, 2017, which dismissed the Applicant's complaint against the Respondent, the Honourable Mr. Justice I.V.B. Nordheimer [the Decision].

[2] As explained in greater detail below, this application is dismissed, because the Decision is reasonable and procedurally fair.

II. Background

[3] In or about 2017, the Applicant's husband, Mr Qingrong Qiu, sought judicial review in the Divisional Court of the Ontario Superior Court of Justice of a decision of the Ontario Labour Relations Board [OLRB] arising from Mr. Qiu's employment with Tim Hortons Inc. [TMI]. In the context of that judicial review proceeding, Mr. Qiu brought a motion in relation to certain preliminary issues, related principally to documentary production. Justice Nordheimer heard that motion on February 23, 2017.

[4] The Applicant, Ms. Ye, appeared at the motion, seeking to represent her husband and to translate for him. Duty counsel fulfilling an *amicus curiae* role was also present, as were counsel for the other parties to the judicial review proceeding. While Justice Nordheimer permitted Ms. Ye to participate in the hearing to some extent, he also ruled that she was not a party to the proceeding and that she was not entitled to represent her husband therein or to be his translator when the matter proceeded to a hearing on the merits of the application itself. Justice Nordheimer ruled against Mr. Qiu on the motion and ordered costs against him (*Qiu v Tim Hortons Inc*, 2017 ONSC 1281 [the Nordheimer Order]).

[5] Pursuant to letters dated April's 10 2017, and May 17, 2017, Ms. Ye filed a complaint with the CJC against Justice Nordheimer [the Complaint]. The Applicant's Memorandum of Fact

and Law in the present proceeding summarizes Ms. Ye's allegations against Justice Nordheimer as follows:

> … During the hearing on February 23, 2017, Justice Nordheimer allegedly failed to exercise impartial judicial conduct by interrupting and directly engaging with the Applicant's submissions in a manner that could be construed as adversarial. Specifically, the Applicant contends that Justice Nordheimer "interrupted and misled every sentence of the Applicant's pleading" and "made decisions for something else by misstating the Applicant's claims."

[6] By letter dated June 19, 2017, the ED of the CJC conveyed the Decision dismissing the Complaint.

[7] By Notice of Application dated August 17, 2017 [the NOA], the Applicant filed the within application for judicial review, challenging the Decision.

III. Decision under Review

[8] As the ED's June 19, 2017 letter is not lengthy and represents the ED's reasons for the Decision, it is useful to set out the body of the letter in full:

> I am in receipt of your letters with attachments dated 10 April 2017 and 17 May 2017, in which you complain about the Honourable I. V. B. Nordheimer of the Superior Court of Justice of Ontario.
>
> For your reference, the mandate of the Canadian Judicial Council (Council) in matters of judicial conduct is to determine whether a recommendation should be made to the Minister of Justice, after a formal investigation, that a judge be removed from office by Parliament. The reasons for removal are set out in the *Judges Act* and address situations where a judge has become incapacitated or disabled from performing the duties of a judge. This can be as a result of age or infirmity, misconduct, a failure to execute the

duties of the position, or being in a position incompatible with the functions of a judge.

It is important to note that Council is not a court and cannot intervene in the court process.

In your letter, you allege that Justice Nordheimer mislead the appellant's submissions and interrupted him in a harsh and angry tone and demeanor. You add that he did not accommodate and took advantage of the appellant's language disability and self-represented litigant status.

It is the responsibility and duty of judges to control the proceedings before them to ensure an effective and efficient use of court time, as well as a fair hearing. An appropriate measure of firmness is necessary to achieve this end. In carrying out that duty, judges may make procedural decisions in order to accommodate a litigant. Such decisions fall within the ambit of the judicial discretion and are not matters of conduct.

Moreover, a judge must ensure that every party has an opportunity to present their case. However, this does not include offering legal advice or treating one party differently than another. Each party that comes to court is expected to familiarize themself with the relevant legal practices and procedures pertaining to their case and to prepare and argue their own case before the court. This includes self-represented litigants.

You further allege that Justice Nordheimer prejudged the matter, refusing to hear the appellant's evidence and submissions; acted as counsel for the respondents, raising issues and asking leading questions; based his decision on assumptions, without questioning counsel's words; did not follow rules of civil procedures; misstated the issues; erred, misinterpreted and violated the law; abused his authority through his decision; and arbitrarily added a 30 day deadline for the costs payment to an amended endorsement that the appellant did not initially receive.

Decisions pertaining to procedure, the conduct of the hearing, and the order and time of presentation, as well as the assessment of the evidence and related legal decisions fall under the authority of the judge. It is not for the Council to review the manner in which a judge exercised his judicial discretion in the conduct of a case, nor how he came to findings of facts and law. The Council has no jurisdiction to review a judgment, nor the process of judicial decision-making. This role more appropriately belongs to the court at the appellate level. If you believe that the judge may have made

> some errors in his decisions pertaining to this court matter, these concerns should be raised in court.
>
> Upon considering your recent correspondence and my duty under Section 4. 1 of the *Review Procedures*, I have come to the conclusion that your complaint does not warrant consideration by the Council. Section 5 provides a list of matters that do not warrant consideration. I am of the view that your complaint falls within the scope of Section 5 (b) as it does not involve the judge's conduct.
>
> I trust this information is useful.

IV. Issues

[9] The Applicant has named both the Attorney General of Canada [the AGC] and Justice Nordheimer as Respondents in her NOA. While both Respondents filed records in this application, Justice Nordheimer's record was limited to identifying the Applicant's litigation history and endorsing the written submissions of the AGC. Similarly, at the hearing of this application, Justice Nordheimer's counsel did not advance substantive submissions, other than confirming his support for the AGC's arguments and noting that, in making the Decision under review, the ED had the benefit of the transcript of the hearing before Justice Nordheimer that resulted in the Complaint [the Transcript].

[10] As such, my identification of the issues raised in this application is based on the written and oral submissions of the Applicant and the AGC, which for the remainder of these Reasons I will refer to as the Respondent. I would articulate the issues for the Court's determination in this application as follows:

A. Does the Applicant's Record include inadmissible evidence?

B. Is the AGC's role in this application improper?

C. Did the ED err in concluding that the Complaint does not involve judicial conduct and therefore does not fall within the CJC's jurisdiction?

D. Did the ED breach procedural fairness in making the Decision?

V. Standard of Review

[11] The Respondent takes the position that the standard of reasonableness applies to the Court's review of the merits of the Decision. The Applicant takes the position that the standard of correctness applies.

[12] As explained by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paragraph 25, reasonableness is the presumptive standard of review in the judicial review of administrative decision-making. While *Vavilov* identifies circumstances in which that presumption can be rebutted, the Applicant's arguments challenging the merits of the Decision in the case at hand do not involve any such circumstances. In particular, *Vavilov* confirms that jurisdictional questions do not attract the correctness standard (at para 65). I further note that this Court has confirmed that the merits of decisions of the ED of the CJC are reviewable on a standard of reasonableness (*Cosentino v Canada (Attorney General)*, 2020 FC 884 at paras 32-36).

[13] As such, the third issue articulated above (whether the ED erred in concluding that the Complaint does not involve judicial conduct and therefore does not fall within the CJC's jurisdiction) will be reviewed on the reasonableness standard.

[14] The procedural fairness issue will be reviewed on a standard akin to correctness, which amounts to considering whether the procedure followed was fair (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35).

VI. Analysis

A. *Does the Applicant's Record include inadmissible evidence?*

[15] The Respondent's written submissions raise concern that certain material that the Applicant included in her record is inadmissible, because it was not before the ED when making the Decision. I understand the Respondent to be taking issue with an affidavit affirmed by the Applicant in this proceeding on September 18, 2017 [the Applicant's Affidavit], and email correspondence from the AGC to the Applicant, the copy of which in the Applicant's record bears an illegible date but appears to have been sent in 2017 [the AGC Email].

[16] The Respondent refers the Court to the explanation in *Alberta Wilderness Association v Canada (Environment)*, 2009 FC 710 [*Alberta Wilderness*] at paragraph 30, that the scope of admissible evidence in applications for judicial review is limited and normally restricted to the record that was before the administrative decision-maker. Exceptions to the rule may be justified where extrinsic evidence is relevant to an allegation of procedural fairness or jurisdictional error,

where the evidence describes the proceeding and the evidence that was before the decision-maker, or where the evidence represents helpful, general background information (at paras 30-31).

[17] In reply written submissions, which the Applicant filed pursuant to an Order of Case Management Judge Cotter dated July 31, 2025, the Applicant argued that the evidence impugned by the Respondent is relevant not to the Court's substantive review of the Decision but to the propriety of the AGC's role in this proceeding (which is the next issue to be considered by the Court in these Reasons).

[18] Turning first to the Applicant's Affidavit, I consider the first 20 paragraphs to be appropriate background information, as they explain the Applicant's husband's dispute with TMI before the OLRB, which led to the motion before Justice Nordheimer that resulted in the Complaint. As such, I am prepared to treat the Applicant's Affidavit as admissible.

[19] However, the remaining 30 paragraphs of the Applicant's Affidavit provide detail, some of it argumentative, of the hearing before Justice Nordheimer. As these paragraphs go to the merits of the application now before the Court and were not before the ED when the Decision was made, they offend the principles described in *Alberta Wilderness*. The details of the hearing before Justice Nordheimer are set out in the Transcript, which the Applicant provided to the ED in support of her Complaint. As such, for purposes of understanding those details as necessary to review the merits of the Decision, I will rely on the Transcript and will disregard the final 30 paragraphs of the Applicant's Affidavit.

[20] I am also prepared to admit the AGC Email into evidence, as it does not offend the principles of *Alberta Wilderness*. The Applicant does not rely on this document to challenge the merits of the Decision but rather to raise the issue (addressed immediately below) as to whether the AGC's role in this application is improper.

B. *Is the AGC's role in this application improper?*

[21] While the Applicant raises this issue in varying and somewhat unclear terms in her principal and reply written submissions, her oral submissions assisted the Court in understanding her concern with the AGC's role in this application. As noted above, this concern is based at least in part on the AGC Email.

[22] As the Court understands the background to that document, the Applicant wrote to the AGC (and the Office of the Prime Minister) in 2017, expressing her dissatisfaction with the hearing before Justice Nordheimer. In the AGC Email, an Assistant Manager in the Ministerial Correspondence Unit for the Minister of Justice and the AGC responded to the Applicant's correspondence. This response identified the authority of the CJC to address complaints relating to the conduct of federally appointed judges and encouraged her to seek the advice of a lawyer in private practice.

[23] The AGC email also explained that the AGC is mandated to provide legal advice only to the federal government and was therefore not able to provide legal advice to members of the public or to become involved in the situation that the Applicant had described. Against the background of that

explanation, the Applicant notes that the CJC is an independent tribunal, and she questions why the AGC has a role in defending the decision of the ED of the CJC.

[24] The Respondent did not address this particular issue in either written or oral submissions. However, leaving aside the fact that the Applicant herself named the AGC as a Respondent in her NOA, the answer to the Applicant's concern is apparent from both the *Federal Courts Rules*, SOR/98-106 [the Rules], and jurisprudence explaining the application of the Rules in the judicial review of CJC decisions. Rule 303(2) contemplates circumstances in which the AGC is to be named as a respondent to an application for judicial review. In *Douglas v Canada (Attorney General)*, 2013 FC 451 at paragraphs 51 to 55, this Court explained the role of the AGC as a respondent in such circumstances as follows:

> 51. Rule 303(1) requires that any person directly affected by an order sought be named as a respondent. In judicial review proceedings, this provision will generally apply where the decision under review itself determined or affected the legal rights of another person. In such cases, the respondent's rights will generally be in conflict with the applicant's and the respondent can assist the Court by bringing an opposite point of view to the applicant's. Because judicial review involves the exercise of the Court's supervisory jurisdiction over public bodies, Rule 304 requires that the Attorney General be served with any application for judicial review. This allows the Attorney General to consider whether, even where a party adverse in interest can be expected to defend the application, it is nevertheless necessary or appropriate for him to seek leave to intervene in the application.
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> 52. Not all decisions or orders of federal boards, commissions or other tribunals involve the competing rights of two or more persons. Often, the decision and resulting judicial review process will affect the legal rights of only one person. Indeed, with the exception of Mr. Chapman, whose motion has been dismissed, none of the parties or recognized interveners on this motion have suggested that there exists a person directly affected by the order sought herein or required to be named as a party respondent pursuant to Rule 303(1).

> 53. Rule 303(2), applicable only to applications for judicial review, mandates in such cases that the Attorney General be named as a respondent. This ensures, but does not require, that the Attorney General can fulfill his role as guardian of the public interest and protector of the rule of law by opposing the application or making such submissions as are appropriate, without the need to seek and obtain leave to intervene in the proceeding (see *Sutcliffe et al v Minister of Environment (Ontario) et al*, 69 OR (3d) 257, [2004] OJ No 277 (Ont CA) at para 17-18).
>
> 54. As mentioned, the role of a respondent is not confined to opposing an application. A party respondent enjoys the right to consider and determine the extent and purpose of his participation. In the context of judicial review, the Attorney General, as the respondent named by default pursuant to Rule 303(2), is expected to exercise that right in the public interest.
>
> 55. In carrying out his role as respondent, the Attorney General's overarching mandate is to assist the Court in reaching a decision that accords with the law. It is not uncommon for the Attorney General to refrain from making submissions or observations on particular aspects of the case, to support the applicant's request for relief on the same or other grounds as the applicant, or even to take no position on any of the issues raised (*Hoechst Marion Roussel Canada v Canada (Attorney General)*, 2001 FCT 795 at para 67 and 69). Thus, Rule 303(2) does not mandate how the Attorney General must choose to act as a respondent, but that he be given the ability to exercise that choice.

[25] As such, it is clear that the AGC's mandate includes acting as respondent in some applications for judicial review and, in the context of such applications, taking such position as the AGC considers to be appropriate as guardian of the public interest and protector of the rule of law. There is therefore no impropriety in the AGC responding to this application.

[26] Before leaving this issue, I note that Rule 303(2) requires an applicant to name the AGC as a respondent only where there are no other persons that can be named under Rule 303(1), i.e., persons who are directly affected by the order sought in the application (other than the relevant tribunal) or

who are required to be named pursuant to statute. It may therefore be irregular that, in the case at hand, both Justice Nordheimer and the AGC were named as Respondents. It was the Applicant who named both Respondents in her NOA. Indeed, she originally named the CJC as a Respondent as well. Upon informal motion by the AGC and the CJC, the CJC was subsequently removed as a Respondent by Order of Case Management Judge Cotter dated April 30, 2024. However, it does not appear that any of the parties have turned their minds to whether, pursuant to Rule 303(2), it was irregular that both Justice Nordheimer and the AGC remained as Respondents.

[27] It may be that the Applicant should have named only the AGC and not Justice Nordheimer. By way of example only, in *Masjoody v Canada (Attorney General)*, 2024 FC 1349, which addressed a judicial review of a screening decision by the ED of the CJC, only the AGC was named. However, as none of the parties has raised this as an issue, and as the Court is therefore without the benefit of any submissions on the point, I decline to speak to it definitively.

[28] Moreover, I note that in one of the authorities upon which the Respondent relies (*Bazan v Attorney General (Canada)*, 2022 FC 932 [*Bazan*]), which again involved an application for judicial review of an ED screening decision, both the AGC and the relevant judge were named. In that matter, the Court noted that, while the judge was represented at the hearing, he did not make substantive submissions. Similarly, in the case at hand, Justice Nordheimer's counsel may no material contribution to the hearing.

[29] I explain the foregoing only to identify that the Court is conscious of the details of the operation of Rule 303 and that, to the extent there was an irregularity in the manner in which the

parties constituted the present proceeding, that irregularity has not had a material impact on the proceeding.

C. *Did the ED err in concluding that the Complaint does not involve judicial conduct and therefore does not fall within the CJC's jurisdiction?*

[30] The Applicant's principal argument on the merits of this application asserts that the ED erred in concluding that the allegations in the Complaint did not involve judicial conduct. As previously explained, the reasonableness standard applies to the Court's consideration of this argument.

[31] As I read the Decision, the ED considered the Applicant's allegations but concluded that those allegations arose in the context of Justice Nordheimer making procedural decisions related to the control of the proceeding in which the Applicant was involved, as well as the order and time of presentation by the parties and the assessment of evidence. The ED reasoned that it was not for the CJC to review the manner in which the judge exercised his judicial discretion in the conduct of the case, nor how he came to findings of fact and law. The ED reasoned that the process of judicial decision-making and the resulting judgment were not matters of conduct that the CJC had jurisdiction to review but rather were matters that should be raised before an appellate court if the Applicant believed that Justice Nordheimer had erred therein.

[32] In challenging this reasoning and conclusion, the Applicant argues that the ED failed to apply the *Judges Act*, RSC 1985, c J-1 [the Act], section 63 of which (as in force at the time of the Complaint) authorizes the CJC to investigate complaints against superior court judges for reasons contemplated by the Act. Section 65 (as in force at the time of the Complaint) sets out such reasons

including the judge having been guilty of misconduct or having failed in the due execution of judicial office.

[33] The Applicant also references the *Ethical Principles for Judges* published by the CJC [the Ethical Principles] as identifying that judges must avoid bias or the appearance thereof and that judicial misconduct can occur in the context of judicial decision-making.

[34] I accept the general principle that judicial misconduct can occur in the course of a hearing or otherwise in the context of judicial decision-making. However, I do not read the Decision as suggesting otherwise. Rather, with the benefit of the Transcript (which the ED is presumed to have reviewed) that identified the details of Justice Nordheimer's interaction with the Applicant and the other parties to the hearing that led to the Complaint, the ED concluded that the particular allegations advanced by the Applicant were not matters of conduct.

[35] In support of the reasonableness of this conclusion, the Respondent refers the Court to *Bazan*, which involved a judicial review of a decision by the ED to dismiss a complaint that involved allegations that the Respondent argues are similar to those in the case at hand. The allegations in Bazan included the judge having a dismissive tone, talking down to and interrupting the Applicant, failing to afford procedural fairness, affording preferential treatment to the opposing lawyer, and refusing to hear the applicant.

[36] In *Bazan*, the Court reviewed the transcript that recorded an example of the interactions alleged to represent misconduct and concluded that the transcript did not demonstrate an interaction

that raised an issue of judicial conduct. Rather, as the ED had concluded in that case, the judge was acting in his discretion in maintaining control of the proceeding before him (at para 28). The Court also noted jurisprudence establishing that the CJC has the expertise to distinguish between matters that constitute judicial decision-making, for which recourse is available through appeal, and matters that threaten the integrity of the judiciary including where judges become incapacitated from performing their judicial function (at para 29, citing *Bernard v Canada (Attorney General)*, 2021 FC 1487 at para 6).

[37] *Bazan* further noted at paragraph 30 guidance from the Federal Court of Appeal that issues of bias and procedural fairness, including a judge's exercise of discretion to control matters in their courtroom, are matters that should be pursued through the appeal process and are not the proper subject of a judicial conduct complaint (*Cosentino v Canada (Attorney General)*, 2001 FCA 193 [*Cosentino*] at paras 5-6). In conclusion, the Court in *Bazan* was not persuaded that the allegations by the applicant fell outside the ambit of what are appropriate considerations for an appeal court (at para 31).

[38] The Applicant argues that this Court should not rely on *Bazan*, because it postdates her Complaint and the Decision under review and because, in her submission, it conflicts with the Act. However, while the Act was amended substantially in 2023, the complaint against the judge in *Bazan* arose from proceedings in 2021. As such, *Bazan* represents application of the same legislative regime as applies to the matter at hand. Principles of judicial comity require that this Court pay respectful attention to *Bazan*.

[39] Moreover, I do not read *Bazan* as developing any new jurisprudential principles. Rather, its reasoning relies on pre-existing jurisprudence including that of the Federal Court of Appeal in *Cosentino*, which is binding on this Court. Furthermore, in *Moreau-Bérubé v New Brunswick (Judicial Council)*, 2002 SCC 11, the Supreme Court of Canada (the decisions of which are of course also binding on this Court) confirmed the expertise of Canadian judicial councils in appreciating the distinction between impugned judicial actions that can be dealt with through an appeal process and those that require disciplinary intervention (at para 60).

[40] Obviously, the particular allegations made against the judge in *Bazan* are not identical to those advanced by the Applicant in her Complaint. While I agree with the Respondent's submission that there are similarities, I have also independently considered the allegations in the Applicant's Complaint. Examining those allegations in the context of the Transcript and applying the aforementioned jurisprudential principles, I am satisfied that the Decision accords with the relevant facts and law, is intelligible and justified as required by *Vavilov*, and is therefore reasonable.

[41] Finally, I note the Applicant explains that, in addition to her submission of the Complaint to the CJC, she and her husband pursued an appeal of the Nordheimer Order to the Ontario Court of Appeal [OCA], which by Order dated June 19, 2018 [the OCA Order], refused their motion for leave to appeal. As I understand this aspect of the Applicant's argument, she reasons that, as she pursued both available avenues to seek redress in relation to the Nordheimer Order, the fact that the OCA would not entertain her appeal supports her position that her Complaint to the CJC represented the appropriate means of challenging what she considers to be a matter of judicial conduct.

[42] The OCA Order does not provide reasons for the OCA's decision to dismiss the motion for leave to appeal. However, it is reasonable to infer that the OCA made that decision because it concluded, applying the relevant threshold, that the allegations advanced in support of the appeal were not sufficiently meritorious to warrant granting leave. That is, unlike the Decision of the ED under review in this application, there is nothing in the OCA Order to suggest that the OCA declined to grant relief based on a lack of jurisdiction. In other words, while the ED clearly concluded that the Applicant's allegations fell within the jurisdiction of the OCA rather than the CJC, there is no basis to conclude that the OCA arrived at a different conclusion. As such, nothing in the fact that the Applicant did not succeed in her appeal undermines the reasonableness of the Decision.

D. *Did the ED breach procedural fairness in making the Decision?*

[43] In arguing that the ED breached principles of procedural fairness in making the Decision, the Applicant asserts that the Decision demonstrates a lack of impartiality, fair procedure and reasoned decision-making. She argues that these failures result from the ED conducting no factual investigation, providing no legal justification, and affording her no opportunity to respond. The Applicant also asserts that what she describes as defensive language in the Decision gives rise to a reasonable apprehension of bias on the part of the ED.

[44] To the extent the Applicant is arguing that procedural fairness required the ED to conduct a factual investigation beyond examining the material that she provided in support of her Complaint, I find no merit to this submission. The ED made the Decision, based on his review of the Complaint, as part of the CJC's screening process, which *Bazan* confirmed based on provisions of the Act and

applicable jurisprudence was a discretionary administrative winnowing function that was lawfully delegated to the ED (at para 19). The Applicant takes issue with there being a discretionary element to this process, but she has offered no jurisprudential support for a conclusion that this aspect of the process is unfair.

[45] As for the ED failing to afford the Applicant the right to respond, I understand her to be arguing that she was entitled to an opportunity to review the ED's reasoning and comment thereon before the Decision was made. Again, I find no merit to this submission. While principles of procedural fairness can require that a party be afforded an opportunity to know the case against them in an adversarial context, or where the administrative decision-maker relies on extrinsic evidence of which the Applicant was not aware, the process before the ED was not of this nature. Rather, the ED made the Decision based on the material submitted by the Applicant in the Complaint. Certainly, the right to procedural fairness generally implies the right to state one's case adequately (*Canada (Attorney General) v Central Cartage Co*, 1990 CanLII 8009 (FCA), [1990] 2 FC 641 at 664). However, the Applicant was afforded this right, which she exercised through the submission of her Complaint.

[46] As for the allegation that the ED provided no justification for the Decision, this point has been addressed in the Court's analysis of the reasonableness of the Decision. As noted earlier in these Reasons, the Decision is intelligible and justified.

[47] Finally, I accept that a lack of impartiality or a reasonable apprehension of bias, established on the facts of a particular case, would give rise to an issue of procedural fairness. However, nothing

in the Decision or the process adopted by the ED supports such a conclusion in the case at hand. To the extent the Applicant characterizes the Decision as employing “defensive” language, I disagree. The Decision provides justification for the ED’s conclusion that the Complaint did not warrant consideration by the CJC, which justification is required of the administrative decision-maker pursuant to the principles explained in *Vavilov*.

VII. Conclusion and Costs

[48] As I have found that the Decision is reasonable and was reached in a procedurally fair manner, this application for judicial review must be dismissed.

[49] The AGC claims costs against the Applicant in the event of its success in this application. Justice Nordheimer does not claim costs. As the application will be dismissed, the AGC is entitled to costs, which in my discretion I fix in an all-inclusive lump sum amount of $1000.

JUDGMENT in T-1285-17

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed, with costs payable by the Applicant to the Respondent, the Attorney General of Canada, in the all-inclusive amount of $1000.

"Richard F. Southcott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1285-17
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