

Federal Court



Cour fédérale

**Date: 20180927**

**Docket: T-716-15**

**Citation: 2018 FC 958**

**Ottawa, Ontario, September 27, 2018**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**ROSEMARY ANNE HOOD**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA,  
CANADIAN FOOD INSPECTION AGENCY,  
PUBLIC HEALTH AGENCY OF CANADA,  
EMPLOYMENT AND SKILLS  
DEVELOPMENT CANADA – LABOUR**

**Respondents**

**JUDGMENT AND REASONS**

I. Overview

[1] Ms Rosemary Anne Hood is a veterinarian who was employed at the Canadian Food Inspection Agency until 2010. In 2014, she filed a complaint with the Canadian Human Rights

Commission alleging that the CFIA had discriminated against her on the basis of sex and disability.

[2] The Commission appointed an investigator to look into the complaint. In her report, the investigator concluded that Ms Hood had not been diligent in filing her complaint; that the complaint was vexatious given the remedies that Ms Hood had already pursued in her workplace; and that there were alternative remedies that she should have pursued before filing her complaint with the Commission.

[3] The Commission accepted the investigator's conclusions and decided that an inquiry into Ms Hood's complaint was not warranted. Ms Hood seeks judicial review of the Commission's decision. Ms Hood's grounds for review are broad and complex. She characterizes her case as unprecedented, representing a challenge both to the legal and the medical professions. At the hearing of her application, she stated:

My case is not about me. I believe it is a public interest case, to say that we cannot afford . . . as taxpayers of Canada not to have the correct administrative practices in place to allow people to discuss conflicts within the workplace that are necessary for high morale, industriousness, and productivity as a collective body. Individuals must not be allowed to assert their individual self-interest, and do so without acknowledgement, reports, records because it's inconvenient.

[4] Ms Hood also described other issues that arise from her application – failures in the legal system (especially given the system's "narrow purview"), matters of national security, the need for confidentiality, the limits on access to documents that would support her case, errors in the factual record that have gone uncorrected, the deficiency of the standard of review that applies to tribunals like the Commission, the insensitivity of those who reviewed her grievances and

concerns, the failure of senior officials to follow their own policies, the absence of norms or legal standards regarding workplace harassment, the shortcomings of the grievance process, and the poor qualifications of the adjudicators within it.

[5] The majority of Ms Hood's submissions relate to the handling of her complaints and grievances at the CFIA in the years leading up to her dismissal in 2010. Those submissions provide context and background to Ms Hood's complaint to the Commission.

[6] However, the Commission's mandate was to treat Ms Hood's complaint fairly and reasonably, not to conduct a wide-ranging inquiry into the operation of the CFIA. Similarly, my role is confined to determining whether the Commission treated Ms Hood's complaint fairly and reasonably. The broad issues Ms Hood has presented may well merit consideration by the appropriate authorities, but they are not within this Court's jurisdiction on an application for judicial review of a single decision of the Commission.

[7] Ms Hood has not made specific allegations of unfairness or unreasonableness on the part of the Commission. I will nonetheless review the Commission's decision to determine whether it committed any reviewable error when it found that Ms Hood's complaint did not warrant further inquiry.

[8] Accordingly, the two issues to consider are:

1. Did the Commission treat Ms Hood unfairly?
2. Was the Commission's decision unreasonable?

## II. The Proceedings before the Commission

[9] The investigator considered the submissions of the parties, which included over 300 pages of documents provided by Ms Hood. In addition, the investigator reviewed the subject matter, proceedings, and outcome of the various complaints and grievances that were addressed while Ms Hood was employed at the CFIA. She also considered the avenues that Ms Hood could have pursued but chose not to do so.

[10] The investigator, who began her report by observing that Ms Hood's complaint was "very challenging to understand," arrived at three main conclusions justifying her recommendation that the Commission not deal with the complaint based on s 41(1)(a), (d), and (e) of the *Canadian Human Rights Act*, RSC, 1985, c H-6 (see Annex).

[11] First, she found that Ms Hood had not been diligent in pursuing her complaint. In particular, she noted that Ms Hood was responsible for a delay of eight months from the time she was advised that her complaint was not in an acceptable form (in June 2013) until she filed a perfected complaint (in March 2014).

[12] Second, the investigator characterized Ms Hood's complaint as vexatious in the sense that she had already sought remedies for much of the misconduct that was at the root of her complaint to the Commission. The investigator provided a detailed summary of the harassment complaint Ms Hood filed in 2008, and the grievances she had pursued for her suspension and dismissal from the CFIA. The investigator concluded that the harassment complaint had been

fairly and thoroughly investigated and that one allegation of improper conduct by her supervisor had been upheld. The substance of that complaint was substantially similar to the complaint she filed with the Commission.

[13] Similarly, the three grievances surrounding her suspension and dismissal related to other issues that Ms Hood included in her complaint to the Commission. The investigator found that Ms Hood's claims of discrimination had already been dealt with in a fair and thorough manner.

[14] Third, the investigator found that Ms Hood had the chance to raise the additional concerns that she presented in her complaint to the Commission, which had not already been addressed in the workplace, by way of the procedures available to her at the CFIA. Those additional issues included alleged harassment by co-workers and a failure to accommodate Ms Hood's carpal tunnel syndrome. Procedures available in the workplace provided alternatives to bringing a complaint to the Commission and, in the investigator's opinion, Ms Hood's failure to exhaust those procedures provided legitimate grounds for the Commission to decline to inquire further into her complaint.

[15] After the investigator submitted her detailed 22-page report, the parties were given an opportunity to respond to it. The Commission considered those responses before issuing its decision.

[16] In its decision, the Commission adopted the investigator's principal findings and decided not to deal with the complaint pursuant to s 41(a), (d) and (e) of the Act.

III. Did the Commission treat Ms Hood unfairly?

[17] The Commission did not treat Ms Hood unfairly. She had opportunities to make submissions both to the investigator and to the Commission. The investigator's report was thorough and, from my reading of the record, contained a fair assessment of the evidence and the background to Ms Hood's complaint.

[18] In her submissions on this application, Ms Hood refers to a number of "process failures," but none of them relate to the investigator or the Commission.

[19] Ms Hood's submissions amount to a general claim of unfairness – in the sense that, in her view, none of her complaints or grievances have been dealt with in a thorough, professional, or sensitive fashion. However, the only fairness question before me is whether the Commission handled her complaint justly. In my view, it did.

IV. Was the Commission's decision unreasonable?

[20] In light of the evidence before it, the Commission's decision was not unreasonable. There were three distinct grounds for the Commission's conclusion and each of them was supported by the detailed evidence set out in the investigator's report and adopted by the Commission. To succeed on this application, Ms Hood would have to persuade me that all three of those grounds were unintelligible, unjustified, or indefensible. In fact, she has not contested any of them directly.

[21] Again, as I understand Ms Hood's submissions, she disputes the Commission's decision because it forecloses the kind of broad-ranging review of the way her complaints and grievances were addressed at the CFIA. But the Commission's sole responsibility was to review the specific complaint that she filed in 2014, and come to a reasonable decision whether to deal with it, which it did.

[22] Accordingly, I cannot conclude that the Commission's decision was unreasonable.

V. Conclusion and Disposition

[23] The Commission treated Ms Hood fairly and arrived at a reasonable conclusion, based on the evidence, not to deal with her complaint. I must, therefore, dismiss this application for judicial review, with costs.

**JUDGMENT IN T-716-15**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed,  
with costs.

"James W. O'Reilly"

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Judge



## ANNEX

*Canadian Human Rights Act,*  
RSC 1985, c H-6

*Loi canadienne sur les droits de  
la personne, LRC (1985), ch H-6*

**Commission to deal with  
complaint**

**Irrecevabilité**

**41** (1) Subject to section 40, the Commission shall deal with any complaint filed with it unless in respect of that complaint it appears to the Commission that

**41** (1) Sous réserve de l'article 40, la Commission statue sur toute plainte dont elle est saisie à moins qu'elle estime celle-ci irrecevable pour un des motifs suivants :

(a) the alleged victim of the discriminatory practice to which the complaint relates ought to exhaust grievance or review procedures otherwise reasonably available;

a) la victime présumée de l'acte discriminatoire devrait épuiser d'abord les recours internes ou les procédures d'appel ou de règlement des griefs qui lui sont normalement ouverts;

...

[...]

(d) the complaint is trivial, frivolous, vexatious or made in bad faith; or

d) la plainte est frivole, vexatoire ou entachée de mauvaise foi;

(e) the complaint is based on acts or omissions the last of which occurred more than one year, or such longer period of time as the Commission considers appropriate in the circumstances, before receipt of the complaint.

e) la plainte a été déposée après l'expiration d'un délai d'un an après le dernier des faits sur lesquels elle est fondée, ou de tout délai supérieur que la Commission estime indiquer dans les circonstances.

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-716-15

**STYLE OF CAUSE:** ROSEMARY ANNE HOOD v ATTORNEY GENERAL OF CANADA, CANADIAN FOOD INSPECTION AGENCY, PUBLIC HEALTH AGENCY OF CANADA, EMPLOYMENT AND SKILLS DEVELOPMENT CANADA - LABOUR

**PLACE OF HEARING:** WINNIPEG, MANITOBA

**DATE OF HEARING:** SEPTEMBER 11, 2018

**JUDGMENT AND REASONS:** O'REILLY J.

**DATED:** SEPTEMBER 27, 2018

**APPEARANCES:**

Rosemary Anne Hood FOR THE APPLICANT – SELF-REPRESENTED

Erica Haughey FOR THE RESPONDENTS

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