Federal Court  Cour fédérale

Date: 20210225

Docket: T-1822-19

Citation: 2021 FC 177

[ENGLISH TRANSLATION]

Ottawa, Ontario, February 25, 2021

PRESENT: The Honourable Madam Justice St-Louis

BETWEEN:

Gabriel Rouleau-Halpin

Applicant

and

Bell Technical Solutions Inc.

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] Gabriel Rouleau-Halpin is seeking judicial review of the adjudicator's decision dated October 9, 2019 [the decision], by Pierre-Georges Roy [the adjudicator], dismissing his unjust dismissal complaint filed under section 240 of the *Canada Labour Code*, RSC 1985, c L-2 [the Code].

[2] For the reasons set out below, the application for judicial review will be dismissed.

II. Background

[3] Bell Technical Solutions Inc. [Bell Solutions], a subsidiary of BCE, installs telecommunications equipment services (television, internet and landline telephones).

[4] On October 1, 2018, Jean-Philippe Paradis, President of Bell Solutions, notified Mr. Rouleau-Halpin, an employee of Bell Solutions since 2005 and Operational Manager for the Laval Region since 2011, that his position was being discontinued and that his services would no longer be required as of the same day. In his letter to Mr. Rouleau-Halpin, Mr. Paradis indicated, among other things, that his salary continuance period would end on January 5, 2019, the [TRANSLATION] "Employment End Date". Mr. Paradis then confirmed to Mr. Rouleau-Halpin the amounts and types of compensation that would be provided to him.

[5] On November 15, 2018, Mr. Rouleau-Halpin filed an unjust dismissal complaint under section 240 of the Code. In the letter he attached to his complaint form, Mr. Rouleau-Halpin alleged (1) that he was aware of his employer's stated reasons for dismissing him; (2) that the alleged restructuring was not real; (3) that he was targeted for dismissal; (4) that his employer did not have to eliminate his position; and (5) that his employer instead made the choice to terminate his employment because his employer no longer wanted him to work there (page 39, respondent's record).

[6] Subsection 240(1), found in Part III of the Code provides as follows:

> 240(1**)** Subject to subsections (2) and 242(3.1), a person who has been dismissed and considers the dismissal to be unjust may make a complaint in writing to the Head if the employee:
>
> > (a) has completed 12 consecutive months of continuous employment by an employer; and
> >
> > (b) is not a member of a group of employees subject to a collective agreement.

[7] It is not disputed that Mr. Rouleau-Halpin meets the two applicable conditions.

[8] On January 21, 2019, Bell Solutions, through its attorneys, confirmed that it disputed the complaint filed by Mr. Rouleau-Halpin. It emphasized that Mr. Rouleau-Halpin had not been dismissed and, therefore, that his complaint was not admissible. It stated that Mr. Rouleau-Halpin's employment was terminated as a result of a general downsizing within the organization and of restructuring and that his position was being discontinued. Thus, Bell Solutions relied on the limitation in subsection 242(3.1) of the Code and argued that an adjudicator could not consider the complaint.

[9] Subsection 242(3.1) of the Code does provide a limitation to the application of section 240 above. Thus, the Board (or the appointed external adjudicator) shall not consider the complaint if the complainant was *laid off because of lack of work or because of the discontinuance of a function*. Thus, an external adjudicator who hears a complaint of unjust dismissal under section 240 of the Code, but concludes that subsection 242(3.1) of the Code applies has no jurisdiction and shall not consider the complaint.

[10] On July 10, September 16, and October 2, 2019, the adjudicator heard the case. He heard testimony from Mr. Rouleau-Halpin, who testified on his own behalf, from Jean-Luc Riverin, Director of Operations for the [TRANSLATION] "Quebec provincial" territory and Jean-Marc Ouimet, Senior Manager, Labour Relations, who testified for Bell Solutions.

[11] On October 9, 2019, the adjudicator rendered his decision and dismissed Mr. Rouleau-Halpin's complaint of unjust dismissal. In short, and as detailed below, the adjudicator determined that the limitation under subsection 242(3.1) of the Code did apply. The complaint under section 240 of the Code therefore could not be considered.

III. Adjudicator's decision

[12] In his decision, the adjudicator set out the relevant evidence and addressed (A) the nature of the employer's organization; (B) Mr. Rouleau-Halpin's career path with the employer; (C) the organizational changes implemented by the employer in 2018; and (D) the changes that occurred after the employer's decision.

[13] In light of the arguments raised before this Court, it is useful to note some of the adjudicator's comments and findings about the evidence before him.

[14] In relation to the nature of the employer's organization, the adjudicator noted the organizational structure of Bell Solutions. He also pointed out, among other things, that the operational managers reported to a regional director, that they each supervised between 20 and 30 salaried technicians, that the employer sometimes used the services of unionized employees

as operational managers under the terms of the collective agreement and that they were then recognized as “temporary” operational managers.

[15] The adjudicator then confirmed that Mr. Rouleau-Halpin had been a permanent employee as an operational manager since 2012 and that, upon his return from sick leave in January 2017, he had a new supervisor in Karina Piacente, Regional Director for the Laval Region.

[16] The adjudicator noted the cuts made within BCE in 2018 and, in particular, the requests made to Bell Solutions in August 2018 to reduce the number of managers and to increase their productivity. The adjudicator further noted that the objective for Bell Solutions was essentially to increase the number of technicians under the responsibility of each operational manager from 26 to 28 and to reduce the number of operational managers for the [TRANSLATION] “Quebec provincial” territory by three, a number subsequently adjusted to two.

[17] The adjudicator noted that Mr. Riverin, who was the sole decision-maker, determined that the surplus resources were in Laval, where Mr. Rouleau-Halpin worked. He chose to use the “leadership” criterion to determine which employees should be laid off, since the number of technicians supervised would increase from 26 to 28 and since the other review criteria did not allow for a tie-breaker. Mr. Riverin used the mid-year reviews completed in June 2018, in which Mr. Rouleau-Halpin had the lowest performance rating for the leadership criterion. The adjudicator also noted that Mr. Riverin referred to the 2017 review only incidentally.

[18] The adjudicator noted that Mr. Rouleau-Halpin reported having had several conflicts with his new supervisor, Ms. Piacente, beginning in June 2017 and that, for several months prior to the mid-June 2018 review, Mr. Rouleau-Halpin had in fact been temporarily reporting to Dominique Ricard.

[19] Lastly, the adjudicator noted Mr. Riverin's testimony stating that only the facts known at the time of the decision could be considered and that he was unaware that two operational managers intended to leave their positions.

[20] The adjudicator devoted a short section of his review of the evidence to events that occurred after the employer's October 1, 2018, decision to discontinue Mr. Rouleau-Halpin's position. Thus, he began by pointing out that two managers left their jobs in December 2018 and January 2019, and that they were presumably replaced by employees who had previously been in temporary positions. He then noted that job offers had been posted in 2019 for the same type of position as Mr. Rouleau-Halpin's, but agreed that it was a recruitment exercise to build a pool of candidates, which he indicated was not in dispute.

[21] The adjudicator then summarized the parties' submissions. The employer's argument was based on the limitation set out in subsection 242(3.1) of the Code; it argued that the decision to terminate Mr. Rouleau-Halpin's employment was made in the context of a workforce reorganization, that the choice of employees affected by the job cuts was perfectly legitimate and that the tribunal must decline jurisdiction.

[22] The adjudicator noted that Mr. Rouleau-Halpin argued that the employer's decision was made in bad faith. Mr. Rouleau-Halpin questioned the legitimacy of the employer's recurring restructuring process, which essentially served to target permanent employees each year who could not be disposed of. He suggested that Bell Solutions' workforce needs have always remained the same and are instead being met by temporary employees, so his position was not really abolished. He emphasized that the administrative process followed by Bell Solutions in this case suggested a desire to terminate his employment. Finally, the adjudicator noted that Mr. Rouleau-Halpin argued that the application of the remedy set out in section 240 of the Code could not be circumvented by interpreting the limitation in subsection 242(3.1) of the Code too broadly.

[23] In his reasons, the adjudicator first reviewed the adjudicator's role in a complaint under section 240 of the Code. He cited the relevant legislation and, relying on decisions of arbitration tribunals, the Federal Court and the Supreme Court of Canada submitted by the employer, set out the parameters for applying the limitation in subsection 242(3.1) of the Code.

[24] In this regard, the adjudicator stated that a two-part analysis was required: (1) to ensure that a real administrative reorganization had taken place and that the position had been discontinued (*Flieger v New Brunswick*, [1993] 2 SCR 651); and (2) to determine whether the process used by the employer to select the employees it had chosen to terminate was reasonable. This involved verifying whether the process revealed the existence of a scheme to get rid of any of them or whether the criteria considered for selecting them were reasonable. This required the complainant to demonstrate factual elements that tend to firmly establish such a possibility

(*Moricetown Indian Band v Morris* (1996) 120 FTR 162; *Clerk v Canadian Pacific Ltd.*, 2004 FC 715; *Kassab v Bell Canada*, 2008 FC 1181; *Rogers Cablesystems Ltd. v Roe*, [2000] FCJ No 1457)

[25] At paragraph 47 of his decision, the adjudicator noted that the decisions submitted by the complainant were less relevant, as they concerned proceedings brought under the Quebec *Act respecting labour standards* (CQLR c N-1.1) [Act Respecting Labour Standards] and therefore involved very different legislation.

[26] In his reasons, the adjudicator then examined the validity of the decision made by the employer according to the above criteria. He examined (1) the validity of the restructuring referred to by the employer; and (2) the validity of the decision to terminate Mr. Rouleau-Halpin's employment relationship.

[27] With respect to the first of these two points, the adjudicator noted that Bell Solutions' parent company asked it to downsize, which gave rise to the request addressed to Mr. Riverin. He also noted that there was a discontinuance of a function within the meaning of subsection 242(3.1) of the Code. The adjudicator found that the employer successfully demonstrated that there had been a legitimate restructuring of management employees in 2018.

[28] As for the second point, the adjudicator found that selecting the leadership criterion to choose the manager whose position would be eliminated was not without merit and that it was not impossible or inappropriate to assess the leadership of managers. Finally, the adjudicator

noted that he received no evidence that the employer's demonstration of how the criterion was selected was inadequate.

[29] The adjudicator also considered how the assessment of the front-line managers was conducted and found that there was no evidence of malfeasance, that it was not unreasonable, and that it did not reveal any improper conduct on the part of the employer's representatives.

[30] Finally, the adjudicator examined in greater detail some allegations made by Mr. Rouleau-Halpin to the effect that:

- The employer was improperly using temporary front-line managers and they should have been sacrificed before he was;
- Positions similar to Mr. Rouleau-Halpin's became vacant in late 2018 and early 2019;
- There was alleged enmity between Mr. Rouleau-Halpin and Ms. Piacente.

[31] Ultimately, the Adjudicator found that there was no evidence to support the argument that the employer had implemented a false restructuring in order to get rid of Mr. Rouleau-Halpin. He added that the mechanism put in place to select the employees affected by the restructuring, although not perfect, could not be considered inadequate or as concealing a desire to terminate Mr. Rouleau-Halpin's employment relationship without legitimate reason.

[32] The adjudicator therefore dismissed the complaint, and that decision is the subject of this judicial review.

IV. Issues

[33] At the hearing, counsel for the applicant presented new arguments, which were opposed by counsel for the respondent since they were not in the applicant's memorandum. The Court retained three new arguments rather than the four suggested by the respondent. The Court's jurisprudence indicates that "unless the situation is exceptional, new arguments not presented in a party's Memorandum of Fact and Law should not be entertained as to do so would prejudice the opposing party and could leave the Court unable to fully assess the merits of the new argument" (*Abdulkadir v Canada (Minister of Citizenship and Immigration)*, 2018 FC 318 at para 81; see also *Del Mundo v Canada (Citizenship and Immigration)*, 2017 FC 754 at paras 12–14; *Mishak v Canada (Minister of Citizenship and Immigration)*, (1999) 173 FTR 144 (TD) at para 6; *Adewole v Canada (Attorney General)*, 2012 FC 41 at para 15). In this case, counsel for the applicant did not raise an exceptional situation, merely pointing out that some of these arguments were in his Notice of Application.

[34] In light of (1) established case law; (2) the fact that the applicant did not submit any authority for presenting at the hearing arguments not raised in the memorandum on the basis that they were set out in the Notice of Application; and (3) the fact that no exceptional circumstances arise or have been raised, the Court will not consider the applicant's new arguments.

[35] Mr. Rouleau-Halpin also raised a potential breach of the rules of natural justice and procedural fairness in that he was not heard, alleging (1) that the adjudicator rejected outright the case law he submitted to him without reading it and that this case law did not deal exclusively with Quebec's Act Respecting Labour Standards, while he accepted the employer's case law;

and (2) that the adjudicator failed to address his main argument that his position was never actually discontinued.

[36] In this regard, I note that the adjudicator did not determine that Mr. Rouleau-Halpin's authorities in relation to Quebec's Act Respecting Labour Standards should be rejected outright. The adjudicator accepted the filing of Mr. Rouleau-Halpin's authorities, but determined at paragraph 47 of his decision that the authorities on Quebec's Act Respecting Labour Standards were "less relevant", as the regimes of the two Acts were different. As submitted by the respondent, this finding cannot be characterized as a breach of the principles of natural justice or procedural fairness. Rather, the adjudicator applied and assessed the relative weight to be given to various prior decisions and identified the applicable law, all part of the adjudicator's role. The same is true of the allegation that an argument was made by the applicant but ignored by the decision-maker in his reasons; this is not a matter of procedural fairness.

[37] The Court must first confirm the applicable standard of review and then address Mr. Rouleau-Halpin's arguments that the adjudicator erred with respect to (1) the selection of the applicant as the employee to be terminated; (2) the abolition of the applicant's position; (3) the constructive dismissal of the applicant; (4) the treatment of the decisions he submitted; and (5) the failure to address a principal argument.

A. *Standard of review*

[38] Since none of the arguments actually refer to a potential breach of the rules of natural justice and procedural fairness, the standard of review for such an allegation does not apply. The

standard of reasonableness therefore applies to all of the arguments raised by the applicant in this proceeding. None of the situations for rebutting the presumption apply in this case (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC /65 [*Vavilov*]).

[39] Where the applicable standard of review is reasonableness, the Court's role on judicial review is to examine the reasons given by the administrative decision-maker and to determine whether the decision 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 decision maker" (*Vavilov* at para 85; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post*] at paras 2, 31). The Court must consider the "outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" (*Vavilov* at para 15).

[40] It is not the role of the Court, on judicial review, to reweigh the evidence on the record, nor to interfere with the findings of fact of the decision-maker and substitute its own (*Canada Post* at para 61; *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55). Rather, it must consider the reasons as a whole in the context of the record (*Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53), and simply limit itself to determining whether the findings were irrational or arbitrary. The onus is on the applicant to demonstrate that the decision of the administrative decision-maker is unreasonable.

B. *The selection of Mr. Rouleau-Halpin as the employee to be terminated*

[41] Mr. Rouleau-Halpin submits that the adjudicator's finding as to the process used to identify the employees to be terminated was totally unreasonable. It should instead have been the adjudicator's first indication of bad faith, since (1) the employer used a criterion whose outcome it already knew and relied on the previous two years' reviews; (2) the reviews were always done on the basis of leadership and results; (3) it was neither serious nor credible to claim that the leadership criterion should be retained on the basis that the managers would have 28 employees to supervise rather than 26.

[42] Bell Solutions responds that the adjudicator applied the test to the facts reasonably based on the evidence before him and supports the adjudicator's analysis of the mechanism put in place to select the affected employees.

[43] As submitted by Bell Solutions, I note that the adjudicator set out the relevant test and applied it to the facts before him. It was open to him, in light of the evidence, to conclude that the leadership criterion chosen by Bell Solutions was neither unfounded nor chosen or applied in bad faith.

[44] As to the applicant's argument that the employer used a criterion that it already knew the outcome of and relied on the previous two years' reviews; I was not persuaded that the fact that Mr. Riverin may have known the leadership rating supported a finding that the criterion was chosen in bad faith, and the evidence reveals that Mr. Riverin only considered the mid-June 2018 review. The adjudicator's conclusion was therefore reasonable.

[45] As for the applicant's argument that reviews have previously always been conducted on the basis of leadership and results, there is no evidence in the record in this regard.

[46] Finally, as to the applicant's argument that it was neither serious nor credible for the employer to select the leadership criterion on the basis that the managers would have 28 employees to supervise rather than 26, I cannot accept it. It was up to the employer to choose the relevant criterion for termination, and the adjudicator's role was limited to considering whether the criterion chosen was applied in a discriminatory manner or in bad faith (*Rogers Cablesystems Ltd v Roe*, 193 FTR 240 (2000) at para 36 and *Ortu v CFMB Limited*, 2017 FC 664 at para 33 ("business decisions [are] the purview of the employer")). Moreover, the testimonial evidence before the adjudicator established that this criterion was also chosen because it was difficult to distinguish between employees using other criteria.

[47] Mr. Rouleau-Halpin did not satisfy the Court that the adjudicator erred in accepting the leadership criterion or in finding that the employer did not apply the criterion in bad faith.

C. *Abolition of Mr. Rouleau-Halpin's position*

[48] Second, Mr. Rouleau-Halpin submits that the adjudicator did not correctly apply the principles used to determine whether his position was actually abolished. Mr. Rouleau-Halpin acknowledges, however, that the adjudicator used the correct principles, established by case law, to determine whether a position was actually abolished.

[49] Thus, Mr. Rouleau-Halpin argues that the adjudicator erred in deciding that he was limited to [TRANSLATION] “assessing the behaviour of the employer at the time of the decision and not retrospectively, after the fact”, while simultaneously deciding that the situation would have been different if the employer had then proceeded to hire new staff [TRANSLATION] “several weeks later”. Mr. Rouleau-Halpin submits that the adjudicator ignored the case of temporary employees, including one employee who had his contract extended in December 2018 and who became permanent in June 2019 as an operational manager for the Laval area, with the result that in July 2019, Bell Solutions employed the same number of operational managers in Laval as it had in October 2018.

[50] Mr. Rouleau-Halpin therefore argues that the adjudicator did not follow through with his logic and erred in failing to consider the events from December 2018 to June 2019 in relation to the temporary employee in order to assess whether his position had really been abolished. He added that this evidence created a reasonable doubt as to Bell Solutions’ good faith and therefore merited review by the adjudicator, particularly in the absence of an explanation from Bell Solutions as to why a permanent employee was hired when Mr. Rouleau-Halpin’s position had been abolished to save money. Mr. Rouleau-Halpin also submitted that Bell Solutions was very reluctant to disclose relevant evidence, suggesting that this evidence was prejudicial to it.

[51] Bell Solutions responds that the adjudicator dealt with the evidence and specifically addressed the argument in paragraph 58 of his decision, but determined that the cuts were only to management, not to the unionized employees temporarily assigned to operational manager positions. Bell Solutions adds that paragraph 58 of the decision addressed another argument

made by the applicant in connection with the two positions that became vacant in December 2018 and January 2019 due to the unplanned departure of two employees. Lastly, Bell Solutions responds that there was no evidence that new permanent operational managers were hired [TRANSLATION] "several weeks later".

[52] Thus, Bell Solutions rebuts Mr. Rouleau-Halpin's argument that the number of managers remained the same between October 2018 and July 2019. It therefore asserts that the adjudicator's decision was reasonable.

[53] As stated by Bell Solutions, the adjudicator did not fail to apply the relevant criteria and Mr. Rouleau-Halpin acknowledges that these criteria were correctly stated.

[54] The adjudicator could reasonably conclude from the evidence that:

- The hiring of unionized employees as operational managers on a temporary basis was not relevant to the analysis, as the restructuring of Bell Solutions was aimed solely at permanent management positions;
- The employer did not know and could not have foreseen on October 1, 2018, that two operational managers in the Gatineau area would leave their positions without notice in December 2018 and January 2019;
- The situation would be different if the employer had hired managers [TRANSLATION] "several weeks" after October 1.

[55] The adjudicator's conclusion was therefore not unreasonable.

[56] The adjudicator could have dealt specifically with the situation of the temporary manager who became permanent. However, his reasons show why he did not do so. Indeed, (1) having determined that the cuts were directed only at managers, in this case permanent operational managers, the adjudicator did not need to address the extension of the contract of a unionized employee, who was a temporary manager, in December 2018; and (2) having noted that a hiring a few weeks after the decision could signal an unjust dismissal, the adjudicator did not need to address the hiring of a permanent employee that occurred nine months after the decision.

D. *Constructive dismissal of Mr. Rouleau-Halpin*

[57] Third, Mr. Rouleau-Halpin submits that he was constructively dismissed under the Code, given that: (1) prior to his 2017 medical leave, he had been a high-performing employee; (2) upon his return, he had a new supervisor; (3) his new supervisor was hostile and vexatious towards him; (4) his new supervisor discouraged him from applying for other internal positions, saying that she had already made a negative recommendation about him; (5) he was rejected for any position he applied for following his return from sick leave; (6) his reviews were no longer satisfactory, especially on the leadership criterion; (7) Bell Solutions ignored his overall results, even though they stood at 96.8% for 2018; (8) Bell Solutions did not offer Mr. Rouleau-Halpin two positions that unexpectedly became available after his termination (*Canadian Broadcasting Corporation v Associations of Professionals and Supervisors*, 2018 CanLII 119223 (adjudicator's decision)); and (9) his position was posted for all regions of Quebec following his termination, suggesting that Bell Solutions still had staffing needs.

[58] Thus, Mr. Rouleau-Halpin submits that it was unreasonable for the adjudicator to conclude that Bell Solutions acted in good faith, even under the applicable presumption of good faith. He argues that the adjudicator appears to have required proof beyond a reasonable doubt of Bell Solutions' bad faith, whereas bad faith can be inferred from indicia and vexatious behaviour juxtaposed. Mr. Rouleau-Halpin therefore argues that the adjudicator made a decision that was not supported by the evidence, thereby committing an error that invalidated his decision.

[59] Bell Solutions responds that the adjudicator properly weighed the evidence, among other things, by summarizing it in his decision, and chose to reject Mr. Rouleau-Halpin's claim that the enmity that allegedly existed between him and his supervisor was the real explanation for his termination. Bell Solutions also notes that the manager who carried out the dismissal (Mr. Riverin) had not communicated with Mr. Rouleau-Halpin's new supervisor for the purpose of making his decision. Bell Solutions also notes that the positions that became available after Mr. Rouleau-Halpin's termination opened up unexpectedly and that the posting for a position similar to Mr. Rouleau-Halpin's is an ongoing posting aimed at establishing a pool of candidates rather than filling a position that was vacant at the time (as appears from the wording of the job posting itself). Thus, Bell Solutions submits that the adjudicator's decision was reasonable.

[60] There is no indication that the adjudicator ignored the evidence submitted by Mr. Rouleau-Halpin for the reasons set out above. With respect to the enmity with the supervisor, the adjudicator summarized the evidence in his decision and concluded that the evidence was not sufficiently detailed to justify a finding that the restructuring process was not the real justification for Mr. Rouleau-Halpin's termination. Given the evidence presented by Bell

Solutions, it was open to the adjudicator to so conclude. The adjudicator neither ignored the evidence nor refused to assess its relevance. He simply assessed its probative value. His thought process and conclusion were reasonable.

[61] As noted above, it is not the role of the Court on judicial review to reweigh the evidence on the record (*Canada Post* at para 61). Rather, it must consider the reasons as a whole and determine whether the conclusions were irrational or arbitrary. It is clear that the decision was coherent in its reasoning and addressed all of the arguments raised by the parties. The applicant has not satisfied the Court that the adjudicator's decision was unreasonable.

E. *Authorities submitted by Mr. Rouleau-Halpin*

[62] As mentioned above, Mr. Rouleau-Halpin also submits that the adjudicator failed to respect procedural fairness, as he dismissed his authorities decided under Quebec's Act Respecting Labour Standards and, in addition, did not mention those that did not involve Quebec's Act Respecting Labour Standards. Mr. Rouleau-Halpin submits that the Supreme Court of Canada had determined in *Wilson v Atomic Energy of Canada Ltd*, 2016 SCC 29 [*Wilson*] that section 240 of the Code was similar to its Quebec counterpart. He also submits that the adjudicator clearly did not read the decisions in question and that their rejection is tantamount to a rejection of all his arguments, which constitutes a denial of justice.
Mr. Rouleau-Halpin submits that it was erroneous for the adjudicator to conclude that his authorities were less relevant and that the legislation differed and argues that several adjudicators appointed under the Code have referred to them in the past.

[63] Bell Solutions responds that the adjudicator simply found that the authorities were less relevant (paragraph 47 of his decision, page 30, Mr. Rouleau-Halpin's record) and that, in doing so, he identified and stated the law applicable to the facts before him.

[64] As noted by Bell Solutions, the adjudicator simply determined the weight to be given to Mr. Rouleau-Halpin's authorities. There is nothing to suggest that his conclusion was unreasonable. Furthermore, in his memorandum, Mr. Rouleau-Halpin did not mention the decisions referred to and did not cite any such decisions. Nor did Mr. Rouleau-Halpin explain how his authorities ought to have led the adjudicator to define or apply the principles differently. Finally, *Wilson* does not address the limitation in subsection 242(3.1) of the Code, which was at the heart of this dispute.

[65] Thus, the applicant has not satisfied the Court that the adjudicator’s decision on this point was unreasonable.

F. *The adjudicator ignored a main argument*

[66] Mr. Rouleau-Halpin essentially argues that the adjudicator failed to address his argument that his position was in fact, never abolished.

[67] As noted above, this argument is not persuasive. On the contrary, the adjudicator found that the position had been abolished.

V. Conclusion

[68] None of the arguments raised by Mr. Rouleau-Halpin have satisfied the Court that the adjudicator's conclusions were irrational or arbitrary or that the adjudicator's decision was unreasonable under established principles.

[69] For the reasons set out above, the application for judicial review will be dismissed, with costs.

JUDGMENT in T-1822-19

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed, with costs.

"Martine St-Louis"
Judge

Certified true translation
Margarita Gorbounova, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1822-19
STYLE OF CAUSE:	GABRIEL ROULEAU-HALPIN V BELL SOLUTIONS TECHNIQUES INC ET AL
PLACE OF HEARING:	MONTRÉAL (BY VIDEOCONFERENCE VIA ZOOM)
DATE OF HEARING:	FEBRUARY 3, 2021
JUDGMENT AND REASONS:	ST-LOUIS J.
DATED:	FEBRUARY 25, 2021

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