



Public Service Staff  
Relations Act

Before the Public Service  
Staff Relations Board

BETWEEN

**DEORAJ TEELUCK**

Grievor

and

**TREASURY BOARD**  
(Solicitor General - Correctional Service Canada)

Employer

*Before:* Donald MacLean, adjudicator and Board Member

*For the Grievor:* Michael Tynes, Public Service Alliance of Canada

*For the Employer:* Jock Climie, counsel



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Heard at Bathurst, New Brunswick,  
April 14 to 17, 1998



## DECISION

The parties agreed to exclude the witnesses until they testified in the hearing.

The grievor in this case is Deoraj Teeluck. He has been employed at the Atlantic Institution in Renous since the start-up of the institution in 1986. In that period his classification was a correctional officer 2: CO-2. Previous to 1986 he had been a correctional officer for two years at another federal institution in British Columbia.

The employer terminated his employment on March 3, 1997. The reasons for his termination were related to charges that Mr. Teeluck sexually harassed a fellow officer, Karen Matthews. Mr. Teeluck requests reinstatement to his position and reimbursement for all lost wages and benefits resulting from his termination.

The warden at the institution outlined the reasons for the termination of Mr. Teeluck in the following terms (exhibit 3):

I have completed a full review of the Harassment Investigation of the complaint by Karen Matthews and the Disciplinary Investigation completed by Unit Manager, John Harris and Senior Personnel Advisor, Charlene Sullivan. You have received copies of both investigations. The Disciplinary Hearing was held, this date with your representative. I have responded to the issues you raised during this hearing. All the above information was taken into account in arriving at my decision.

Throughout the said investigation and including the Disciplinary Hearing you have consistently denied any involvement in the said sexual harassment of Ms. Matthews. You have not presented any mitigating circumstances.

I now find you guilty of sexually harassing Ms. Matthews on November 17, 1996, inside the penitentiary. This serious misconduct constitutes a serious breach of the CSC Code of Discipline.

The Correctional Service of Canada has signed a "Zero Tolerance Policy on Harassment" with the Union of the Solicitor General Employees. You are aware, or ought to have been aware, of this policy.

I have carefully reviewed this misconduct and your employment record. Your behaviour has resulted in a situation in which I no longer have the confidence in your ability to maintain professional relationships with fellow employees. You are a peace officer and have sworn to uphold the laws. Based on the above, I have concluded it is necessary to terminate your employment.

Therefore, by virtue of the authority delegated to me pursuant to Article 11(2) of the Financial Administration Act, I must inform you that I hereby terminate your employment with the Correctional Service of Canada effective 1500 hours, 03 March 1997...

In her written complaint on November 20, 1996, Ms. Matthews confirmed an earlier statement to the deputy warden to the effect that Mr. Teeluck had sexually harassed her on

November 17. The substance of her complaint was that Mr. Teeluck purposely touched her breast while she and Mr. Teeluck were in the unit 4 office at the institution.

Six days later, Mr. Teeluck, in turn, filed a sexual harassment complaint against Ms. Matthews. His complaint alleged that on November 17, 1996, Ms. Matthews had subjected him to deliberate humiliation and embarrassment by conduct that was inappropriate, sexually offensive and definitely not welcomed for an officer on duty. He said that Ms. Matthews adjusted her shirt in an explicit manner so as to humiliate him and make a mockery of his uncomfortable situation.

Dale Cross, the warden of the Atlantic Institution, ordered that investigations be conducted into both allegations. Two persons from outside the institution carried out the investigations. They conducted a series of interviews of a number of employees at the institution.

In mid-January 1997, they submitted their report. They determined the allegations of Ms. Matthews to be genuine. However, they declared Mr. Teeluck's allegation to be unfounded.

On March 3, 1997, Mr. Cross terminated Mr. Teeluck's employment. In arriving at his decision, he reviewed the harassment investigation reports. He also reviewed a disciplinary investigation report compiled by John Harris and Charlene Sullivan, two members of senior management at the institution. They had, in turn, conducted more interviews. In addition to the two reports, the warden interviewed Mr. Teeluck, and Nicole Losier, another employee, at his request before the warden arrived at a final decision.

On the same date Mr. Teeluck filed a grievance. When his grievance was not allowed in the grievance process, he referred the grievance to adjudication. Between the referral to adjudication and the date of this hearing Mr. Teeluck appeared in provincial court in Newcastle for a trial on criminal charges associated with the incident that ultimately led to the termination of his employment. The judge in that proceeding acquitted Mr. Teeluck on a sexual assault charge in January 1998.

The following persons testified on behalf of the employer: Karen Matthews, Donald Alexander, Victor Bracso, Mary-Grace Traer, Charles Deschênes, Roberta McMullin, Michael Flannagan, John Harris, and Dale Cross. Stephen Karasak, Timothy Martin, Kenneth St. Germain, Nicole Losier, Robert Taylor, Jean LeBlanc, and the grievor, Mr. Teeluck,

testified on behalf of Mr. Teeluck.

The evidence shows that during the day shift on the day of the incident, Mr. Teeluck was the officer in charge of unit 4 at the institution. Unit 4 is the segregation-disassociation unit where inmates are locked up for all but one hour of each day. The unit has 10 cells on each of two floors, with separate exercise and shower areas for individual use by each of the inmates. Ms. Matthews and Jean LeBlanc were the two other correctional officers on the unit during the latter part of the shift. Mr. LeBlanc was the only officer who regularly works on the unit.

Both Ms. Matthews and Mr. Teeluck acknowledged that their relationship had been uncomfortable over a number of years. They avoided working on posts together. Very few of their fellow officers were aware of their mutual avoidance of one another. Most of officers who testified were unaware of the friction between them.

On the day in question neither Mr. Teeluck nor Ms. Matthews was supposed to work in unit 4. Both exchanged posts with other staff to take over their previously assigned duties on unit 4. Both were not aware of this fact when they made the exchanges at the early morning shift briefing for the day shift. Both say that they would not have exchanged posts with prior knowledge that the other would also be in the unit.

Ms. Matthews exchanged shifts with Timothy Martin. She had been scheduled to do mobile on the outside perimeter. She preferred not to do that post. She had earlier asked a couple of other officers to exchange shifts with her. They had declined. Mr. Martin owed her a favour and agreed to do the shift exchange with her. He had been scheduled in the gallery for the first half of the shift, and as the third officer in unit 4 after the lunch break. Mr. Martin says that he told Ms Matthews that Mr. Teeluck would be the officer in charge of unit 4 for the day. Ms. Matthews testified that she did not hear Mr. Martin mention that Mr. Teeluck was the officer in charge. She did not give him any sign to acknowledge that she had heard him. Although there were no loud noises in the room at the time, there were the normal conversations among the officers as the shift briefing broke up.

Ms. Matthews worked the early part of the shift in the gallery as scheduled. On her way to unit 4 after lunch she dropped by the Keeper's office, occupied by Robert Taylor for that shift.

(The Keeper of the watch is the officer in charge of the institution for the particular shift.) He questioned her on her unbuttoned shirt and the absence of her neck-tie. She explained that the shirt chafed her neck, and she zipped up her jacket to the top.

Mr. Teeluck, Ms. Matthews, and Mr. LeBlanc were in the unit 4 office together at the time of the incident. Ms. Matthews had arrived in the unit around 12:00 noon. At the time Ms. Matthews noticed that Mr. Teeluck and Mr. LeBlanc were telling one another off-colour jokes. Ms. Matthews recalled in her personal notebook that they were telling offensive jokes.

Mr. Teeluck went to lunch within a few minutes and returned around 12:30 p.m. The unit office is a small one, at approximately 8' x 10'. It is where officers use the telephone, fill in paperwork, use the computer, or otherwise hang out. From time to time they do rounds to check on the inmates, or they answer inquiries for or from the inmates. Around 12:30 p.m. Mr. LeBlanc was at the desk along the wall to the immediate right of the doorway. He had been making telephone calls for some of the inmates and to his wife at home. Mr. Teeluck was at the computer desk located along the wall to the left of the door. He was checking materials that were available from the institution's main computer. Ms. Matthews had the other chair in the back of the room (on the diagonal from the door).

In their first conversation after Mr. Teeluck returned from lunch he noticed that Ms. Matthews was not in regulation dress. She was wearing her jacket. Her shirt had the two top buttons undone, with her collar pulled up and away from her neck. She did not have her tie on. He questioned her as to why she was dressed that way. It was not proper, according to the regulations. She explained that the shirt fabric was chafing her neck. Mr. Teeluck suggested that there were shirts made of other materials that were available from the supply office of the institution. Those would not bother her. She would check on that information.

After a few minutes she zipped up her jacket and went out onto the landing just outside the office door. She still had her jacket on a few minutes later as she returned to the office. She was in the process of taking her jacket off, when, according to Ms. Matthews, Mr. Teeluck rolled his chair from the computer location so as to place it directly in front of her. According to her, he was close to where Mr. LeBlanc was seated. In spite of the close quarters Mr. LeBlanc says that he did not notice that Mr. Teeluck moved his chair.

She says, and Mr. Teeluck acknowledges, that he asked her: "What, you got books in your pockets?" She responds with: "What are you talking about?" She stops taking off her jacket. At that same moment, she says that he raises both his hands and then cups and feels her left breast with his right hand and proceeds to squeeze her nipple with his thumb and forefinger. It lasted no more than one or two seconds.

She responded with indignation: "Don't touch my tits! Leave my tits alone! Jean (Mr. LeBlanc), did you see that? He touched my breast!" She alleges that Mr. Teeluck then rolled his chair back and referred to the indication of her aroused nipples (protruding in the outline of her shirt): "I thought you must have liked it because there was nothing round there before".

Ms. Matthews was shocked by the incident. The whole scene is etched in her mind. He had entered her aura, her space. She felt violated. She was confused. Her mind was racing. She started to panic. She could not believe, nor did she want to believe what happened to her. She was surprised that he would do such a thing to her.

According to Ms. Matthews, around ten minutes after the incident Mr. Teeluck was no longer in the office. (He had gone out to get paper for the computer printer. There was not enough paper in the printer to print off a document that he wanted.) After he left, Ms. Matthews asked Mr. LeBlanc if it looked like she had books in her pocket. She also asked if he had seen Mr. Teeluck touch her breast. His answer was "no", he had not seen Mr. Teeluck touch her breast. Ms. Matthews believes that Mr. LeBlanc had to have seen or heard something, but he is unwilling to say anything.

She wanted to remain calm so she decided to print off the security manual when she noticed it on Mr. Teeluck's computer screen. The computer ran out of paper before the manual finished printing. When she heard Mr. Teeluck come in the outside door to the unit, she put the papers in her knapsack.

On the return of Mr. Teeluck, a heated argument ensued between himself and Ms Matthews. Mr. Teeluck "went up one side of her and down the other". She had used the computer without his permission. The computer was logged in under his name. The "office" would note that it was he who used the computer. In his native culture (of Mauritius) you just do

not do that sort of thing. He saw it as an example of how culturally depraved western society is. It was equivalent to stealing something from him. Besides, the computer had locked up. It would not work. He had to "reprogram it" to get it working. He remained accusing her for 30 to 45 minutes. For Ms. Matthews the argument was ridiculous. It was, nevertheless, a welcome distraction, and diversion, a childish catfight. She "held her ground over that." It was definitely not as a result of the argument that she would fabricate something so serious as the charges of sexual harassment.

Later on, there was a further disagreement that ensued over the wording on an entry in the unit's log. An inmate missed his regular 2:00 p.m. medication. A call to the nurse revealed that she was running 30 minutes late. Ms. Matthews put that information in the log in the event that the nurse arrived later than the 2:30 time. According to Mr. Teeluck, that was "ratting on the nurse." He later acknowledged the rationale for an entry, but when she would not follow his precise instructions on the wording, he told her not to write in "his" log book again.

Soon after, she used the pretext of going to a cleaner washroom outside the unit in an attempt to contact the keeper, Mr. Taylor. Although he was in his office when she went into the washroom, he was not there when she came out again. On her return to unit 4 she noticed that Mr. Taylor was in unit 4 with Mr. Teeluck. By then she felt that it was too late to recount to him what had happened to her.

Later, when Mr. LeBlanc mentioned that he was leaving a little early that day, Ms. Matthews became anxious at the thought of being left alone with Mr. Teeluck. After Mr. LeBlanc left, she remained on the landing outside the office, in sight of the officer in the Gallery (lookout). She did not want to be left in the room alone with Mr. Teeluck. She was relieved when Mr. Teeluck left shortly after Mr. LeBlanc.

On her next shift that afternoon (in another Gallery), Ms. Matthews confided her story to officer Victor Brasco. She was relieved that he was in the gallery with her. She knew him quite well. She could talk to him. She started to cry when she saw him there. They discussed the events through most of their shift together. They decided that she should report the incident to Mary-Grace Traer the following morning. Once she could talk to Ms. Traer, (a supervisor, CO-03) everything would be all right.



On the following day, November 18, at the staff briefing, she saw Mr. Teeluck. Later in the same day, she also repeated her allegations to Ms. Traer. Ms. Traer arranged for Ms. Matthews to meet Terry Hatcher, a deputy warden of the institution. She gave him a verbal account of what had happened. (At his request she put her allegations on paper, on November 20.)

Ms. Traer was surprised that it was Mr. Teeluck. Nevertheless, she believed Ms. Matthews' story. She arranged for somebody to replace Ms. Matthews during the rest of her first shift. She also arranged for her to see Charles Deschênes, later on that morning. He is a psychologist on the staff of the institution. For over three hours she related to him in depth the events of the previous day's encounter with Mr. Teeluck. He described her as being in a state of shock, in distress, devastated, depressive, and helpless. She had gone through a traumatic event. Her reaction was very intense. It was very, very highly improbable that she was faking her emotional reaction. Most of her distress was directly related to the touching incident by Mr. Teeluck. She concentrated her remarks with Mr. Deschênes on that incident. She questioned her own values, and whether, or how, she had brought it all on herself. During that meeting, or at another meeting later in the week, she gave him her notebook that contained her recollection of the events of November 17.

Everyone acknowledges that Mr. Teeluck is a by-the-book officer. He follows instructions to the letter. He is very professional. His opinions win the day. He does not readily accept the opinions of others, when their opinions do not match his own. Most witnesses expressed surprise when they heard that Mr. Teeluck had been charged with sexual harassment. That sort of action was out of character for him. In responding to the charges by Ms. Matthews, in the employer's investigation, in provincial court, and throughout the adjudication hearing, Mr. Teeluck has denied touching the breast of Ms. Matthews or making the alleged comment about her nipples. He maintains that the incident as described by Ms. Matthews never happened.

He specifically denied that he and Mr. LeBlanc were telling off-colour jokes when she first entered. He does not engage in such language. He acknowledged the conversation about Ms. Matthews' shirt. He suggested that she could get one with a different material. She was the one who rolled her chair over in front of him. She took off her jacket. When she did, you could see "everything..." Her shirt was unbuttoned at the top. You could see her black lingerie strap. He

was uncomfortable, uneasy at seeing that. He told her so. To her reply that she had a rash, he told her that there were cotton shirts available that could prevent such rashes. A few moments later, when she was still not responding to his attempts to call attention to her dress, he asked if she had a book in her pocket. His intent was to have her look down and see how she appeared with her shirt open. She only shrugged and did not otherwise respond. He returned to his computer. Later, he left the office to get computer paper to print out a security manual.

Mr. Teeluck emphatically denies any allegation of sexual harassment. He admits to asking Ms. Matthews if she had any books in her pocket. Her manner of dress had made him uneasy. Asking about the books was intended to bring her attention to the fact that her shirt was unbuttoned. Mr. Teeluck feels that Ms. Matthews set him up. His rationale for his being "set up" by her relates to the time in 1990 when he replaced her in drafting the post / standing orders. She was able to finish only a small part of that assignment. Management took her off that job. They assigned him to do it in her place. When he came into the picture, he was able to complete the task quite satisfactorily. He offered no other evidence to establish a connection between the two events.

Nicole Losier recalled in her testimony that about two months prior to the sexual harassment complaint, she and Ms. Matthews were in the same unit, while Mr. Teeluck was in the control room. There was a (false) smoke alarm in a cell in the unit. Ms. Matthews had argued with Mr. Teeluck on the procedure to turn off the alarm. He was supposed to do it in the control. He was adamant that she had to get someone to turn it off at the inmate's cell. Ms. Matthews did not appreciate the manner in which Mr. Teeluck had relayed his message to her. She told Ms. Losier: "It would be pay back time." In cross-examination she thought that Ms Matthews was going to report Mr. Teeluck.

Mr. Teeluck acknowledges that he admonished Ms. Matthews for not getting his permission to print a document. His concerns were because the computer was logged in his name. He adds that he did not raise his voice in this exchange. His voice is normally high pitched. When he is talking, "Everybody knows it's Teeluck."

He does not recall seeing Ms. Matthews the following morning at the shift briefing.

When Warden Cross asked Mr. Teeluck on March 3, if he had any response to the allegations by Ms. Matthews, Mr. Teeluck replied that he had lots of information, but there would be no use giving it to Mr. Cross. Instead, Mr. Teeluck said that he would reveal all that "in court."

Mr. LeBlanc says that he did not hear the impugned comments of Mr. Teeluck, or of Ms. Matthews, nor did he see Mr. Teeluck touch the breast of Ms. Matthews. He acknowledges that they were talking. However, he was not paying any attention to what they had to say. He only noticed that she had her jacket off around the time when he and Ms. Matthews became aware that Mr. Teeluck had left the unit.

During the investigation of the charges by Ms. Matthews, the police and the institution offered to conduct lie detector tests of Ms. Matthews, Mr. Teeluck and Mr. LeBlanc. Only Ms. Matthews volunteered to take the test. Both Mr. Teeluck and Mr. LeBlanc refused to take them.

After the termination of Mr. Teeluck, Mr. LeBlanc lent moral support to him by visiting Mr. Teeluck and his family at the latter's home in Miramichi. Mr. Teeluck returned the concern of Mr. LeBlanc by inviting him to remain for supper.

During the institution's investigation of the complaints, another correctional officer at the institution came forward with additional information for the investigators. She was CO-01 Roberta McMullin. The investigators interviewed her.

Ms. McMullin testified that Mr. Teeluck, in October 1996, had blocked her path in the walkway / hall near the briefing room. He asked her: "Is that a book in your pocket? Your tits look awful flat." Immediately on making this comment, according to Ms. McMullin, Mr. Teeluck poked his finger into the notebook in her uniform shirt pocket and pushed it against her breast. She did not report this incident to her superiors, nor did she mention it to her peers. She did not file a complaint at that time. She only related her incident to Vic Nash, a supervisor, a few days after she heard rumours about the harassment charges by Ms. Matthews.

She reluctantly came forward to relate her story to the harassment investigators about six or seven weeks later.

Most of witnesses testified about the existence of the "rat code" at the institution. A few

acknowledged that the first that they heard about it was during their initial training period at the institution before it opened up. The code requires the officers to refrain from reporting to management of their fellow officers for incidents involving negligence or misconduct. The officers can take care of their own. They just take the officer aside in the institution or in the parking lot and tell them where they are not following procedures. For some officers, like Mr. LeBlanc, you only do that for minor slip-ups on the part of a comrade, like sleeping on the job, or showing up late at your next post. You certainly would not do it for serious offences. For example, sexual assault or sexual intimidation is a serious offence. You could not ignore such conduct. You would have to come forward if you saw another person being sexually harassed. You would not be breaking the "rat code" to report such an offence.

For those officers who break the "rat code" and who do report other officers to management, their fellow officers treat them with disdain. They are "put on the dummy", that results in the other officers not talking to them; the other officers do not answer, or are slow to answer, the calls of the officer to open doors between units; or they are slow to answer the officer's calls for assistance. Soon they become wary of anything that to him or her seems out of the ordinary.

Yet, implicit in the conduct of one's duties in the institution is the fact that the officer must be able to rely on his or her fellow officers at the drop of a hat. The officer has to trust that his or her fellow officers will back him up, or will come to his or her assistance, when he or she is faced with a confrontation from one of the inmates. When that trust between officers deteriorates to the point where the officer fears for his or her safety, or he or she is no longer able to have confidence in the response by his or her fellow officers, there comes a time when the officer and management must consider other options.

The situation at the institution did in fact deteriorate for both Ms. Matthews and Ms. McMullin. Both became the butts of silent treatment and slow response to calls at the doors and in the units. After she endured the negative reaction of her fellow officers for three or four months, at her request, management transferred Ms. Matthews to undertake a special project at the regional office in Moncton. Ms. McMullin endured even greater threats to her personal safety. Beside the dummy treatment and the slow response to her calls, somebody tampered with

her car. Somebody let the air out of her tires in the institution's parking lot. On another occasion someone tampered with the hood release on her car. The hood disengaged as she was driving. Later, another person loosened the nuts on one of her tires. Although she was able to maintain control of her car at all times, the cumulative effect of her experiences so shook her confidence that it resulted in her requesting a transfer out of the province to another institution. While there is no evidence that fellow officers tampered with her car, she instinctively believes that there is a connection. Even though she and Ms. Matthews were friends since their first days at the institution, she now blames Ms. Matthews in part for her having to leave the Miramichi. (Ms. Matthews started it all by bringing forward her charges against Mr. Teeluck.)

Mr. Teeluck explained the personal harassment of Ms. Matthews by noting that she saw herself as management material. In the past she had applied for a management position. The other officers were reacting to her wanting to become part of management. According to him, there were certainly no repercussions to her because she had charged him with sexual harassment.

The correctional service and the bargaining agent have jointly signed a zero tolerance declaration on the right to a workplace free of all forms of harassment. In addition, the employer has a code of conduct that provides penalties that vary in severity, (depending on the severity of the misconduct), from oral reprimand written reprimand, suspension, up to discharge or termination. The code lists a number of infractions, including commission of an indictable or a summary conviction offence under the criminal code that would bring discredit to the correctional service. Also included in the list of infractions are acts of personal or sexual harassment against other employees.

### **Summary of the representations on behalf of the Parties**

#### **Argument for the Employer**

Counsel for the employer conceded that the employer has to show on a balance of probabilities: that the incidents occurred, that discipline was warranted and that the discipline imposed was justified in the circumstances. The employer understands the burden of proof associated with serious disciplinary cases. In such instances the onus is on the employer to show that the incidents occurred through clear, compelling, concise and cogent evidence. The more

serious the allegations the more important it is to have clear, concise and cogent evidence.

In this case the credibility of Mr. LeBlanc is a key issue in the outcome. There are three possibilities: 1) the incident occurred, yet Mr. LeBlanc did not see or hear anything; 2) the incident occurred, and Mr. LeBlanc did see and hear something, but, he is not willing to divulge anything because of the "rat code"; or, 3) the incident did not occur, therefore, Mr. LeBlanc could not see or hear anything.

In the first scenario Mr. LeBlanc was very tired after finishing three double shifts in a row and may have tuned out the whole situation, including Ms. Matthews' statement that she was uncomfortable or ill at ease.

In the second scenario Mr. LeBlanc may not want to come forward because of the "rat code" for fear of possible repercussions to himself. Counsel questions Mr. LeBlanc's credibility for two reasons; a) Mr. LeBlanc refused to take a lie detector test, and b) after the allegations surfaced, he went to Mr. Teeluck's house to lend moral support to him. Counsel further questions Mr. LeBlanc's credibility by asking why Mr. LeBlanc did not report the incident to Mr. Taylor, or why he did not even suggest to Ms. Matthews that she report her allegations to Mr. Taylor. He also notes that in such a small office Mr. LeBlanc would have only been inches away from the incident.

In the last scenario Mr. LeBlanc has nothing to add to the situation by saying he knows or has seen nothing. For this last thesis to be true, Ms. Matthews would have had to make up the whole story.

Ms. Matthews was obviously distraught and emotionally shook up in her conversation with Mr. Bracso on her next shift, and when she talked to Mr. Taylor, Ms. Traer, and Mr. Deschênes on the next day. Mr. Deschênes testified that she was devastated, traumatised, feeling dirty, in shock, questioning her own values. She would have to be a world class actor to fool him about her emotional state. He is an experienced psychologist.

Ms. Matthews was truly traumatised not only by the unwanted touching of her breast, but also, by the comments Mr. Teeluck made immediately following the incident. Those comments were intended to control and intimidate her. It was the ultimate in a power play.

Counsel further argues that Ms. Matthews' testimony should be given more weight than the testimony of the other witnesses. She was an extraordinarily credible witness. She has good values. She exhibits clear, concise testimony which remains unrefuted and unimpugned. She had no reason to lie and every reason not to report Mr. Teeluck and to hide her head in the sand. If she fabricated the whole thing, why would she refer to events that occurred when another person was in the room to hear it all? It makes no sense. No witness suggested any cogent reason why she would make it all up.

On the other hand, Mr. Teeluck was less than forthright in his testimony. He has a lot of pride. He is fighting for his job. He would evade answers to simple questions. He suggests that she wanted a witness in the room so that he would witness the events. "She set him up."

Mr. Teeluck suggests that her motivation in setting him up relates to an event from 1990 when he replaced her in some duties regarding the drafting of post orders. Nevertheless, he adds nothing to support his theory. When the warden asked for more information on the day of his termination, he intimated that he would provide that "in court". Yet, in this hearing he provides no more information than what was available to management when they terminated him.

Ms. Matthews showed courage by coming forward in this instance. She paid the price in doing so. She has been the object of harassment and intimidation by persons in the bargaining agent who retaliated because she did come forward. That intimidation forced her, and Ms. McMullin, to get other positions and to move out of the Miramichi region.

If Mr. Teeluck were reinstated in his job, how could the employer maintain a harassment free environment at work? He does not acknowledge any wrongdoing. He remains unremorseful. The warden considers that he has lost three members of his team: Ms. Matthews, Ms. McMullin, as well as Mr. Teeluck.

There is a zero tolerance policy within the institution and the whole of the correctional service. There is no case for mitigation of the penalty in this instance. The penalty was within the reasonable range for this type of misconduct. Counsel requested that I not alter or amend the employer's decision.

Mr. Climie cited the following authorities and cases:

- (1) **Santokh Kahlon and Treasury Board** (Solicitor General - Correctional Service Canada), (File: 166-2-20871), March 4, 1991, (Kwavnick) at pages 32-33.
- (2) **Vernon Taylor and Treasury Board** (Solicitor General - Correctional Service Canada), (File: 166-2-26543), January 15, 1996, (Simpson), at pages 31,32, 34 &35.
- (3) **Kevin Dell, Ken Philipchuk & David Sweeny and Treasury Board** (Solicitor General - Correctional Service Canada), (File: 166-2-25124 to 26 and 25189 to 91), October 19, 1995, (Burke), at pages 29 and 34.
- (4) **Aristos Kikilidis and Treasury Board** (Solicitor General - Canadian Penitentiary Service), (File: 166-2-3180 to 3182), October 11, 1997, (Smith), at pages 4-5.
- (5) **Gérard Côté and Treasury Board**, (1994), 162 N.R. 214; 109 D.L.R. (4<sup>th</sup>) 224, (Hugessen J.A.) (FCA).
- (6) **Capital Health District and Hospital Employees' Union**, (1997), 65 L.A.C. (4<sup>th</sup>) 365.

Counsel requested that I dismiss the grievance.

#### **Argument for Mr. Teeluck**

The bargaining agent contests Mr. Teeluck's termination in this case. It is a grave injustice to Mr. Teeluck to terminate him. Indeed, all the witnesses describe him as a good employee. He goes by the book. He enforces the rules. Some people at the institution do not like the way that he does things. However, they all have respect for him and how he dealt with his fellow officers.

It is important to remember that on November 17, 1996, there was a series of things that were out of the ordinary in unit 4. Mr. Teeluck and Ms. Matthews were both not scheduled to work on that unit. She exchanged shift duties with officer Martin, rather than work the mobile post on the outside perimeter. Mr. Teeluck exchanged with officer Malley at the latter's request and became the officer in charge of unit 4. Only Jean LeBlanc was a regular on unit 4. Therefore, there were three officers on the unit who do not normally work together. Mr. Teeluck and Ms. Matthews do not have a good working relationship. In short, they do not like each other and share a mutual desire not to work with one another. Both Mr. Teeluck and Ms. Matthews testified that had they known that they were to be on the same unit, they would not have exchanged posts. It was a recipe with ingredients for something other than just officers working



together on a unit.

When Ms. Matthews exchanged shifts with officer Martin at the morning briefing, he told her that Mr. Teeluck was the officer in charge in unit 4 for the shift. She says that she did not hear him. Yet, there was no loud noise in the room at the time, there is no reason why she did not hear him.

She arrives in the unit 4 office around noon. The office is not a big one. There are three people in it. There is not much space to move around. She says that Mr. Teeluck and Mr. LeBlanc were talking, telling each other off-colour jokes. Mr. Teeluck denies that occurred. Mr. LeBlanc does not recall that sort of conversation. However, that reference only shows up at this hearing. It does not appear in her statements to others or in the interviews by the investigators.

Another contradiction is that she says she did not take off her jacket when she entered the office. Yet, Mr. LeBlanc and Mr. Teeluck both say that she did take her jacket off. Another point is that Mr. LeBlanc does not observe Mr. Teeluck in his chair directly in front of her.

Mr. Teeluck acknowledges that he asked Ms. Matthews if she had books in her shirt pocket. Nevertheless, he only wanted to bring to Ms. Matthews' attention that her shirt was open. Mr. LeBlanc does not hear or see what Ms. Matthews says occurred. To accept what Ms. Matthews says is factual, the only alternative is that Mr. LeBlanc, the only eyewitness, is lying.

However, he is not lying. The evidence to be preferred is that the incident just did not happen. The employer wants to disregard Mr. LeBlanc's evidence and prefers that of Ms. Matthews. Yet, Mr. LeBlanc and Mr. Teeluck are not close friends. They do not live in the same community. There is no personal reason for Mr. LeBlanc to cover for Mr. Teeluck. Mr. LeBlanc testifies that any "rat code" would not prevent him from coming forward if he saw sexual harassment. His testimony was forthright, straightforward, and not evasive. He is not reluctant or hesitant to state what he recalls occurring. His story is clear and unchanged throughout, at the interviews and in his testimony. He was here to tell the truth.

If the incident did occur as alleged by Ms. Matthews, why did she not report it to Mr. Taylor, the keeper of the shift? She had the opportunity, but she did not. It was not up to Mr. LeBlanc to do so. That was not his responsibility.

Even the evidence of Mr. Deschênes is not conclusive that Ms. Matthews' upset emotions absolutely resulted from a sexual assault. Ms. Matthews is a good actor. However, she was upset for reasons related to the arguments, and not any sexual assault.

There is motive on Ms. Matthews part that she was out to get Mr. Teeluck. She said so to Ms. Losier about two months prior to the alleged harassment complaint. There had been a smoke alarm and Ms. Matthews did not like the treatment that she received from Mr. Teeluck at that time. "It would be pay back time."

The employer is asking the adjudicator to disregard and not believe the witnesses for Mr. Teeluck. That is a serious position to take.

Furthermore, the employer's investigation into the allegations was not fair or adequate. They accepted evidence from some witnesses and discounted or omitted evidence from others. Their conclusions are not clear that he did what he was accused of. All the investigators say is that "something serious happened to Ms. Matthews" and that the allegations were founded. That is not a clear or strong enough conclusion as to warrant the termination of Mr. Teeluck.

Due to the seriousness of the charges and the consequences to Mr. Teeluck a higher burden of proof is required in this instance. The employer has not met that burden.

Something serious happened in unit 4 on November 17, 1996:

1. Mr. Teeluck took Ms. Matthews to task concerning her dress and her violations of the dress code.
2. He also took her to task for using the computer (on his password), and without his permission, after he left the office.
3. Lastly, there was the dispute about the medication for the inmate and her entry in the log. However serious those incidents are, they are not included as reasons in the termination letter.

The bargaining agent does not discount the existence of the "rat code" among officers at the institution. Still, it is clear that it just applies to minor differences among the officers, and not the serious issues. For example, you do not report on your fellow officer for dozing off, or arriving late. You speak to him to get him to correct his actions.

Mr. LeBlanc is an impartial third person. He was there at the time of the alleged incident.

He corroborates Mr. Teeluck's version of the events. To discount Mr. LeBlanc's testimony because of the rat code would create a precedent. That would mean that where there are false allegations of sexual harassment and there is somebody present to say that it did not happen, there would be no way for an officer to defend himself.

The grievor's representative further argues that the similar fact evidence of another allegation of sexual harassment (by Roberta McMullin) should not be admitted in evidence. There is no basis for its introduction in this hearing. It should be accorded very little weight at most. Besides, she was evasive throughout her testimony.

The employer would like to substitute the evidence presented by Mr. LeBlanc, a person who has no reason to cover for Mr. Teeluck, for that of Ms. Matthews who has admitted a prior dislike for Mr. Teeluck.

The adjudicator should accept Mr. Teeluck's testimony. Due to the seriousness of the charges and the consequences to Mr. Teeluck, there is a higher burden of proof required in this instance. The employer has not met that burden.

The employer did not have sufficient reasons to terminate Mr. Teeluck because of Ms. Matthews' allegations about what occurred on November 17, 1996.

The grievor's representative referred to the following authorities and cases:

- (1) **Satwinder Samra and Treasury Board** (Indian and Northern Affairs Canada), (File: 166-2-26543), September 11, 1996, (Vice-Chairman Tenace), at pages 20, 21 and 22.
- (2) **Re Saskatchewan Government Insurance and Saskatchewan Insurance, Office and Professional Employees' Union** (O.P.E.I.U., local 397) (1997), 60 L.A.C. (4<sup>th</sup>) 323 (Priel), at pages 326-327.

Mr. Tynes requested that the grievance be allowed and Mr. Teeluck be reinstated into his position as a correctional officer (CO-02) at the institution.

**CODE OF DISCIPLINE** - in the Correctional Service of Canada

a. Arising from the Standards of Professional Conduct are a number of specific rules that employees of the correctional Service of Canada are expected to observe. An infraction of those rules may, depending on its severity, result in the following action being taken:

- a. Oral reprimand;
- b. Written reprimand;
- c. Suspension (or financial penalty);
- d. Discharge;
- e. Termination of employment or demotion for cause.

## 2. STANDARD TWO CONDUCT AND APPEARANCE

### Infractions

*An employee has committed an infraction, if he or she:*

...  
commits an indictable offence or an offence punishable on a summary conviction under any statute of Canada or any province or territory, which may bring discredit to the Service or affect his or her continued performance with the Service;

## 3. STANDARD THREE RELATIONSHIPS WITH OTHER STAFF MEMBERS

### Infractions

*An employee has committed an infraction, if he or she:*

...  
commits any act of personal or sexual harassment against another staff member;

## **Conclusion and reasons for the decision**

The employer terminated Mr. Teeluck from his employment at the institution on March 3, 1997, after they investigated Ms. Matthews' allegations of sexual harassment. At issue in this case is whether there was clear, cogent and compelling evidence to establish that discipline was warranted, and if so, whether the penalty imposed was reasonable in the circumstances.

It is said that sexual harassment cases are difficult to deal with. In such instances there are usually only two witnesses: the accused and the accuser. The person hearing the case has to decide on a balance of probabilities which of the two versions more closely represents the truth. In this case we have Mr. LeBlanc in the same room as the two employees involved. He says that he neither heard nor saw anything out of the ordinary. It will be very important to consider his recollection of the events in question.

I agree with Mr. Tynes that it is of utmost importance to avoid any sense of injustice to Mr. Teeluck. Certainly all the witnesses uniformly describe him as a good employee who goes by the book. He enforces the rules. Some fellow officers do not like the way that he does things. Nevertheless, they have respect for him and the way that he deals with other officers.

The standard of proof in a case such as this is that of a balance of probabilities. Because the allegations concern sexual harassment, both sides agree that there should be clear, concise, cogent and compelling evidence that the actions complained of did occur. For, if the allegations are proven, the usual response is that it could warrant termination of the employee's employment.

Where there are such serious allegations and potentially serious ramifications for the employee, the precedents suggest a clear standard.

The decision in Samra, (*supra*) outlines the onus in such instances (at page 21):

...The existing jurisprudence is rife with cases which support the notion that in cases of serious alleged misconduct, particularly where a person's continued employment and reputation is at stake, the employer must demonstrate by clear, convincing and cogent evidence that the allegation has occurred. While the standard is not that of criminal cases requiring proof beyond a reasonable doubt, it requires more than a mere preponderance of proof.

Adjudicator Tenace cites Professor Gorsky's text (**Evidence and Procedure in Canadian Labour Arbitration** (1996), Carswell) regarding the burden of proof (Samra, *supra*, at page 21):

...Talking about "heavy onuses" or "light onuses" is just a confused way of giving legal recognition to a principle of social thinking: the more unusual or objectionable the conduct is, the more convincing the proof of it must be before we believe it occurred.

In dealing with the issue of similar fact evidence, it is dangerous to link a prior incident to a second one on the basis that the prior incident constitutes proof of the second. Rather, the second incident must be proven to have occurred on its own.

In arbitration cases, similar fact evidence may be admitted if the probative value outweighs the potential prejudice to the employee. Yet, similar fact evidence should not be admitted solely to prove that the employee has a disposition or propensity, or is the sort of person that would commit the alleged act. (See Capital Health District, *supra*, at page 375).

There is a sliding scale of balance between the probative value of evidence and its potential prejudicial effect. For example, the less prejudicial the evidence, the lower the threshold for admission. (Capital Health District, *supra*, *ibid.*).

However, the probative value of the evidence will increase with the degree of similarity between the two events. It becomes significant where the previous similar fact evidence and the alleged incident share unique or distinct features. (Capital Health District, *supra*, at page 376).

Counsel for the employer argues that I should not substitute a different decision from that of the employer's findings. He seeks support in Kikilidis, *supra*. In that case, adjudicator Smith stated (at page 4):

...The employer considers the grievor to be a security risk. The employer has the responsibility for the safety of the personnel and inmates and the security of the institution. An adjudicator should not attempt to second-guess the employer in this regard. Correctional Officers and the Penitentiary Service has (sic) responsibilities and tasks quite different than those in most other areas of Public Service. An adjudicator must not only weigh the interests of the employer and those of the employee, but the interests of other employees, inmates and the public at large must also be taken into account.

In considering the testimony adduced in this case I have accepted or preferred the evidence of certain witnesses to that given by others. In doing so, I have looked at such things as the demeanour, openness, and primarily, the consistency of the evidence in the testimony of each witness. Another important feature is the motive of each witness in connection with his or her bias in the outcome of this case.

Mr. Teeluck says that the conclusions of the investigators are not as clear or strong enough to warrant termination. They conclude (page 37 of exhibit 15) that "something serious happened to Ms. Matthews" and that the allegations were founded. However, while they do not say that the alleged action occurred on a balance of probabilities, they do say that "...the available facts and information, including the credibility of witnesses and their statements, support the probability and plausibility of the alleged action..." I believe that their conclusion is strong enough in the circumstances. In fact, they relate it directly back to the charges that were part of their mandate to investigate. Moreover, in addition to the investigation conclusions, the employer relied on the disciplinary investigation and the disciplinary interview with Mr. Teeluck. Nevertheless, the hearing of evidence before an adjudicator (See Tipple, Court file A-66-85, (F.C.A.)) cures any procedural unfairness in an investigation process.

Mr. LeBlanc tried to give the appearance of being a forthright witness. He recalls that Mr. Teeluck and Ms. Matthews were talking at the time of the incident. He says that he tuned out their conversation. He does not say that a conversation did not occur. Mr. Teeluck says that Mr. LeBlanc was an eyewitness. Yet, Mr. LeBlanc fails to provide anybody with an account of what he saw or heard. He does not say that nothing happened between the grievor and Ms. Matthews. He only says that he did not notice or pay any attention to them. He does not recall any conversation; neither does he see any movement of chairs, nor movements by Mr. Teeluck or

Ms. Matthews, until after Mr. Teeluck leaves. That is not an eyewitness. Whether it was the "rat code", or a personal preference to support Mr. Teeluck, it appeared to this adjudicator that Mr. LeBlanc did not want to recall any of the events.

On the one hand, according to the bargaining agent, the "rat code" is not as serious an affair as the employer witnesses paint it. The most valid testimony is epitomized in that of Mr. LeBlanc, in particular. The officers are professional enough in serious cases that involve their fellow officers. In such serious cases they do not resort to the unwritten code and refrain from reporting against a fellow officer. However, the facts speak for themselves in this case. Mr. LeBlanc is able to recall almost every other significant detail of the events of the afternoon, the computer use, the comings and goings of the others, etc. Yet, he cannot recall anything of a conversation that he acknowledges occurred, between Mr. Teeluck and Ms. Matthews. He so conveniently says that he tuned out to what they were saying and doing. He cannot recall the conversation. He adds that an officer would not use the rat code to not come forward on a sexual harassment charge. Yet, I cannot place any significant credence on his testimony about the conversation.

Mr. Teeluck questions Ms. Matthews' credibility on the fact that she did not previously report her reference to Mr. Teeluck's off-colour jokes when she first arrived at the office. Yet, she did note those remarks in personal notebook that she gave to Mr. Deschênes in November 1996.

Mr. Teeluck also says that she contradicted herself when she says that she took off her jacket when she arrived at the office. Both Mr. Teeluck and Mr. LeBlanc say that she did. However, Mr. LeBlanc's recollection on that point is that she had the jacket off by the time that Mr. Teeluck went out to get the paper for the computer. That was 5 to 10 minutes after the incidents.

Ms. Losier's attempt at impugning Ms. Matthews does not assist Mr. Teeluck. Even she acknowledged in cross-examination that Ms. Matthews' intention at the time of the earlier incident was to report that one to management. That is a far stretch to say that in order to get even with Mr. Teeluck Ms. Matthews was going to concoct a story. It just does not hold up.

Mr. Martin says that he told Ms. Matthews that Mr. Teeluck would be the officer-in-

charge of unit 4 for the day. I accept his testimony as far as it goes. However, he had no "hi" sign from Ms. Matthews that she heard what he said. She says that she did not hear him. That statement was not significantly challenged on cross-examination. The briefing room was significantly larger than the small office in unit 4. There were other officers in the room. With a number of those officers talking to one another on the way out, it would not be abnormal for a person not to hear information from another officer. I accept Ms. Matthews' recollection on that point.

Mr. Teeluck says that Ms. Matthews set him up. He says that she had it in for him since 1990, when he replaced her in the office to write up the "post orders." Yet, there is nothing further than his personal musings as to why she was out to get him. Mr. Teeluck did not produce any independent evidence that she was out to get him, other than the fact that she did not like to work with him. That reaction was mutual on his part: He did not want to work with her either. No other witness testified that she was out to get him. Most testified that they were unaware of any friction between them.

During the investigation, in his disciplinary hearing and in the adjudication hearing Mr. Teeluck complained repeatedly of Ms. Matthews' dress code violations. He says that the employer did not interview other officers who saw her on November 17, 1996, and before that date. They could have told the investigators that Ms. Matthews' compliance with the dress code was improper. It is just that sort of side tracking of the issues that does not assist Mr. Teeluck either. Everyone accepts that Ms. Matthews' shirt was open two buttons, and that she was not wearing her tie. There is no need to have another inquisition to determine that. The effect that such an innocuous occurrence had on Mr. Teeluck's psyche is beyond belief. The keeper of the watch, Mr. Taylor, had dealt with that matter when she was in his office before she went to unit 4. Mr. Teeluck heard Mr. Taylor's testimony on the subject. For Mr. Teeluck to continue to attach such emphasis to her manner of dress at this hearing, after the keeper had outlined his comments on the subject and the investigators had rejected Mr. Teeluck's complaint, leads me to question Mr. Teeluck's motives for harping on the subject. There was nothing for him to gain by repeatedly saying that her official dress was improper and that others could vouch that it occurred.

On the day of his termination Mr. Teeluck told the warden that he had other information



that he would only reveal "in court." Yet, he revealed no new evidence in this adjudication that was not available to the employer on the date of his termination.

After reviewing all the evidence and testimony in this case, I accept the allegations of sexual harassment by Mr. Teeluck on Ms. Matthews. In my view the employer has met the standard of proof required, that of cogent and clear evidence on a balance of probabilities.

In my opinion the testimony of Ms. Matthews follows a progression throughout the day of November 17, 1996, and in the days immediately following that date. Her testimony and that of Mr. Teeluck enmesh for all events of the day, except for the allegation that he touched her breast, his subsequent comment and her reaction to his action. Mr. Teeluck says that it did not happen. Yet, she raised the very question with Mr. LeBlanc within 10 minutes, and as soon as Mr. Teeluck left the office. Unlike Mr. Teeluck, Mr. LeBlanc does not say that nothing occurred; he just says that he paid no attention to what was happening between Mr. Teeluck and Ms. Matthews. Yet, Ms. Matthews also tried to see Mr. Taylor about it, but could not find him at first. When she did see him later, she felt it was too late in the shift. She did, however, report the incident to officer Bracso during the first half of her afternoon shift. His forthright testimony did not exaggerate her emotional reaction. The next morning she reported her allegations to Ms. Traer, Mr. Hatcher, and Mr. Deschênes. Mr. Taylor, Ms. Traer and Mr. Deschênes all testified on the genuineness of her emotional state at the time.

Mr. Teeluck says that she gave a great acting performance at the time that she gave those interviews. However, there is the testimony of Mr. Deschênes, a psychologist. He dismisses suggestions that she was faking her recollection of events.

I, too, have subjected her testimony before me, as well as that of Mr. Teeluck and the other witnesses, to the usual checks and cross-checks as to what occurred. In my opinion, Ms. Matthews' recollection most closely represents the truth of what did occur. Mr. Teeluck did sexually harass Ms. Matthews. The employer had just cause to discipline Mr. Teeluck.

I see nothing in actions of Mr. Teeluck in his sexual harassment of Ms. Matthews that warrants my interference with the penalty of termination. It was within the range that is appropriate for this type of conduct. Mr. Teeluck did not present any mitigating factors to the employer, nor did he do so at the hearing of this matter. He is the author of his own misfortune.

Ms. Matthews gave clear and consistent evidence to support my conclusion. In addition, there is striking similarity between Ms. Matthews's allegation and those of Ms. McMullin. Ms. McMullin's forthright, if reluctant, testimony serves to complement my conclusion that Mr. Teeluck did indeed harass Ms. Matthews as alleged by the employer.

I find no reason to believe that either Ms. Matthews or Ms. McMullin concocted their allegations of sexual harassment. There is no reliable evidence of a prior, or subsequent, conspiracy to bring harm to Mr. Teeluck.

In closing it is my decision that the termination of Mr. Teeluck was for just cause. The end result is that this grievance and reference to adjudication must be and are hereby dismissed.

**Donald MacLean,  
Adjudicator and Board Member**

**MONCTON, August 20, 1998.**

ADDENDUM

I would be remiss if I did not make some comment on the existence and impact of the "Rat Code" at Renous (as the Atlantic Institution is affectionately known in the outside media). The bargaining agent acknowledges that there is a rat code at the institution. They would say that the employer has exaggerated the extent and impact of the code. Their witnesses say that the staff restricts their use of the code to minor incidents among the officers. They reserve their reliance on the code for those instances when the offending officer can be lectured on his mistakes, or collared outside as they both leave the shift. All the miscreant requires is a little lecture on the rules of the institution. Once somebody informs him of the error of his ways, he will not repeat it in the future. So the theory goes, somebody who falls asleep on a shift or who arrives late to relieve a fellow officer, does not need to be reported to the Keeper or to management, "we can take care of it ourselves."

On the other hand, according to the bargaining agent, the officers are professional enough in serious cases. They would come forward and report a fellow officer on a sexual harassment charge.

The evidence is to the contrary. The rat code is alive and kicking among correctional officers in Renous. That code tells everyone: If you rat on your fellow officer no matter how serious or blatant the charge, there will be hell to pay. We will make your life miserable. We will not only "put you on the dummy," (not talk to you), we will be slow in answering your bells to go from one section to another, and watch out, we may be slow to respond, or we may even not respond to your calls when you need assistance. We will warn you by putting fish in your mailbox at home, by letting air out of your tires in the institution parking lot. And by the way, if the bolts on the tires of your car get loosened, or somehow the latch on your car's hood is released, those are just coincidences. Perhaps those were truly coincidences. However, after a while with the things that happen in the workplace, you will get the message: that we do not want you around, no matter how good you are as an officer. We do not want you! How much does it take to get you out of our midst? That is the message that flashes to the officer who dares to ignore the code. The person who goes to management, no matter how serious the incident, gets the shaft from fellow officers. That's what happened to Ms. Matthews and to Ms. McMullin in this case. It got

so serious that they had to move away from the Miramichi.

Such Neanderthal thinking is no better than the infamous code for which the inmates are notorious at harbouring. For persons who are sworn to uphold and respect the law, such a reaction to serious incidents not only takes them down into the gutter, it turns them into barbarians who themselves decide what is right and wrong within the institution. It renders them subject to the base instincts that allows them to rationalize their actions on an us-versus-them level. It says "we can run this place by our rules." Heaven help those who get in our way. We will fix them!

Such twisted thinking is abhorrent to any right-thinking person whose duty as peace officers is to uphold the law. It is long past the time when any officer should allow such animosity to prevail and colour his thinking as to how he should act on the job.

This is not to say that they have take every allegation lying down. There are mediation, grievance and adjudication procedures that can ensure support for a fellow officer. That is where due process comes in.

The problem arises when they import that support into the workplace to the detriment of other officers. That should not happen. When an officer is on the job he knows that he has to rely on the professionalism of his fellow officers to back him up throughout the day. When his fellow officers decide to withhold that assistance out of solidarity for another fellow officer, that is when their professionalism goes out the window and hand in hand with it goes the rule of law. When that happens, nobody in the institution, or on the outside, is safe. For, the safety of everyone becomes tethered to the whim of your partner on the shift, a very tenuous and frightening prospect at best. That is something no officer can afford to gamble with because the stakes on the betting line are the highest of all: the officer's life and limb. Nobody should have to take precautions in the workplace lest someone be inclined to retaliate against him. That is abhorrent to the proper operation of the institution. Such acts of retaliation must stop.

**Donald MacLean,  
Adjudicator and Board Member**

**MONCTON, August 20, 1998.**