

Federal Court of Appeal



Cour d'appel fédérale

Date: June 6, 2024

Docket: A-133-23

Citation: 2024 FCA 105

**CORAM: GLEASON J.A.
LOCKE J.A.
WALKER J.A.**

BETWEEN:

VALERIE ANDRUSZKIEWICZ

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario on June 6, 2024.

Judgment delivered from the bench at Ottawa, Ontario, on June 6, 2024.

REASONS FOR JUDGMENT OF THE COURT BY:

WALKER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on June 6, 2024)

WALKER J.A.

[1] The appellant, Ms. Andruszkiewicz, appeals a judgment of the Federal Court (*Andruszkiewicz v. Canada (Attorney General)*, 2023 FC 528) dismissing her application for judicial review of a final level grievance decision of the Canada Border Services Agency (CBSA) (the CBSA grievance decision). The Federal Court determined that the CBSA grievance

decision was reasonable and that the appellant had not been deprived of procedural fairness in the underlying harassment investigation or grievance process.

[2] In an appeal to this Court of a Federal Court decision on judicial review, we are required to determine whether the Federal Court: (i) selected the appropriate standard of review; and (ii) if so, correctly applied that standard: *Northern Regional Health Authority v. Horrocks*, 2021 SCC 42, 462 D.L.R. (4th) 585 at para. 10; *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 SCR 559 at paras. 45-47. In this second regard, we essentially step into the shoes of the Federal Court and consider the administrative decision at issue, here the CBSA grievance decision.

[3] The Federal Court correctly identified reasonableness as the standard to be applied to the merits or substance of the CBSA grievance decision. The Court also correctly found that the procedural fairness issues raised by the appellant required the Court to determine whether the CBSA's procedure was fair having regard to all the circumstances.

[4] The Federal Court determined that the reasons for the CBSA grievance decision are set out in the decision itself, the two investigation reports (the Investigation Reports), and the final level grievance précis prepared by a senior labour relations advisor (the Advisor) (the Précis). We agree: *Sketchley v. Canada (Attorney General)*, 2005 FCA 404, [2006] 3 FCR 392 at paras. 37-39; *Veillette v. Canada (Revenue Agency)*, 2020 FC 544 at para. 27. This finding is important as it addresses the appellant's submission that the CBSA grievance decision provides insufficient reasons to justify its conclusions. We are of the view that the CBSA's decision, read with the

Investigation Reports and the Précis, and considered in light of the record, discloses the key bases on which the decision was made.

[5] The appellant maintains her argument that she was not afforded procedural fairness during the harassment complaint and grievance processes. With respect, we disagree. We find that the record reveals that the complaint and grievance processes were participatory, open and fair. The appellant knew the case she had to meet and had full opportunity to present her position to the investigator and the Advisor.

[6] We have carefully reviewed the record and the appellant's arguments. While we do not endorse all of the reasons given by the Federal Court, we see no error in its decision that warrants our intervention. We conclude that the CBSA's grievance decision is justified and reasonable and that the appellant has not established any breach of her right to procedural fairness.

[7] Accordingly, this appeal will be dismissed without costs, none having been sought by the respondent.

“Elizabeth Walker”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-133-23

STYLE OF CAUSE: VALERIE ANDRUSZKIEWICZ v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: JUNE 6, 2024

**REASONS FOR JUDGMENT OF THE COURT
BY:** GLEASON J.A.
LOCKE J.A.
WALKER J.A.

DELIVERED FROM THE BENCH BY: WALKER J.A.

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