

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

---

BETWEEN

**MAUDE BOUDREAU**

Grievor

and

**TREASURY BOARD  
(Passport Office)**

Employer

***Before:*** Evelyne Henry, Deputy Chairperson

***For the Applicant:*** Maude Boudreau

***For the Respondent:*** Michel LeFrançois, Counsel

---

Heard at Chicoutimi, Quebec,  
on October 14 to 16, 1998 and January 12 to 14, 1999.

## INTERIM DECISION

---

Ms. Boudreault was not present when the hearing of this grievance began. The testimony of Michel Leduc therefore began in the grievor's absence. During this testimony, Mr. Leduc submitted Exhibit E21, which is a photocopy of the summons sent to Maude Boudreault to appear on November 12, 1998 to answer several charges of infractions under sections 367 and 368(1) of the *Criminal Code*, dating back to the period from September 23, 1996 to March 17, 1998, with respect to her activities with the organization, Femme et Développement régional.

When Ms. Boudreault arrived, she was given a summary of Mr. Leduc's testimony, as well as a copy of Exhibits E1 to E21. Ms. Boudreault objected to the filing in evidence of Exhibit E21. Since Mr. Leduc was neither the author nor the recipient of the document, and did not have access to it during the normal course of his duties, I sustained the objection.

When the hearing resumed, Mr. LeFrançois informed me of his intention to call Sylvie Dubois, the Treasurer of Femme et Développement régional, as a witness in order to correctly introduce Exhibit E21 and to provide evidence on the incidents that led to the criminal proceedings. Ms. Boudreault objected to the presentation of this evidence because her problems with Femme et Développement régional were not part of the reasons for her termination of employment and have nothing to do with her employment at the Passport Office.

Mr. LeFrançois argued that the grounds for the employer's presentation of Exhibit E21 and of the related evidence is that this second series of charges constitute a further reason for termination and there is reason to conclude that the relationship of trust has been irreparably broken.

Mr. LeFrançois argued that, if I did not consider this evidence appropriate as a reason for the termination, I should consider its relevance with respect to the corrective action to be ordered should I conclude that the termination was not justified on the grounds given in the letter of termination.

As an observation, Mr. LeFrançois pointed out that, even on its face, Exhibit E21 indicates that the charges relate to shortcomings of the same nature as those for which Ms. Boudreault's employment was terminated. The charges relate to false expense accounts, including charges relating to events that took place prior to the termination,

even before Ms. Boudreault was hired by the Passport Office. The charges were filed on October 13, 1998; that is why the employer did not rely on them at the time of the termination. However, Ms. Boudreault had been aware since October 14, 1998 that the employer planned to submit Exhibit E21 into evidence, along with these charges.

Mr. LeFrançois cited the following case law:

*McKendry*, [1973] F.C. 126;  
*Lau* (Board decision 166-2-26646)  
*Lalla* (Board decision 166-2-3969)

and stated that the employer would not have been able, through a reasonable investigation, to discover the grievor's subsequent infractions.

Mr. LeFrançois then referred to *McIntyre* (Board file 166-2-25417) and *Phillips Cables Ltd. and International Brotherhood of Electrical Workers, Local 625* (1993), 32 L.A.C. (4th) 153, in support of his subsidiary position regarding the relevance of this evidence in determining the corrective action to be taken should I find the reasons for dismissal inadequate.

Mr. LeFrançois then referred me to *Les Aliments Interbake Ltés and Syndicat International des Travailleurs de la Boulangerie, Confiserie et du Tabac, Local 320* (1984), 16 L.A.C. (3d) 92, and *Canada Post Corp. and Canadian Union of Postal Workers* (1993), 35 L.A.C. (4th) 328 (*Pickford*).

As for the impact of the decision in *Compagnie minière Québec Cartier*, [1995] 2 S.C.R. 1095, Mr. LeFrançois pointed out that the summary of this decision states that:

[. . .] *the arbitrator can rely on subsequent-event evidence but only where it is relevant to the issue before him, i.e., where such evidence helps to shed light on the reasonableness and appropriateness of the dismissal at the time that it was implemented.*

Ms. Boudreault responded that she is not aware of all of the facts alleged against her, that the charges relate to poorly documented expense accounts and that the facts alleged in support of her termination of employment are different. Ms. Boudreault stated the presumption of innocence must hold sway and that Exhibit E21 does not constitute evidence. Ms. Boudreault was of the opinion that these

charges are the result of her dismissal from the Passport Office, which caused panic within an organization of which she was the Chairperson.

Ms. Boudreault stated that she did not feel that she was able to defend herself here, prior to having to do so in criminal court. Ms. Boudreault indicated that she could represent herself against the allegations relating to the incidents that took place at the Passport Office but she could not do so with respect to Femme et Développement régional. Ms. Boudreault mentioned that she had founded Femme et Développement régional, that Sonia Bergeron is her best friend, Ms. Dubois is a former friend and that it would be difficult for her to cross-examine them. It would be difficult for her to defend herself without the assistance of counsel.

I then asked Ms. Boudreault if she would want an adjournment if I decided to hear the evidence concerning the charges related to Femme et Développement régional. Ms. Boudreault answered in the affirmative and stated that she was unable to defend herself without the assistance of counsel.

Ms. Boudreault added that the matter with the Passport Office had damaged her reputation at Femme et Développement régional rather than the reverse.

In reply, Mr. LeFrançois indicated that had the employer known about it, it would not have been able to overlook what had happened at Femme et Développement régional and I must, therefore, take it into consideration.

I indicated to the parties that the hearing would be adjourned to allow Ms. Boudreault to consult with legal or labour relations counsel regarding a settlement offer that the employer had made to her. I added that Ms. Boudreault would be well advised to inform her counsel of the position and case law presented by the employer in support of its motion to expand the reasons for termination of employment. I gave the parties thirty (30) days to inform me if a settlement had been reached or for Ms. Boudreault to present a more detailed argument against the employer's request.

Ms. Boudreault did not make any further submissions during the thirty days following adjournment of the hearing. Mr. LeFrançois informed the Public Service Staff Relations Board that Ms. Boudreault had not responded to the employer's offer and he asked that the case be placed back on the roll.

I therefore decided to render an interim decision on the employer's request to present evidence on the charges relating to Ms. Boudreault's actions in Femme et Développement régional. I will hear the evidence that the employer wants to present and, subsequently, I will assess its relevance.

Since Ms. Boudreault had indicated that she did not want to proceed with the adjudication prior to the termination of the criminal proceedings involving Femme et Développement régional should I agree to hear the evidence on the charges contained in Exhibit E21, the hearing is adjourned until after the criminal proceedings.

**Evelyne Henry  
Deputy Chairperson**

OTTAWA, April 26, 1999.

Certified true translation

Serge Lareau