



Public Service  
Staffing Tribunal

Tribunal de la dotation  
de la fonction publique

FILES: 2007-0447, 2007-0448, 2008-0407

OTTAWA, OCTOBER 24, 2008

**ANDREA KITCHEN**

**COMPLAINANT**

**AND**

**THE DEPUTY MINISTER OF CITIZENSHIP AND IMMIGRATION CANADA**

**RESPONDENT**

**AND**

**OTHER PARTIES**

<b>MATTER</b>	Complaints of abuse of authority pursuant to paragraph 77(1)(a) of the <i>Public Service Employment Act</i>
<b>DECISION</b>	Complaints are dismissed
<b>DECISION RENDERED BY</b>	Sonia Gaal, Member
<b>LANGUAGE OF DECISION</b>	English
<b>INDEXED</b>	<i>Kitchen v. Deputy Minister of Citizenship and Immigration Canada et al.</i>
<b>NEUTRAL CITATION</b>	2008 PSST 0028

## REASONS FOR DECISION

### INTRODUCTION

[1] The complainant, Andrea Kitchen, works at the Department of Citizenship and Immigration Canada. She filed three complaints concerning an internal advertised appointment process for the Team Leader (PM-04) position in Vegreville, Alberta. She submits that the respondent, the Deputy Minister of Citizenship and Immigration Canada, abused its authority when it found her not to be qualified because she did not meet an essential qualification.

[2] The complainant filed her complaints on September 13, 2007, under paragraph 77(1)(a) of the *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12, 13 (the *PSEA*).

[3] In accordance with section 8 of the *Public Service Staffing Tribunal Regulations*, SOR/2006-6, (the *PSST Regulations*), the complaints were consolidated. On October 12, 2007, the Tribunal ordered that the proceedings be consolidated for complaint files 2007-0447 and 2007-0448. On June 2, 2008, complaint file 2008-0407 was consolidated with complaints 2007-0447/0448.

[4] A hearing on the merits of this case was held in Edmonton, Alberta, on June 12 and 13, 2008.

### ISSUES

[5] In order to resolve these complaints, the Tribunal must determine the following issues:

(i) Did the respondent abuse its authority by improperly reassessing the complainant during the informal discussion?

(ii) Did the respondent abuse its authority by improperly reassessing two candidates during the informal discussion process?

(iii) Did the respondent abuse its authority by assessing the essential qualifications with an inadequate assessment tool?

## SUMMARY OF RELEVANT EVIDENCE

[6] On May 5, 2006, a job opportunity advertisement for the Team Leader position was posted on *Publiservice* (06-IMC-IA-CPCVG-1211). Candidates were assessed using a combination of a written knowledge exam, an interview and reference checks.

[7] There were three members on the assessment board: Paul Snow, Lisa Hall and Pamela Bunclark. Due to different circumstances, the three members were not present at all the interviews.

[8] The complainant met the screening criteria and was invited to the written and interview portion of the appointment process.

[9] Ms. Bunclark testified on behalf of the respondent. She is a Team Leader in Vegreville, Alberta, and supervises the complainant.

[10] She explained that the interview was an opportunity for the candidates to demonstrate how they met the essential qualifications. One of the essential qualifications for the position was "Integrity" which was assessed during the interview. Two questions addressed this criterion:

- Question 7: "How do you manage to work with people whom you are not comfortable with? What do you do in such situations?"
- Question 8: "Describe a time you had difficulty honouring a commitment in a work situation."

[11] Ms. Bunclark indicated that all the candidates were given a set amount of time prior to the interview to review the questions and take a few notes if necessary. After each interview or soon after, the board members met and reached a consensus on whether a candidate met or not the essential qualifications.

[12] All candidates were assessed in a similar fashion. Ms. Bunclark did not participate in the complainant's interview and relied on the interview notes and comments of her two colleagues. She recalled that the complainant had a short answer

for question 7 and a shorter answer for question 8. The assessment board found that the complainant did not provide sufficient details or information in her answers to the two questions and she failed that criterion.

[13] The assessment board contacted two references for the complainant. One was Ms. Bunclark. Since she could not answer all the questions, the board contacted Ms. Neufeld who had supervised the complainant for approximately three months.

[14] Ms. Bunclark indicated that reference checks provided the opportunity to confirm or refute what they were told by the candidates. However, if someone had done poorly in any question during the interview, for example questions 7 and 8 (Integrity qualification), but had good references, the interview was the determining factor, not the references. Therefore, the candidate would still fail that criterion.

[15] The complainant was informed that she did not meet all the essential qualifications and was eliminated from the appointment process. She was invited to participate in an informal discussion and wrote to Ms. Hall on March 28, 2007, asking for the board's definition of "Integrity" as well as the expected answers.

[16] The complainant was provided with a copy of the board's definitions for "Integrity" approximately two weeks prior to the informal discussion which took place on April 11, 2007.

[17] The complainant testified that the three members of the assessment board participated in the informal discussion; however, Mr. Snow participated via teleconference. The complainant gave them a document she had prepared outlining her position. Her main concern was the fact that Ms. Neufeld had been used as a reference. The complainant argued that Ms. Neufeld did not know her very well, referred to an incident she had never brought to the complainant's attention and finally, there was a personal conflict between them. The complainant wrote: "I do not believe that Sue's assessment of me is a fair and unbiased assessment." The complainant requested that a different referee be used instead of Ms. Neufeld.

[18] During the informal discussion, the complainant was shown the definition of the “Integrity” qualification, the questions and expected answers as well as her answers. The board explained that her answers were weak and asked her if she had a problem during the interview. She said she thought one question made no sense so she stopped answering it. Ms. Bunclark then asked her if she wanted to complete her answer but the complainant did not as she believed this was not the purpose of an informal discussion.

[19] The complainant stated she was “shocked” by the discussion that took place during the informal discussion as the board was asking her to provide more details on the “Integrity” qualification. She was not prepared for that and told them she met the definition.

[20] In her testimony, the complainant referred to two co-workers who had been eliminated from the process but were included in the pool after their informal discussions: Ms. Thostenson and Ms. Smythe-Wilson. She believed they were able to add to their answers during the informal discussion which allowed them to then meet the expected answers. She stated this was unfair.

[21] According to Ms. Bunclark, the informal discussion was to provide unsuccessful candidates with the opportunity to correct a technical error, for example, if the board omitted or misunderstood an answer. The board did not allow candidates to re-answer any question and did not reassess them.

[22] Ms. Bunclark recalls they went over the complainant’s answers for questions 7 and 8 but most of the discussion focused on using Ms. Neufeld as a reference. The complainant admitted to the board that her answers were weak, especially question 8 where she had difficulty thinking of an example.

[23] Ms. Bunclark stated that the board wanted the complainant to be successful on future processes so they discussed her answers to questions 7 and 8 and prompted her as they viewed this was a learning opportunity for her. However, the board did not tell the complainant they were reassessing her and she was not reassessed. Ms. Bunclark testified that they could not reassess her as the board had already told her the expected

answers. Furthermore, she explained that this was not the purpose of an informal discussion.

[24] After meeting with the complainant, the board believed it did not make a mistake with the assessment of her interview. They thought her answers to the questions on the “Integrity” qualification were clearly insufficient as they did not show the required elements for the PM-04 position; thus, nothing needed to be clarified. The board, however, agreed to disregard Ms. Neufeld’s reference as it was unfair to the complainant. Ms. Bunclark explained that this decision did not alter the fact that the complainant had failed the “Integrity” qualification so there was no need to contact another referee.

[25] Ms. Bunclark reiterated during cross-examination that neither Ms. Smythe-Wilson nor Ms. Thostenson was reassessed during their informal discussion. Rather, they provided additional information or explanation to their answers that were sufficiently detailed.

[26] In the case of Ms. Smythe-Wilson, she informed the board that she was the co-chair of the diversity committee, responsible for planning events which, according to Ms. Bunclark, put her answer on planning and organizing “in a new light”. She had also planned her own wedding. The board was then satisfied she met that criterion and she was placed in the pool.

[27] As for Ms. Thostenson, who was also found to be qualified and added to the pool, Ms. Bunclark explained that the board realized that it was expecting more from her than other candidates and had held her at a higher standard because of their professional relationship with her. Ms. Thostenson had been working with the board members and there had been comments that she was a “shoe in” which made the board members more demanding, without realizing it. The board also took into account its knowledge of Ms. Thostenson in making its decision that they were holding her at a higher standard. Therefore, the informal discussion with Ms. Thostenson was different since it was the assessment board itself that came to recognize they had treated her

differently. Upon reviewing her answers, the board found she met the criteria and included her in the pool.

[28] On the other hand, Ms. Bunclark explained that the complainant provided so little information in her answers to questions 7 and 8 during the interview that a clarification was insufficient for her to meet the expected answer and to be placed in the pool. The discussion that took place with her was to allow her to expand on what she said if similar questions arose in future staffing processes.

[29] The complainant was informed on April 12, 2007, that she did not meet the requirements for this appointment process.

[30] An exchange of emails followed between the complainant and Ms. Hall. The complainant still did not understand why she did not meet the qualifications after providing specific examples during the informal discussion. She was unsure whether her assessment was based on the interview, the references or the informal discussion. In her email dated May 1<sup>st</sup>, 2007, she asked: "If I was reassessed, shouldn't I have an opportunity to find out how?"

[31] On May 7, 2007, Ms. Hall replied and attached the notes taken during the interview and the complainant's informal discussion. She wrote:

The board has explained to you that there were two questions for each element in order to assess your suitability for a Team Leader position. We have also explained that references were utilized as background information tools in order to confirm or deny our results from the interview assessments.

[32] The complainant wrote to Ms. Hall on May 14, 2007 inquiring again why she did not meet the "Integrity" qualification as she wanted to know what element was missing from her answers during the informal discussion.

[33] Patrick Faulkner, Manager of Human Resources, answered the complainant's last email at length on June 20, 2007. He confirmed that Ms. Neufeld's reference was not used in her assessment because it was unsubstantiated. He explained that no other reference was contacted as it had no impact on the results since she did not

satisfactorily answer questions 7 and 8 on the “Integrity” qualification during the interview. He also added:

Even if the reference came back glowing, it would not have meant that you passed the interview. The Board used reference check to confirm/deny findings in the interview, not to add to/subtract from interview responses.

[...]

I wish to clarify that the informal discussion did not re-assess your qualifications as you stated, but rather determined if the Board had made an error or omission. [...] Perhaps it would have been better if expectations of each party were identified at the beginning of the informal discussion.

[...]

The typed attached document to the letter from Lisa Hall dated May 7, 2007 explains why you were not considered further in the process. You did not adequately demonstrate how you met the Statement of Merit Criteria qualification of Integrity. The qualification Integrity was assessed against the pre-defined definitions using the oral interview. In the notes from the informal discussion it states that you agreed with the Board that your answers to interview question seven was weak and that your answer to question eight was very poor. [...]

## ARGUMENTS OF THE PARTIES

### A) COMPLAINANT’S ARGUMENTS

[34] The complainant believes the respondent used inadequate tools to assess the “Integrity” qualification. In her opinion, if the interview questions were adequate and appropriate, there would be no reason to discuss answers during the informal discussions with three candidates. Therefore, the board used inadequate tools and materials to make their initial decisions and assessments.

[35] The respondent had an improper intention in mind and exercised its discretion on irrelevant considerations. The respondent did not exercise its discretion in a fair and proper manner when it conducted the informal discussions.

[36] The informal discussions that took place with Ms. Smythe-Wilson, Ms. Thostenson and with the complainant were not appropriate as they were used to reassess the two candidates and the complainant. The board solicited answers from the two candidates that went beyond clarification and validation of their initial assessments. The board was seeking new information to justify their decision to put the two



candidates back in the pool which in fact was the undertaking of a retroactive administrative action.

[37] The complainant submits that she was not prepared to discuss her answers at the informal discussion and thought it was inappropriate to enter into such a discussion. She was placed at a disadvantage compared to the other two candidates.

[38] The respondent used its personal knowledge of Ms. Thostenson to assess her but did not use it for the complainant. There is “convincing circumstantial evidence” that the respondent favoured Ms. Thostenson.

[39] In answer to the respondent and the Public Service Commission (the PSC), the complainant argued that the Tribunal has established in a number of decisions that abuse of authority does not require intent. The complainant referred to Tribunal decisions, in particular *Tibbs v. Deputy Minister of National Defence et al.*, [2006] PSST 0008, and *Jolin v. Deputy Head of Service Canada et al.*, [2007] PSST 0011, in support of its position.

[40] The complainant is not seeking to be reassessed by the Tribunal. Rather, she is asking that the Tribunal “review the process [...] to determine if the tools properly and adequately assessed the delegate’s defined qualifications.”

#### B) RESPONDENT’S ARGUMENTS

[41] The respondent submits that the complainant successfully wrote the knowledge exam. She answered well the questions on judgment, reasoning skills and strategic planning. She has no issue with those assessment tools. The only issue lies with the assessment of the “Integrity” qualification as the complainant now argues the questions to assess this qualification were not adequate. However, she admitted that her answers at the interview for questions 7 and 8 were poor. This is not in dispute.

[42] According to the respondent, the informal discussion is not part of the assessment process. It is a discussion with unsuccessful candidates to clarify answers, facts and correct mistakes. The complainant herself agreed that the purpose of an informal discussion is not to reassess a candidate.

[43] The complainant's main focus during the informal discussion was using Ms. Neufeld as a reference. The board agreed with the complainant, recognized it had made an error and decided to ignore Ms. Neufeld's reference for the "Integrity" qualification.

[44] The respondent argues that the complainant was not reassessed during the informal discussion. All the correspondence to the complainant following the informal discussion confirms that there was no reassessment of the "Integrity" qualification. Ms. Bunclark was clear that the complainant was not told she was being reassessed.

[45] The respondent further submits that since the complainant had been given the definition of "Integrity" in preparation for the informal discussion, it makes no sense that the board would provide her with the opportunity to allow her to change her answer. The board reviewed with the complainant the answer she gave as well as the type of answers it was looking for. This discussion was held for the complainant's benefit in order to encourage her to apply again and perform at future interviews. The purpose was not to reassess her.

[46] The respondent argues that Ms. Smythe-Wilson and Ms. Thostenson, who were included in the pool, were not reassessed during their informal discussion. Ms. Bunclark explained the assessment board's decisions once it had additional details.

[47] The respondent explained that there is a link between the essential qualifications and the tools used to assess them. The fact that the complainant disagrees with the assessment is not in itself an abuse of authority. The Tribunal should not be micro-managing the process to review whether the questions 7 and 8 assessed properly the "Integrity" qualification.

[48] The respondent argues that abuse of authority should be limited to bad faith, personal favouritism or similar misfeasance. The terms share the common feature of requiring discernment as between right and wrong and are of a serious nature. The respondent also provided case law and excerpts from doctrine in support of its position.

[49] The respondent submits that the appointees met the essential qualifications and the complainant has no evidence proving otherwise. The complainant has not met the burden of proof to establish abuse of authority and the complaints should be dismissed.

C) PUBLIC SERVICE COMMISSION'S ARGUMENTS

[50] The PSC was not present at the hearing, but provided written submissions. It submits that for an act in an appointment process to constitute abuse of authority, there must be an element of intention such as bad faith or personal favouritism.

[51] The PSC also argues that the *PSEA* is clear that safeguard of merit lies with the PSC and not the Tribunal. As for the issues before the Tribunal, the PSC submits that the informal discussion should not be used to reassess a candidate's qualifications.

ANALYSIS

**Issue I:** Did the respondent abuse its authority by improperly reassessing the complainant during the informal discussion?

[52] The Tribunal has found in many decisions that in accordance with paragraph 30(2)(a) of the *PSEA*, employees must meet the essential qualifications in order to be appointed to a position (See *Rinn v. Deputy Minister of Transport, Infrastructure and Communities et al.*, [2007] PSST 0044; *Charter v. Deputy Minister of National Defence et al.*, [2007] PSST 0048; *Brown et al. v. Deputy Minister of National Defence et al.*, [2008] PSST 0005).

[53] The complainant was eliminated from the appointment process. She then sought to understand the reasons for being eliminated, which led to an informal discussion. She argues that she was improperly reassessed during the informal discussion.

[54] The complainant submitted a document during the informal discussion which addressed both the references provided by Ms. Bunclark and Ms. Neufeld. She did not discuss her answers to questions 7 and 8 which, by her own admission, were weak and incomplete.

[55] Ms. Bunclark explained that the complainant was not being reassessed during the informal discussion. The purpose of the informal discussion was to give her feedback on how to answer similar questions in future processes.

[56] In *Rozka et al. v. Deputy Minister of Citizenship and Immigration Canada et al.*, [2007] PSST 0046, the Tribunal established the following:

[76] Informal discussion is intended primarily to be a means of communication for a candidate to discuss the reasons for elimination from a process. If it is discovered an error has been made, for example, if the assessment board did not consider some information listed on a candidate's application, this provides the opportunity for the manager to correct that mistake. However, informal discussion is not an opportunity to request that the assessment board reassess a candidate's qualifications.

(See also *Neil v. Deputy Minister of Environment Canada et al.*, [2008] PSST 0004; *Dionne v. Deputy Minister of National Defence et al.*, [2008] PSST 0011; *Lavigne v. Deputy Minister of Justice et al.*, [2008] PSST 0013.)

[57] There appears to have been some confusion, at least on the complainant's part, as to the purpose of reviewing her answers during the informal discussion. It is unfortunate that the complainant may have understood that she was being reassessed. The Tribunal reminds the parties that it is important for unsuccessful candidates to understand clearly the purpose of the informal discussion as this avoids hopes and expectations of a reassessment. This seems to be acknowledged by Mr. Faulkner in his email to the complainant on June 20<sup>th</sup>, 2007, quoted above in paragraph 33, where he states the process could have been better explained.

[58] Nevertheless, there is uncontradicted evidence that the complainant was provided with the definition of the "Integrity" qualification prior to the informal discussion and thus, was aware of the expected answers. Regardless of the complainant's understanding of the informal discussion and her answers to the questions aiming to assess the "Integrity" qualification, Ms. Bunclark's testimony demonstrates that the complainant was not being reassessed. The board determined that the complainant's answers to the questions on the "Integrity" qualification were insufficient; clarifying her answers did not help her to obtain the expected answer and to be placed in the pool.

[59] The Tribunal acknowledges that it makes little sense for the respondent to provide the complainant with the answer to the questions and then ask her to answer them again in order to reassess her to possibly find her qualified.

[60] The Tribunal also believes that the board was attempting to assist the complainant when it reviewed her answers with her. The assessment board was not reassessing the complainant.

[61] In *Henry v. Deputy Head of Service Canada et al.*, [2008] PSST 0010, the complainant argued that the assessment board should have reassessed her incomplete application after the informal discussion and include her in the pool of qualified candidates. The Tribunal found as follows:

[63] The Tribunal finds there was no abuse of authority when the assessment board did not reassess the complainant's training following the informal discussion. The Tribunal reiterates that the complainant was required to demonstrate on her application that she met all the essential qualifications. Therefore, the Tribunal is satisfied that the respondent relied on the proper material, which was the complainant's application, when it decided to eliminate her from further consideration in the appointment process.

[62] Although *Henry* dealt with an incomplete application, the same reasoning applies here where the complainant did not satisfactorily answer questions assessing the "Integrity" qualification. The respondent properly relied on the complainant's incomplete and very brief answers during her interview to eliminate her from the process.

[63] The Tribunal finds that the respondent did not abuse its authority when it did not reassess the complainant during the informal discussion. There is no dispute on the assessment board's conclusion that the complainant did not meet the "Integrity" qualification.

**Issue II:** Did the respondent abuse its authority by improperly reassessing two candidates during the informal discussion process?

[64] Section 47 of the *PSEA* which deals with informal discussion is non-prescriptive. This section reads as follows :

47. Where a person is informed by the Commission, at any stage of an internal appointment process, that the person has been eliminated from consideration for appointment, the Commission may, at that person's request, informally discuss its decision with that person.

[65] As indicated above, the purpose of informal discussions has been established by the Tribunal in *Rozka* and followed in a number of decisions.

[66] The complainant alleges that the respondent improperly reassessed two other candidates during the informal discussion. The Tribunal has reviewed the documents submitted in evidence relating to Ms. Thostenson and Ms. Smythe-Wilson's informal discussions. Ms. Bunclark was also cross-examined at length on this issue.

[67] It was Ms. Bunclark's evidence that, during the informal discussion, Ms. Smythe-Wilson clarified her role as co-chair on the diversity committee which showed she had been in charge of planning. In addition, she had planned her own wedding. The assessment board found she then met the "Planning and organizing" qualification and placed her in the pool.

[68] As for Ms. Thostenson, Ms. Bunclark explained that the board members had been involuntarily more demanding of her than the other candidates because of their concern of being perceived as favouring her. She stated "we bent over backwards and marked her harder" because of that. Once they realized this, they reviewed her answers again and found she met the qualifications. Ms. Bunclark stated that Ms. Thostenson did not re-answer questions during the informal discussion.

[69] Ms. Bunclark's testimony shows that the two candidates were found to be qualified during the informal discussion. She provided plausible testimony to explain the reasons for now finding that both met the essential qualifications and were placed in the pool. Ms. Smythe-Wilson's marks were reviewed after she explained her role as a co-chair of the diversity committee, as this put her answers in a new light. The answers of Ms. Thostenson were also reviewed as the board found that it had assessed her answers more critically than other candidates and the marks attributed to her answers were corrected.

[70] As the Tribunal indicated in *Rozka*, when the assessment board discovers in the informal discussion that an error has been made, or that it did not consider some information listed on a candidate's application, this provides the opportunity to correct

that mistake. These corrections could lead to the assessment board finding that a candidate is qualified as what has happened with these two candidates. The Tribunal finds that the selection board reviewed the marks given to the two candidates after it realized it had made some errors in their assessment.

[71] The Tribunal finds this to be in contrast with the complainant's situation where she provided clearly insufficient answers to the "Integrity" qualification during the interview. Therefore, there was not much for her to clarify during the informal discussion. On her own admission, the complainant indicated that her answers to questions 7 and 8 were poor.

[72] Finally, the Tribunal wishes to address the complainant's argument about the assessment board's use of personal knowledge for Ms. Thostenson but not for herself. The assessment board used its personal knowledge of Ms. Thostenson to assess her initially much more critically. It also used initially personal knowledge in the complainant's assessment.

[73] In *Visca v. Deputy Minister of Justice et al.*, [2007] PSST 0024, the Tribunal found:

[53] As highlighted by the words ***may use any assessment method***, section 36 of the *PSEA* is non-prescriptive; a selection board may choose from a wide range of assessment tools and methods. There is no dispute that personal knowledge of a selection board member is an accepted assessment method and could be treated as a reference check. [...]

[...]

[56] The Tribunal finds that the use of the words "various means" on the advertisement was broad enough to encompass the assessment methods chosen in this appointment process. While the circumstances of this case do not lead to a conclusion of abuse of authority, informing the persons to be assessed, in a timely manner, of the assessment methods that are going to be used, including personal knowledge, could avoid allegations of this nature. In addition, care should be exercised to ensure that the selection board member's knowledge of the candidate is relevant to the merit criteria being assessed and is treated similarly to a reference check.

(emphasis in original in paragraph 53; emphasis added in paragraph 56)

[74] The board acknowledged that because of its personal knowledge of Ms. Thostenson, she had not been assessed fairly initially. Likewise, the board put aside the reference of Ms. Neufeld when the complainant explained that Ms. Neufeld had supervised her for only three months and did not know her well. Even if the board

had used this personal knowledge of the complainant, this does not change the fact that she did not meet the “Integrity” qualification based on her answers to the interview.

[75] The Tribunal finds that the respondent did not improperly reassess the two candidates during the informal discussion process when it corrected errors in its initial assessment. Therefore, the Tribunal finds that the respondent did not abuse its authority.

**Issue III:** Did the respondent abuse its authority by assessing the essential qualifications with an inadequate assessment tool and if not did the respondent abuse its authority?

[76] The complainant argues that the questions assessing the “Integrity” qualification did not assess this qualification properly. The complainant’s main argument is that some questions were inadequate since they needed to be discussed further during the informal discussions with the complainant, Ms. Smythe-Wilson and Ms. Thostenson. She did not provide any evidence to support her position.

[77] The Tribunal addressed assessment tools in *Jolin* as follows:

[77] Section 36 of the *PSEA* provides that the deputy head may use any assessment method that he or she considers appropriate in an internal appointment process. For the Tribunal to find that there was abuse of authority in the selection of the assessment methods, the complainant must prove that the result is unfair and that the assessment methods are unreasonable, do not allow the qualifications stipulated in the statement of merit criteria to be assessed, have no connection to those criteria, or are discriminatory.

[78] As discussed above, the purpose of informal discussions is to provide the unsuccessful candidates the opportunity to understand the reason why they were not qualified. It is therefore a logical part of the process to discuss questions and answers. However, this does not mean that the questions and the assessment tools are inadequate.

[79] The Tribunal finds that the complainant has not provided any evidence to substantiate her allegation which is dismissed.



DECISION

[80] For all these reasons, the complaints are dismissed.

[81] The respondent has requested that the rationale for the non-advertised process for a PM-04 position signed by Mr. Snow on April 23, 2006, as well as Ms. Thostenson's assessment be sealed as it contains personal information. The complainant argued that only the last three pages needed to be sealed. The Tribunal finds that only the last three pages refer to Ms. Thostenson's personal information. Accordingly, the Tribunal orders that the last three pages of Exhibit 11 be sealed.

[82] The Tribunal wishes to thank the parties for their thorough presentations and professionalism during the hearing.

Sonia Gaal  
Member

PARTIES OF RECORD

Tribunal File:	2007-0447, 2007-0448, 2008-0407
Style of Cause:	<i>Andrea Kitchen and the Deputy Minister of Citizenship and Immigration Canada et al.</i>
Hearing:	June 12, 13, 2008 Edmonton AB
Date of Reasons:	October 24 2008
APPEARANCES:	
Ms. Jodi Casper	For the complainant
Ms. Karen Clifford	For the respondent
n/a	For the Public Service Commission