



Public Service  
Staffing Tribunal

Tribunal de la dotation  
de la fonction publique

**File:** 2008-0808  
**Issued at:** Ottawa, December 13, 2010

**COLLEEN PARKER**

Complainant

AND

**THE DEPUTY MINISTER OF INDIAN AND NORTHERN AFFAIRS CANADA**

Respondent

AND

**OTHER PARTIES**

<b>Matter</b>	Complaint of abuse of authority pursuant to section 77(1)(a) of the <i>Public Service Employment Act</i>
<b>Decision</b>	Complaint is substantiated
<b>Decision rendered by</b>	Joanne B. Archibald, Member
<b>Language of Decision</b>	English
<b>Indexed</b>	<i>Parker v. Deputy Minister of Indian and Northern Affairs Canada</i>
<b>Neutral Citation</b>	2010 PSST 0021

# Reasons for Decision

## Introduction

1 Colleen Parker, the complainant, applied in an internal advertised appointment process to fill the position of Regional Manager, Capital (PM-06) with the Department of Indian Affairs and Northern Development in Whitehorse, Yukon. She was eliminated as she did not meet one of the essential qualifications for the position. The complainant alleges that she was treated unfairly due to a biased assessment, and a failure to accommodate her at the time of her scheduled interview.

2 The respondent, the Deputy Minister of Indian and Northern Affairs Canada (INAC), denies that there was any abuse of authority.

## Background

3 The *Job Opportunity Advertisement* was posted on *Publiservice* on August 15, 2008. The complainant applied, and was screened into the process.

4 Shari Borgford, then Director, Strategic Investments, was the hiring manager for this position. She was also the complainant's direct supervisor. She established the Statement of Merit Criteria (SMC) and developed the plan for the assessment. Applications were screened and then candidates underwent a written examination, simulation exercise, interview, and reference checks.

5 Assessment board members conducted different parts of the assessment. Ms. Borgford conducted the screening and marked the written examination and references. She also developed the interview questions, although she did not participate in the interview. The simulation exercise and interview were marked by the interview panel comprised of Paula Isaak, Regional Director General, Robin Bradasch, Acting Director Governance, and Teresa Banks, Human Resources Advisor. Originally, Beth Clarke, Director Corporate Services, was to be a member of the interview panel. For reasons that are discussed below, she was replaced by Ms. Banks.

6 On October 3, 2008, the complainant received an email from Teresa Banks, Human Resources Advisor, inviting her to attend a written examination on

October 7, 2008. She passed the written examination and, on October 20, 2008 she was informed that an interview would be held shortly.

**7** Three interview questions were distributed to candidates in advance of the interview. The interview questions were used to rate the essential qualification of “the ability to work through conflict, to manage conflict occurring within the work unit, and between the work unit and clients” (A6). The complainant received the questions on October 22, 2008 by email. She attended the interview on October 23, 2008.

**8** On November 28, 2008, the complainant was advised that she was unsuccessful as she failed to attain the required score for A6.

**9** On December 4, 2008, a *Notification of Appointment or Proposal for Appointment* was posted on *Publiservice*. The appointment did not proceed and the pool of qualified candidates expired, unused.

**10** On December 15, 2008, the complainant filed a complaint with the Public Service Staffing Tribunal (the Tribunal) under section 77(1)(a) of the *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12,13 (the *PSEA*), alleging abuse of authority.

## **Issue**

**11** The Tribunal must determine whether the respondent’s assessment of the complainant was biased and, if so, whether it constituted an abuse of authority.

## **Summary of relevant evidence**

**12** The complainant testified that at the time of this appointment process, she occupied the subject position on an acting basis. She described her relationship with Ms. Borgford as “good”, although she recalled an incident where she had informed management that she believed that Ms. Borgford was in a potential conflict of interest. The issue involved a funding program administered by the respondent, and the complainant’s perception of a conflict of interest between Ms. Borgford and a funded party. The complainant sought advice from departmental headquarters, and then spoke to Ms. Borgford about her concern. The complainant testified that Ms. Borgford told her

that she did not see a conflict and the Regional Director General, Ms. Isaak, did not act on it either. The matter was then addressed at Headquarters level. The conflict of interest situation was resolved by removing the files from Ms. Borgford.

**13** Suzanne Davidson, the Acting Director of INAC's Centre for Integrity, Values and Conflict Resolution testified that in 2008, the complainant had two separate, active issues with the Centre, one of which was the conflict of interest situation involving Ms. Borgford.

**14** The complainant stated that after the conflict of interest situation was resolved, she felt that her relationship with Ms. Borgford suffered. While they had earlier been friends, the relationship was eroded although it remained polite and professional. The complainant testified that she felt "put on the spot" and at risk.

**15** The complainant also addressed her relationship with Ms. Isaak. She stated that, as Ms. Isaak was the Regional Director General, she had dealt directly with her on two serious matters. One had been a mediation arising from an earlier complaint to the Tribunal. The other was the conflict of interest concern involving Ms. Borgford. After it was resolved, the complainant and Ms. Isaak met to have regular bilateral meetings.

**16** In September 2008, the complainant attended a middle managers' meeting. Ms. Borgford testified that shortly after the meeting, she was approached by another participant, Ms. Clarke, who told her that she was concerned about the complainant's actions during the meeting.

**17** Ms. Borgford testified that in early October 2008, she received a note from Ms. Clarke (the Clarke note) to particularize those concerns. The relevant portions of the Clarke note follow:

At the facilitated Manager's Meeting on September 11<sup>th</sup> Colleen shared with those present her frustration with YMC and her Director for what she called "asinine and idiotic" questions that she had received requesting clarification on a staffing action she was proposing.

I was shocked and offended by what Colleen said. When Colleen made the comment, I was the only YMC member present. As a Director participating in a manager's meeting I was only there for a couple of hours in the morning. If I was expected to participate all day, I would have requested that we suspend the discussion until the group agreed upon group norms for respectful and productive communications.

I did raise my concerns with her Director (Ms. Borgford) and the RDG (Ms. Isaak) after the session.

As an employee and especially as a Manager in the organization, Colleen must understand that when she openly criticizes YMC she is directly criticizing Paula Isaak, Shari Borgford, Michelle Edwards, Line Gagnon, Robin Bradasch and me.

As the department's standards of professional conduct outline, managers have special obligations and are expected to demonstrate high ethical and professional standards in their own conduct. I did not see Colleen modeling this behavior, and the behavior she expects of others, when she made the statement about YMC at the Manager's Meeting. She was demonstrating discourteousness towards YMC and disrespect for the views of YMC.

I am respectfully requesting that these concerns be brought to Colleen's attention.

**18** Ms. Borgford received the Clarke note at a time when she was about to leave the office and would be absent for the week of October 13, 2008. Ms. Borgford decided to leave the Clarke note for the complainant with an explanation that she would like to meet to discuss it when she returned. Ms. Borgford stated that this discussion occurred on October 20 or 21, 2008. She testified that during the meeting, she expressed her concern about the issue with a focus on coaching the complainant, not on discipline.

**19** The complainant testified that after receiving the Clarke note from Ms. Borgford, she became aware that Ms. Clarke was a member of the interview panel.

**20** The complainant stated that she was not very comfortable continuing in the appointment process given the erosion in her relationship with Ms. Borgford, the Clarke note, Ms. Clarke's participation on the interview panel, and Ms. Isaak's knowledge of both the conflict of interest and the Clarke situations. She felt that they were all people in power, they had this information, and it created an imbalance.

**21** The complainant addressed her concern about Ms. Clarke's participation on the interview panel to Ms. Banks in her capacity as a Human Resources Advisor. Ms. Banks met with the complainant. She did not see the Clarke note but, on

October 17, 2008, she emailed Ms. Borgford to advise her that she had met with the complainant. The relevant part of the email follows:

As a heads up – Colleen [the complainant] spoke to me yesterday about Beth [Clarke] being on the board – I told her to speak to you about it, so she probably will on Monday. Basically she is not comfortable with Beth on the board, she feels Beth's letter to her is retaliation for her complaint against (an employee).

**22** Ms. Borgford responded: "I chatted with Paula [Isaak] about Colleen's concern about the board. We are wondering if you could be on the board as added assurance of objectivity. Not sure of your availability. Dropping Beth from the board is not reasonable."

**23** Ms. Borgford testified, however, that the decision was later made to remove Ms. Clarke from the interview panel and substitute Ms. Banks. This was done to respond to the complainant's concern with Ms. Clarke's participation on the board. Ms. Borgford stated that she personally elected not to participate on the interview panel to prevent any real or perceived lack of objectivity toward the complainant.

**24** Ms. Banks testified that she knew that she was selected as a board member to replace Ms. Clarke. She denied that her awareness of the matter between the complainant and Ms. Clarke influenced her assessment of the complainant. She stated that Ms. Borgford had no influence on the board's assessment of the complainant.

**25** A record of a medical appointment was produced during the hearing. It indicates that on October 23, 2008, at 10:00 a.m., on the day of her interview, the complainant attended an appointment with a physician and "acute reaction to stress" is among the reasons for the visit. The complainant did not tell anyone about this medical appointment and the doctor's note was not provided to the respondent at the time of the interview.

**26** When the complainant reported for the interview, she was provided with a "Candidate Sheet" to complete. The relevant content of the Candidate Sheet appears below:

Do you feel well today and do you have everything you need to participate in this process? e.g. Eyeglasses

-I feel OK.

-A significant unresolved issue has caused me a lot of stress + is impacting me right now.  
CANDIDATE ASKED QUESTION.

Candidate answered  Yes  No

**27** The Candidate Sheet was signed by the complainant and Jackie Henley, Human Resources Assistant, and dated October 23, 2008 at 11:00 a.m. Ms. Henley's role was administrative only.

**28** The complainant stated that she signed the document because she was required to. She testified that Ms. Henley circled the word "Yes."

**29** Ms. Henley testified that she met the candidates as they arrived for their interviews. She stated that the Candidate Sheet was a new document at the time. She was not certain of the purpose for the Candidate Sheet, but assumed it was to make sure candidates were prepared to proceed. Her responsibility was to go to a Human Resources Advisor or a Director if a concern arose with a candidate. She was not sure who circled the word "Yes," but indicated that she may have.

**30** Ms. Henley recalled greeting the complainant and asking her how she was feeling. She stated that the complainant responded that she was "stressed out." Ms. Henley asked the complainant if she was "okay." She stated that the complainant did not request any specific accommodation.

**31** Ms. Henley remembered that the complainant mentioned something about a person on the board and a concern about derogatory remarks made by the person about her character. The person was not identified.

**32** Ms. Henley testified that she then left the complainant to find Ms. Banks and tell her about the complainant's concerns. She did not recall precisely what she said to Ms. Banks. However, she remembered that Ms. Banks responded, "I already told her she wasn't on the board." Ms. Henley did nothing more. Ms. Henley testified that she was not "greatly concerned," but recognized the situation as out of the ordinary, although, in her view, everyone was stressed when they attended an interview.

**33** Ms. Banks testified that she saw the Candidate Sheet before the interview, when Ms. Henley brought it to her. She recalled that Ms. Henley told her that the complainant was concerned about a board member. Ms. Banks stated that she responded on that basis. Ms. Banks testified that she did not question the complainant about the content of the Candidate Sheet. She went to her and confirmed that Ms. Clarke had been removed from the interview panel. Ms. Banks stated that the complainant did not talk to her about a stress issue and did not request accommodation before or during the interview. Under cross-examination, she stated that the complainant's significant unresolved issue could have been something else, but she did not probe it as Ms. Henley had mentioned that it concerned the board membership.

**34** The complainant testified that she knew Ms. Henley had contacted Ms. Banks as Ms. Banks had come to where the complainant was waiting prior to the interview to restate to the complainant that Ms. Clarke had been removed from the board. Ms. Banks did not say or offer anything more. The complainant stated that she was intimidated and felt that she had no other choice but to continue with the scheduled interview. She stated that "they" were the ones in the "power position."

**35** Ms. Bradasch testified concerning her participation on the interview panel. Ms. Bradasch summarized the complainant's performance at the October 23, 2008 interview by stating that she chose poor examples, did not indicate the resolution that was achieved and did not clearly describe her role. Ms. Banks also recalled that the complainant's interview did not go well. Although the complainant provided examples of conflict, she did not demonstrate how she resolved these conflicts, what solutions were achieved or how she dealt with the ongoing relationships between the parties involved.

**36** Ms. Bradasch stated that she had no knowledge at the time of the interview of an issue between Ms. Clarke and the complainant, and she was not aware that the complainant was under stress at the time of the interview. Ms. Bradasch stated that Ms. Borgford was involved with the interview panel to the extent of an initial discussion of the interview questions. She did not influence the assessment of candidates.

## **Arguments of the parties**

### **A) Complainant's arguments**

**37** The complainant argues that the action of Ms. Borgford in bringing Ms. Clarke's complaint forward to her shortly before the interview undermined her ability to perform. The allegation against the complainant was serious and it was from a senior manager who was an original member of the interview panel. The complainant finds it "unfathomable" that Ms. Borgford would consider their meeting merely to be a coaching opportunity.

**38** The complainant also argues that her working relationship with Ms. Borgford was eroded, particularly given the matter of conflict of interest coupled with the Clarke note.

**39** Given these matters and Ms. Borgford's initial reluctance to change the composition of the board, the complainant argues that Ms. Borgford could not provide a bias-free assessment and she ought to have removed herself completely from the assessment process.

**40** The complainant further argues that interview panel members, Ms. Isaak and Ms. Banks, were aware of the issue raised in the Clarke note. As such, the complainant contends that they were biased.

**41** The complainant contends that both Ms. Henley and Ms. Banks were aware of the content of the Candidate Sheet. It was not addressed by them and she was not accommodated. The complainant argues that the onus is squarely on the respondent to fully accommodate a candidate. The respondent ought to have known of her stress and should have given her some option other than proceeding with the interview.

### **B) Respondent's arguments**

**42** The respondent argues that the issue surrounding the Clarke note was a human resources/labour relations matter. It would have been incorrect to leave Ms. Clarke on the interview panel and she was properly removed.

**43** Among the interview panel members, Ms. Banks acknowledged that she was aware of the Clarke note, but Ms. Bradasch was not. However, nothing in the evidence suggested that they were swayed by Ms. Borgford or that the Clarke matter influenced them. This was a clear, structured, transparent appointment process.

**44** The respondent argues that the interview was designed by Ms. Borgford, but assessed by others. It was the only aspect of the assessment in which the complainant was not successful. The complainant was successful in those parts assessed by Ms. Borgford.

**45** With respect to the discussion between Ms. Borgford and the complainant prior to the interview, the respondent argues that this was not done with the intent of placing the complainant in a position to underperform on the interview. The evidence demonstrates good reasons for the time frame. A serious allegation arose at the same time as the appointment process was underway. Moreover, management acted to handle the issue. It removed Ms. Clarke from the interview panel and limited Ms. Borgford's assessment of the candidate to objective elements, namely the screening, marking of the written examination and reference checks.

**46** The respondent argues that the complainant must clearly demonstrate that bias influenced the appointment process, but she has not. The complainant was assessed fairly based on her performance on the day of the assessment.

**47** The respondent argues that nothing can be inferred from the fact of an employee attending a medical appointment. The respondent acknowledges that the complainant mentioned stress at the time of her interview, but there is no evidence that it knew the reason or degree of stress the complainant was feeling. Accommodation is a two way responsibility.

**48** The respondent argues it has not been demonstrated that any action from the respondent was necessary. This is not a situation where accommodation was requested and refused.

### **C) Public Service Commission's arguments**

**49** The Public Service Commission did not appear during the hearing, but presented a written submission. In its submission, it suggests that the assessment board members cannot be presumed to be biased merely because of their awareness of the Clarke note. Additionally, the PSC refers to the *PSC Policy on the Duty to Accommodate Persons with Disabilities*, and the respective responsibilities of a candidate and a deputy head in the matter of accommodation. It took no position on whether the policy had been complied with or contravened.

### **Analysis**

**50** The breadth of the Tribunal's authority in matters of abuse of authority can be represented by a continuum. Abuse of authority is a serious matter and has considerable breadth which extends from the threshold, established as more than mere error or omission (*Jolin v. Deputy Head of Service Canada*, 2007 PSST 0011) as far as to include bad faith and personal favouritism (see *PSEA*, s. 2(4)). As the Tribunal explained in *Tibbs v. Deputy Minister of National Defence*, 2006 PSST 0008, at para. 73, serious errors and/or important omissions may amount to abuse of authority.

**51** The issue before the Tribunal is whether the complainant was provided with a reasonable opportunity to perform at her interview, thereby allowing a proper assessment of merit. While the case presented before the Tribunal was framed separately as bias and accommodation, the Tribunal has considered the evidence as a whole in rendering its decision. This is not a case of accommodation for a prohibited ground of discrimination under the *Canadian Human Rights Act*, R.S., 1985, c. H-6. The complainant did not raise a human rights issue either in her allegations, or during her evidence or argument at the hearing.

**52** The courts have acknowledged that direct evidence of actual bias is difficult to establish and have found that fairness requires that there be no reasonable apprehension of bias. The Tribunal has considered the test for reasonable apprehension of bias in a number of its decisions, notably in *Denny v. Deputy Minister of National Defence*, 2009 PSST 0029, at para. 125, where the Tribunal referred to the

Supreme Court of Canada decisions in *Committee for Justice and Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369 and *Newfoundland Telephone Company v. Newfoundland (Board of Commissioners of Public Utilities)*, [1992] 1 S.C.R. 623. Following these cases, the Tribunal has formulated this test: *Would a reasonably informed bystander looking at the process reasonably perceive bias on the part of one or more of the persons involved in the assessment of the complainant?*

**53** It has been established that in 2008, before the appointment process, the complainant, a subordinate of the hiring manager Ms. Borgford, raised a concern with the respondent about whether Ms. Borgford was in a conflict of interest situation. The matter was brought to the attention of Ms. Borgford and Ms. Isaak, who was also a member of the interview panel. Neither of these individuals acted on the complainant's concerns until headquarters intervened. The relationship between Ms. Borgford and the complainant changed thereafter and the complainant developed a concern that she had placed herself at risk by raising the conflict of interest matter.

**54** The Clarke note was extensively reviewed during the hearing. It was written by the original board member, Ms. Clarke, who states that the complainant acted in a way that openly criticized Ms. Borgford, Ms. Isaak, and Ms. Bradasch, all of whom were assessing aspects of the complainant's candidacy.

**55** Ms. Isaak did not appear as a witness, but the Clarke note states that Ms. Isaak was advised of the original incident in October 2008. Ms. Borgford's email exchange of October 17, 2008 with Ms. Banks indicates that she advised Ms. Isaak of the complainant's concern about Ms. Clarke's participation on the interview panel. The email also serves to demonstrate Ms. Borgford's reluctance to change the composition of the interview panel.

**56** Ms. Banks knew of the existence of the Clarke note and the complainant's issue with the composition of the interview panel from her meeting with the complainant. She states that she did not see the actual note.

**57** Therefore, among the people assessing the complainant, two of three interview panel members, and the hiring manager who screened candidates, assessed their

written examinations and their references, were aware of the complainant's concern with Ms. Clarke's participation on the board. Among them, the hiring manager, at least, had seen the Clarke note.

**58** The complainant's position is that the two members of the interview panel who were aware of the Clarke note, its content, or her concern for Ms. Clarke's participation on the interview panel must be biased against her and they must have been influenced by Ms. Borgford.

**59** The evidence before the Tribunal is that the Clarke note was presented to the complainant more than ten days before her interview and then discussed with her one or two days before it for the purpose of coaching. While it is appropriate for a manager to discuss such an issue with an employee, there has been no suggestion that the matter was so urgent that it had to closely precede the assessment. It is unfortunate that the hiring manager, Ms. Borgford, failed to consider the influence on the complainant of both the content of the Clarke note and her own meeting with the complainant to discuss it.

**60** There is no direct evidence of any influence that Ms. Borgford exerted over the individuals who conducted the interview. Ms. Banks and Ms. Bradasch each explained the weakness in the complainant's performance during the interview. This evidence was not challenged. They denied that Ms. Borgford interfered with their assessment of the complainant at the interview stage of the process.

**61** Next, there is the issue of the Candidate Sheet that the respondent required each candidate to complete. The Tribunal finds that the only reasonable explanation for using the form was to provide an opportunity for the respondent to confirm the fitness of a candidate to proceed with the assessment.

**62** The Tribunal finds the complainant's statement on the Candidate Sheet to be significant, and bears repeating: "**a significant unresolved issue** has caused me a lot of stress and is impacting me right now" (emphasis added). This statement was more than sufficient for the respondent to understand that something was seriously amiss. It ought reasonably to have prompted questions to inquire further into her fitness to

proceed on that day. However, there was no inquiry from Ms. Banks or any person in authority to clarify whether the complainant was in a fit state to proceed with her interview. Instead, Ms. Banks simply reiterated that Ms. Clarke had been removed from the interview panel.

**63** At best, this response was based on Ms. Banks' conversation with Ms. Henley. Irrespective, it was not responsive to the issue raised by the complainant in the Candidate Sheet. Ms. Banks did not seek clarification from the complainant; she did not inquire, or explore the question of whether the complainant could continue. This evidence before the Tribunal was clear and uncontradicted.

**64** In this case, a reasonably informed bystander would consider the following uncontradicted evidence. The complainant raised a concern that Ms. Borgford had acted in a conflict of interest in the past. Ms. Borgford and Ms. Isaak knew of the matter, but did not act on it. As a result, the decision had to be made at the Headquarters level to remove the files from Ms. Borgford.

**65** As well, Ms. Borgford received Ms. Clarke's note which judged the complainant to be critical of the interview panel members Ms. Isaak and Ms. Bradasch. With no suggestion that the matter was urgent and could not be delayed, Ms. Borgford decided to act on Ms. Clarke's complaint shortly before the complainant's interview. The seriousness of the Clarke note notwithstanding, Ms. Borgford expressed reluctance to remove Ms. Clarke from the board where she would have to assess the complainant's candidacy. The complainant met with Ms. Banks in her capacity as HR Advisor to discuss the content of the Clarke note prior to Ms. Banks being asked to become a member of the interview panel. Ms. Isaak and Ms. Banks both knew of the middle managers' meeting incident, from Ms. Clarke and the complainant respectively. It is not clear from the evidence whether Ms. Isaak knew of the Clarke note; however, in her note, Ms. Clarke states that she raised her concerns with Ms. Isaak. From her discussions with the complainant, Ms. Banks knew about the Clarke note.

**66** Finally, Ms. Banks did not inquire into the circumstances described in the Candidate Sheet and indeed, responded only to confirm for the complainant that

Ms. Clarke had been removed from the interview panel. The complainant failed the essential qualification of “the ability to work through conflict, to manage conflict occurring within the work unit, and between the work unit and clients.” The bystander would also consider the complainant’s description of her workplace relationship with Ms. Borgford, including her feeling that she was at risk following her decision to pursue her concerns that Ms. Borgford had placed herself in a conflict of interest with respect to certain funding activities.

**67** Individuals who are given the task of assessment will often have knowledge of candidates. It may come to them because of their position in the organization. Relevant personal knowledge may, in some circumstances, be an important tool in the assessment of candidates.

**68** However, in the present case, the reasonably informed bystander would consider not only the level of knowledge or awareness of the assessment board, but would view as a whole the accumulation of actions taken involving the complainant and her candidacy. The bystander would then find that it was more likely than not that the assessment board would be biased against the complainant.

**69** The *PSC Assessment Policy*, which binds the respondent (see *Robert and Sabourin v. Deputy Minister of Citizenship and Immigration*, 2008 PSST 0024), explicitly provides that assessment processes are to be conducted without bias. In the *Guidance Series – Assessment, Selection and Appointment*, the guide states that steps should be taken to ensure “that the relationships between applicants and assessment board members do not bias the assessment process or appear to do so.” In the present case, the web of relationships, knowledge and dealings among the members of the assessment board and the complainant, as well as events prior to the interview gave rise to a reasonable apprehension of bias.

**70** In accordance with its finding that the complainant has established a reasonable apprehension of bias, the Tribunal concludes that the respondent abused its authority in the application of merit in this appointment process.

**71** As the complainant framed her allegations in terms of bias, the Tribunal analyzed the evidence through the lens of reasonable apprehension of bias. The Tribunal has explained that serious errors and/or important omissions may amount to abuse of authority. Even in the absence of a finding of reasonable apprehension of bias, the errors committed and omissions made leading up to the complainant's interview may have constituted such serious errors and/or important omissions as to amount to an abuse of authority. However, given the Tribunal's finding of reasonable apprehension of bias, it is not necessary to make this determination.

### **Decision**

**72** For these reasons, the complaint is substantiated.

### **Order**

**73** The Tribunal orders the respondent, within 60 days of this decision:

- (i) To establish a differently constituted assessment board, comprised entirely of new members, to reassess the complainant for the essential qualification of the ability to work through conflict, to manage conflict occurring within the work unit, and between the work unit and clients; and,
- (ii) To complete all parts of the complainant's assessment that remain outstanding to determine whether she is qualified.

Joanne B. Archibald  
Member

**Parties of Record**

<b>Tribunal File</b>	2008-0808
<b>Style of Cause</b>	<i>Colleen Parker and the Deputy Minister of Indian and Northern Affairs Canada</i>
<b>Hearing</b>	June 29-30, 2010 Whitehorse, Yukon
<b>Date of Reasons</b>	December 13, 2010
<b>APPEARANCES:</b>	
<b>For the complainant</b>	Satinder Bains and Russel Smoler
<b>For the respondent</b>	Pierre Marc Champagne