



BETWEEN

GEORGE BOULOS

Grievor

and

CANADA REVENUE AGENCY

Employer

Indexed as
Boulos v. Canada Revenue Agency

In the matter of individual grievances referred to adjudication

REASONS FOR DECISION

Before: Kate Rogers, adjudicator

For the Grievor: Himself

For the Employer: Joshua Alcock, counsel

REASONS FOR DECISION

[1] On November 1, 2014, the *Public Service Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365) was proclaimed into force (SI/2014-84), creating the Public Service Labour Relations and Employment Board (“the new Board”) to replace the former Public Service Labour Relations Board (“the former Board”) as well as the former Public Service Staffing Tribunal. On the same day, the consequential and transitional amendments contained in sections 366 to 466 of the *Economic Action Plan 2013 Act, No. 2* (S.C. 2013, c. 40) also came into force (SI/2014-84). Pursuant to section 396 of the *Economic Action Plan 2013 Act, No. 2*, an adjudicator seized of a grievance before November 1, 2014 continues to exercise the powers set out in the *Public Service Labour Relations Act* (S.C. 2003, c. 22, s. 2) as that Act read immediately before that day.

Individual grievances referred to adjudication

[2] George Boulos (“the grievor”) was an employee of the Canada Revenue Agency (“the employer”). Between December 20, 2007, and September 26, 2008, he filed six grievances, which were referred to adjudication on April 8, 2010. Since that date, the grievances have been scheduled to be heard at adjudication on a number of occasions, without success.

[3] The grievances were scheduled to be heard in Vancouver, British Columbia, between May 31 and June 3, 2011. That hearing was postponed at the grievor’s request to allow him to pursue a judicial review application against a procedural ruling made earlier on the file.

[4] In October 2011, the adjudicator then assigned to the files asked the parties for written submissions on the objection to jurisdiction filed by the employer on all the files but PSLRB File No. 566-34-3617, which he intended to deal with separately. The written submission process was held in abeyance pending a judicial review application filed by the grievor.

[5] The grievor’s judicial review application was dismissed in March 2012 and in July 2012, the written submission process resumed. However, in October 2012, the adjudicator determined that all the grievances should be heard together at a hearing in Vancouver. That hearing was scheduled for April 29 to May 3, 2013, but was postponed by the adjudicator to allow the parties to provide written submissions on

an issue relating to witnesses. A ruling on the issue relating to witnesses was made in June 2013.

[6] On July 11, 2013, the parties were notified by the Public Service Labour Relations Board (PSLRB or “the former Board”) that the grievances were scheduled to be heard in Vancouver from February 25 to 28, 2014. For administrative reasons, the files were assigned to a different adjudicator, who attempted to schedule a pre-hearing teleconference in early February 2014.

[7] On February 4, 2014, in an email to the PSLRB, the grievor advised that he would not participate in the pre-hearing teleconference and added as follows: “. . . it is also not my intention to participate in the hearing as it is currently scheduled.” The grievor’s reasons related to his objection to the earlier procedural rulings made on the files and to his pursuit of an appeal of a decision by the Federal Court on one of his judicial review applications.

[8] The employer responded on February 6, 2014, to the grievor’s statement that he would not attend the hearing. It submitted that through his refusal to attend the hearing, the grievor, in effect, was withdrawing his grievance, and it argued that therefore, the adjudicator should dismiss the grievance. However, if the adjudicator was not prepared to find that the grievor had withdrawn his grievances, the employer requested that the hearing proceed as scheduled between February 25 and 28, 2014.

[9] The grievor responded on February 11, 2014, to the employer’s submission. He denied that he was withdrawing his grievance but also confirmed that he would not participate in the hearing.

[10] On February 19, 2014, the adjudicator postponed the hearing, advising the parties as follows:

Further to the recent exchange of submissions concerning the hearing in this matter, I direct that the hearing scheduled for February 25 - 27 [sic], 2014 in Vancouver is postponed. In postponing these matters, I am cognizant of the concerns identified and the impact of delay on both parties. I conclude however in the circumstances a postponement should occur to provide the grievor an opportunity to be prepared to participate in the hearing in these matters. I note however this postponement is done in conjunction with directions that a conference call will be convened in the near future to deal with case management issues to facilitate the hearing

process including the scheduling of new dates in this matter.

I encourage the grievor to participate in this process. I note as reflected in the recent employer submissions a grievor's refusal to participate and/or non-attendance at a hearing has led in the past to the Board dismissing grievances on the basis such actions lead to the conclusion the matters have been withdrawn or abandoned.

The matter is accordingly postponed [on] the basis set out above.

[11] A case management teleconference was held on February 27, 2014. As a result of that teleconference, the adjudicator ordered that the grievances be set down for a hearing in the fall of 2014, despite the grievor's request that the matters be delayed until his Federal Court appeal had been resolved. The adjudicator held that the appeal did not preclude setting hearing dates for the grievances and ordered that they be rescheduled. On April 30, 2014, the parties were advised that the grievances were scheduled to be heard in Vancouver from October 28 to 31, 2014.

[12] On September 19, 2014, the employer requested that a pre-hearing teleconference be convened to discuss any outstanding procedural issues. Rather than try to schedule a pre-hearing conference at that point, I ordered that the first morning of the hearing be set aside to deal with any preliminary or outstanding procedural issues, noting that I would not reverse rulings made by previous adjudicators. I also reminded the parties that a failure to attend the hearing could result in a disposition of the matters based on the existing record, without further notice.

[13] On October 15, 2014, the grievor sent an email to the PSLRB with an attached letter in which he advised that he would not attend the scheduled adjudication hearing. On October 16, 2014, in response to the grievor's statement, the employer argued that the grievances scheduled to be heard at adjudication from October 28 to 31, 2014, should be dismissed on the grounds that they were abandoned.

Reasons

[14] The process before this and the former Board is adversarial in nature. The positions of the parties are made either orally at a hearing, or in writing, through written submissions or representations made on particular issues. The process requires that the decision-maker is able to rely on the representations made by the parties. In this case, the grievor has been representing himself on these grievances

before both the PSLRB and the Federal Court since they were first referred to adjudication in 2010. He is entitled to the same respect that any representative appearing before this or the former Board would receive and the submissions and representations that he makes carry the same weight as those made by any representative.

[15] On February 4, 2014, the grievor advised the PSLRB that he would not attend the adjudication hearing scheduled from February 25 to 28, 2014. He repeated that statement on February 11, 2014. In spite of clear warnings to the effect that failing to participate in a scheduled adjudication hearing could result in a decision based on the record or a finding that the grievances had been abandoned, on October 15, 2014, the grievor again advised that he would not attend the adjudication hearing scheduled for October 28 to 31, 2014.

[16] As I have noted, the process before this and the former Board requires that a decision-maker is able to rely on the representations made by the parties before it. The grievor stated that he would not attend the scheduled hearing of his grievances. His reasons for that decision are not relevant. He is entitled to make decisions about his grievances. His statement that he would not attend the adjudication hearing was unequivocal, and I must conclude that he meant what he said. Therefore, I cancelled the scheduled hearing on the ground that he abandoned his grievances.

[17] For all of the above reasons, I make the following order:

(The Order appears on the next page)

Order

[18] I order PSLRB File Nos. 566-34-3617, 3618, 3669, 3670, 3671 and 3672 closed.

December 19, 2014.

**Kate Rogers,
adjudicator**