

Date: 20021008

File: 466-HC-336

Citation: 2002 PSSRB 90

Parliamentary Employment
and Staff Relations Act



Before the Public Service
Staff Relations Board

BETWEEN

SUZANNE CHARRON

Grievor

and

HOUSE OF COMMONS

Employer

Before: Evelyne Henry, Deputy Chairperson

For the Grievor: Suzanne Charron

For the Employer: Georges Vuicic, Counsel

Heard at Ottawa, Ontario,
on September 17, 19 and 20, 2002.

DECISION

[1] Suzanne Charron has been a supervisor in Electronic Printing, Information Services -- Printing in the House of Commons since January 1997. Ms. Charron worked at the House of Commons under a contract of employment that was renewed at each session of Parliament from February 1995 on.

[2] In her grievance, Ms. Charron stated that she

[TRANSLATION]

... was the subject of a disguised discharge. I was forced by my senior manager to sign a letter of resignation and a release for the employer, both signed on May 6, 2002. I signed the letter of resignation against my will because I was threatened with being charged with fraud for giving my spouse the protective footwear that had been given to me by the employer.

[3] The employer entered a preliminary objection to the arbitrator's jurisdiction to hear the grievance and submitted that the grievance was inadmissible because Ms. Charron had resigned and had signed a legal release in which she gave up any remedies except those stipulated in the release.

[4] On consent, Ms. Charron introduced in evidence the letter of resignation (Exhibit P-1), dated May 6, 2002; the Memorandum of Agreement (Exhibit P-2), dated May 6, 2002; a document entitled "Release" (Exhibit P-3), dated May 6, 2002; the Reply to Grievance (Exhibit P-4), signed by R.R. Walsh, dated June 6, 2002; a letter signed by Louis Bard (Exhibit P-5), dated May 22, 2001; and a letter from Louis Bard (Exhibit P-6), dated February 28, 2002.

[5] The employer called four witnesses: Chantal Paquette, Staff Relations Advisor; Terence Larock, General Manager, Operations -- Printing Services; Richard Lefebvre, a postal clerk and shop steward for the Public Service Alliance of Canada (PSAC); and François Séguin, Acting Supervisor, Printing.

[6] On April 30, 2002, Ms. Charron called Ms. Paquette to inform her of a meeting with her immediate supervisor regarding the misuse of the protective footwear allowance. Ms. Paquette made note of the conversation (Exhibit E-2); she also noted that the union delegate, Richard Cloutier, had told her about this during the mediation and that it was under investigation and would be brought to the attention of management, which he did on April 30, 2002. Shortly thereafter, Ms. Paquette spoke

to Terence Larock to discuss formal disciplinary proceedings against Ms. Charron. A notice of interview (Exhibit E-1), prepared by Ms. Paquette and signed by Terence Larock, was given to Ms. Charron on May 2, 2002.

[7] On May 3, 2002, although she was not a member of the union, Ms. Charron reported to the disciplinary interview accompanied by Richard Lefebvre, a PSAC shop steward. Mr. Larock and Ms. Paquette represented management. Ms. Charron confirmed the facts about the protective footwear that she had already disclosed to Ms. Paquette. Ms. Paquette told Ms. Charron that this was considered a serious breach. Mr. Larock gave Ms. Charron a notice of interview (Exhibit E-7); she was to report on the following Monday, May 6, 2002, at 10:30 a.m., to find out what disciplinary action would be taken. Ms. Paquette prepared a report on the meeting (Exhibit E-3).

[8] On May 6, 2002, Ms. Charron again met with Mr. Larock and Ms. Paquette, accompanied by Richard Lefebvre. Ms. Charron learned that the employer wanted to dismiss her. Ms. Paquette gave her a letter of dismissal with a copy for her representative. Ms. Charron, who was upset, could not or would not read the letter at that time.

[9] The employer offered Ms. Charron the option of resigning, which would avoid her being given a disciplinary record, and she would be given good references concerning the quality of her work, which the employer had always found satisfactory. Ms. Paquette gave Ms. Charron a previously typed letter of resignation (Exhibit P-1), the Memorandum of Agreement (Exhibit P-2) and the Release (Exhibit P-3).

[10] Mr. Lefebvre asked if Ms. Charron could have 24 hours to make her choice. The employer refused and said that Ms. Charron had until 4:00 p.m. that afternoon to make up her mind.

[11] Mr. Larock and Ms. Paquette left the room, which remained at Ms. Charron's disposal. Mr. Lefebvre had Ms. Paquette make arrangements for him to be free for the rest of the day.

[12] Ms. Charron had a choice to make and she developed a bad migraine. She went outside to take a walk and asked Mr. Lefebvre which option was better. Mr. Lefebvre did not know what to do. It was the first time he had had such an experience. He

called the president of the local who advised him to go see Ms. Charron's Member of Parliament.

[13] Mr. Lefebvre was uncomfortable about going to see the Member of Parliament with Ms. Charron. He met with the MP alone, showed him the letter of dismissal, the letter of resignation and the Memorandum of Agreement. The Member contacted Ms. Paquette by telephone; then he advised Mr. Lefebvre to tell Ms. Charron to stay calm and to reapply for a job in the House of Commons at the end of six months.

[14] Ms. Charron telephoned her mother for advice while Mr. Lefebvre was with her MP.

[15] Ms. Charron did not know what to do and asked Mr. Lefebvre what he would do if this were happening to him. Mr. Lefebvre told her that he would rather resign than be dismissed like that; he would have good references so he could apply somewhere else.

[16] Ms. Charron, who was feeling tired, told Mr. Lefebvre that she wanted to get it over with and asked him to call management, saying she agreed to sign the resignation. It was about 12:15 p.m.

[17] Ms. Charron met again with Mr. Larock and Ms. Paquette and signed the letter of resignation, the Memorandum of Agreement and the attached Release. In the presence of Ms. Charron and Mr. Lefebvre, the employer tore up all copies of the letter of dismissal.

[18] The Memorandum of Agreement reads:

[TRANSLATION]

This constitutes a full and final settlement between the House of Commons and Suzanne A. Charron.

The settlement was reached pursuant to the following terms:

- 1. In no event shall it be construed as a precedent.*
- 2. The parties shall not make this settlement public.*
- 3. Suzanne A. Charron promises to sign Schedule A, attached.*

Having regard to the above-mentioned conditions, the parties agree as follows:

- 1. This Memorandum shall take effect as of May 6, 2002.*
- 2. Suzanne Charron submitted her resignation on May 6, 2002.*
- 3. Management accepts her resignation, dated May 6, 2002. Accordingly, Suzanne A. Charron's last day of work in the House of Commons is May 3, 2002.*
- 4. Management agrees not to include any reference to the incident concerning the protective footwear in Suzanne A. Charron's personnel file.*
- 5. The management agrees to forward all requests for job references to Terence Larock.*

[19] Schedule A, the Release, reads:

[TRANSLATION]

I, Suzanne A. Charron, of the City of Gatineau, in the Province of Quebec, in consideration of the terms outlined in the Memorandum of Agreement dated May 6, 2002, between myself and the House of Commons, do hereby remise, release and forever discharge the House of Commons, the Board of Internal Economy, its employees, officers and agents (herein collectively referred to as the Employer) of all actions, causes of actions and claims of every nature arising out of or in any way connected with my employment with the House of Commons of Canada or the termination thereof, including any claims which I may have under the provisions of the Parliamentary Employment and Staff Relations Act or any other statute, regulation or law applicable to my employment relationship with the Employer, save and except

- i) any claims based on any of the terms of the aforementioned Memorandum of Agreement which the Employer has agreed to perform following the date thereof;*
- ii) any claims for worker's compensation in accordance with the applicable provincial legislation in respect of events which occurred during, or are connected with, my employment with the House of Commons of Canada; and*
- iii) any claim for long term disability benefits from any insurer in respect of events which occurred during, or are connected with, my employment with the House of Commons of Canada.*

For the consideration aforesaid, I hereby covenant and agree not to make any claim or to commence or maintain any action or proceeding, against any person, association or corporation, in which any claim could arise against the Employer for contribution or indemnity or otherwise in respect of any incident during the period of my employment by the Employer, except for any claims permitted by this release as described above.

[20] After she signed the resignation and the Memorandum, Ms. Charron asked what money would be coming to her. The employer promised to make arrangements to send her a cheque to cover her vacation pay and anything she was owed.

[21] Some time later, Ms. Charron contacted Mr. Lefebvre who refused to get involved. Mr. Lefebvre had told Ms. Charron that, if she signed the Memorandum and Release, it was all over between her and the House of Commons, she could not come back and she had to accept what had happened.

[22] Ms. Charron testified on her own behalf. She considered herself an innocent victim and believed that had she not signed the resignation she would have been dismissed for fraud. She did not believe what had happened to her. She had a bad headache. She thought that if she did not sign her resignation she would lose her car. All she saw were the words “terminated for fraud” and did not want to have that on her record.

[23] Ms. Charron admitted that she had received no threats and that she had the option of signing or not signing, but she did not want fraud on her record; that is why she signed. Ms. Charron testified that she did not know that she could grieve a dismissal since she was an excluded employee. She admitted that she had been given training in staff relations and had received the Staff Relations Handbook (Exhibit E-11). Page 4-2 of the Handbook states:

***All employees
have the right
to grieve***

*The right to grieve is recognized
in the collective agreements and in the
Parliamentary Employment and
Staff Relations Act. It is not limited
to those employees represented by
a bargaining agent.*

[24] Ms. Charron said that she signed the Memorandum of Agreement and the Release without understanding; she did not read them. She understood that those documents -- [TRANSLATION] “went with the resignation”; if she did not sign, she

would have fraud on her record. Ms. Charron understood that, if she signed those documents, the employer would tear up the letter of dismissal and the record of fraud.

[25] After she signed her resignation, Ms. Charron called Michel Roy and told him that she found this unfair and would write him about what had happened. She wrote him a short letter (Exhibit P-7) on May 21, 2002, and a longer letter (Exhibit P-8).

[26] In Exhibit P-7, Ms. Charron described the circumstances surrounding her resignation, explained that she liked her work and asked for help. In Exhibit P-8, she described her career at the House of Commons, the atmosphere in her workplace and revealed the misconduct of other employees who did not receive disciplinary action. She asked for assistance and indicated that she liked her work and had always received good comments about her performance.

[27] On May 24, 2002, Ms. Charron submitted her grievance to the employer.

Employer's arguments

[28] The employer's position is that there was a resignation and signatures on two other documents confirming the resignation and waiving any other proceedings against the House of Commons. Therefore, a termination is not the issue here, and the Board has no jurisdiction to hear the grievance.

[29] The employer submitted that Ms. Charron's resignation was a conscious and voluntary decision. Ms. Charron regrets her decision because she left a job that she liked but it must be acknowledged that she made the choice.

[30] The employer was going to dismiss her for misconduct. She could choose to resign and avoid the consequences of a dismissal.

[31] The only issue to be decided is whether her choice was voluntary. The employer submitted that Ms. Charron's decision was both informed and voluntary.

[32] The evidence revealed several admissions of what could be misconduct. As soon as this fact was known to the administration of the House of Commons, the standard disciplinary procedure was followed. There was notice of a disciplinary meeting and Ms. Charron availed herself of her right to be accompanied at that meeting.

[33] Richard Lefebvre is a union vice president and experienced in representing employees. He accompanied and advised Ms. Charron. There was notice for the May 3, 2002 meeting. The facts were not in dispute. There was three days' notice of the meeting of May 6, 2002. Ms. Paquette had warned Ms. Charron that it was serious and that her job might be at stake.

[34] At the meeting of May 6, 2002, Ms. Charron was given time to think things over, from 10:30 a.m. to 4:00 p.m. Ms. Charron consulted some people and, after about two hours, well before the end of the day, she decided to return to meet with management to sign the resignation, the Memorandum of Agreement and the Release.

[35] Ms. Charron consulted Mr. Lefebvre and her Member of Parliament. She accepted their advice and made her choice. The options had been clearly explained to her by Ms. Paquette, Mr. Larock and Mr. Lefebvre. Ms. Charron acknowledged that it was her choice. She understood that a dismissal was in question for the way she had used her protective footwear allowance and, although there had been mention of fraud, it was not in the criminal sense of a police investigation but in the disciplinary meaning of a letter on the employee's file.

[36] Ms. Charron chose the option of resigning, which consisted of giving up her job, but she would have no note or blemish on her record, she would have good job references and could reapply in future for a position at the House of Commons. Ms. Charron knew that, if she were dismissed, it would have an impact on her employment insurance and she would not have good references and could not reapply for a position with the House of Commons. Ms. Charron took all these factors into consideration and, aware of her wrongdoing, she made a considered and informed choice.

[37] Ms. Charron was aware of her right to grieve her dismissal. She had taken the training in staff relations and had the Staff Relations Handbook (Exhibit E-14) where this right is clearly spelled out at page 4-2. Ms. Paquette testified that she had explained during the training on staff relations that excluded employees had the right to grieve.

[38] It is obvious that there were pressures influencing Ms. Charron but none of these pressures came from the employer. There were no threats, intimidation,

physical or other coercion. There was no question of criminal charges, and the meetings went smoothly.

[39] According to the case law, a resignation will be upheld if there was a subjective intent to resign on the part of the employee together with an objective manifestation confirming that decision. From a subjective viewpoint, it must be noted that Ms. Charron had researched the options, she understood the options and, after consultation, she indicated that she wanted to resign and sign the documents.

[40] There was objective confirmation of this intention by the fact that Ms. Charron asked to meet with the employer again, but appeared well before the deadline she had been given and signed the three documents.

[41] It was only long after that that Ms. Charron tried to revisit her decision. A tribunal will consider an attempt to revoke a resignation when it is made within a short timeframe of a day or two. The first time that Ms. Charron seemed to go back on her decision would be May 21, 2002, or else when she filed her grievance on May 24, 2002, that is, two weeks after she resigned.

[42] The employer cited *Miracle Food Mart and United Food and Commercial Workers, Locals 175 and 633*, 11 L.A.C. (3d) 320, at pages 328 and 329.

[43] The employer also cited *Miracle Food Mart Steinberg Inc. (Ontario) and United Food and Commercial Workers, Local 175*, p. 65, where there was a question of criminal proceedings and the employee resigned. The employer cited pages 73 and 75 to 77. The adjudicator found that the resignation was valid and there was no threat or coercion even though there was a question of criminal proceedings.

[44] The employer also cited *Wellesley Central Hospital and Service Employees International Union, Local 204*, 61 L.A.C. (4th) 433.

[45] The employer cited *Hélène Arsenault*, Board file 166-2-23957, pages 15, 16 and 17. In that decision, an employee confronted with a serious kind of misconduct immediately confessed to it, as in the case at bar. She was given a choice between being dismissed and resigning. The adjudicator dismissed the grievance for want of jurisdiction. The same principles should be applied in the case of Ms. Charron.

[46] The employer referred to *Bodner and Treasury Board (Transport Canada)* [1991] P.S.S.R.B. no. 142, Board file 166-2-21332, at page 7. The *Public Service Staff Relations Act* is similar to the *Parliamentary Employment and Staff Relations Act* as regards grievance adjudication at the end of employment. The employer reviewed the second, third, fourth and seventh paragraphs on page 8 and submitted that the onus was on the employee to show that the resignation was not voluntary or to establish undue pressure or coercion.

[47] The employer cited *Walker and Treasury Board (Royal Canadian Mounted Police)* [1991] P.S.S.R.B. no. 113, Board file 166-2-21292, in particular, the reasons for decision at pages 5 and 6. It is very much to the point that Ms. Charron waited some weeks before challenging her resignation. As in *Walker*, “*What is more likely is that the grievor simply changed her mind and regretted having submitted her resignation.*” The adjudicator had no jurisdiction since the resignation did not result from coercion.

[48] The employer cited *McNab*, Board file 166-2-14343, in particular, paragraphs 36, 39 and 41. If the evidence does not show that the resignation was involuntary, there is no jurisdiction to hear the grievance. Even where there is a disciplinary element but the resignation is voluntary, there is no jurisdiction. The adjudicator reviewed the applicable principles at pages 29 to 32. The employer stressed that the adjudicator acknowledged at the end of paragraph 46 that “the arbitral jurisprudence generally supports the position that a positive effort to withdraw a resignation must be made with due diligence; that is, within a few days of submitting the resignation.”

[49] In Ms. Charron’s case, in addition to the resignation, she signed a Memorandum of Agreement and a Release. These additional elements constitute a contract that is valid and may be raised against the parties. The employer cited *Bartlett v. Canada Life Assurance Co.* [1998] O.J. No. 2691 DRS 99-00490, Court File No. 25990. Pursuant to a dismissal, an employee signed a release similar to Exhibits P-2 and P-3. In paragraph 29 of this case, the Court summarized the law of duress and, in paragraph 31, did not take the absence of legal advice into account. In paragraph 33, the judge summarized the conditions required to set aside the release, and those conditions are not present in the case at bar.

[50] Ms. Charron signed a Memorandum of Agreement and a full Release that included the grievance. In the absence of evidence of duress or coercion, the Memorandum applies. The evidence is clear that Ms. Charron understood what she

was signing and its consequences. It was not an easy situation for her, but those pressures were not imposed by the employer.

[51] Ms. Charron had ample notice prior to the May 6 meeting that her job was at stake. Furthermore, she had the day to think it over. Ms. Charron obtained what advice she thought necessary and made her decision voluntarily. Since the resignation was voluntary, it cannot be set aside and according to the Board's case law, an adjudicator has no jurisdiction to deal with Ms. Charron's grievance.

Ms. Charron's arguments

[52] Ms. Charron read the following document:

[TRANSLATION]

Jurisdiction of the Board

1. *I respectfully submit to the Board that it has the jurisdiction to hear this appeal since I was terminated.*
2. *Based on the reasons below, I submit that in no circumstance did I voluntarily resign from my position as Supervisor, Electronic Printing (SPR-02).*
3. *More specifically, I was terminated because the letter of resignation and the Memorandum of Agreement, both dated May 6, 2002, were not signed freely and voluntarily by me, but are the result of pressure from my employer.*

[TRANSLATION]

“Termination may thus be distinguished from resignation, an action resulting from the employee's initiative. Here again, however, it is appropriate to look to the reality of the situation: in some contexts, an apparent resignation will be equivalent, in fact, to a termination. This will be the case if the employee's action is not voluntary but rather committed at the employer's dictates or, again, determined by the latter's wrongful conduct.”

4. *So that it might “look to the reality of the situation” that led me to sign the letter of resignation and the Memorandum of Agreement, I submit that the Board has the authority to hear my referral to adjudication as prescribed by paragraph 63(1)(c) of the Parliamentary*

Employment and Staff Relations Act, R.S.C. 1985, c. 33
(2nd Supp.).

Background leading up to the termination

5. *Since February 1995, I have always worked in Printing Services at the House of Commons with a contract of employment renewed for each session of Parliament. The work of Printing Services consists of printing various Parliamentary documents such as the Hansard, the Journals of the two Houses, the Order Paper and Notice Paper, Bills and so on.*
6. *Accordingly, from February 1995 to December 1996, I held a position as a photocopier operator. My contracts of employment kept pace with the sessions of Parliament and usually covered the periods from September to December and January to June.*
7. *In January 1997, I was promoted to night manager and thus supervised a small team of photocopier operators. My contracts of employment continued to keep pace with the sessions of Parliament until my employer gave me no choice but to sign a letter of resignation on May 6, 2002.*
8. *In June 2001, my employer gave me protective footwear for my work. At first, I considered refusing the shoes as I knew I would not wear them. However, a number of fellow workers suggested that I take them and do what I wanted with them since they were given to me. That, in fact, is what some of my co-workers did. They would take the shoes and then give them to family members or friends.*
9. *In this way, in June 2001, I took the safety shoes and gave them to my spouse who works on construction sites.*
10. *I never thought I was acting dishonestly by giving the shoes to my spouse since they were given to me with no restrictions or conditions. Furthermore, at that time there was no directive from the employer regarding the use of these shoes.*
11. *It was only in June 2002, that a directive was issued by the employer requiring employees to wear protective footwear on site.*
12. *The value of these shoes is approximately \$150.00.*
13. *On May 3, 2002, I was called to an interview by my immediate supervisor, Terence Larock, and Chantal*

Paquet, the Staff Relations Advisor, to explain what I had done with my protective footwear. I admitted at that time, without hesitation, that I had given the shoes to my spouse because they had been given to me with no conditions. Mr. Larock told me then that the fact that I had given them to my spouse constituted fraud.

14. *On May 6, 2002, I was again called in by Mr. Larock. He threatened to give me a fraud record and recommended that I sign a letter of resignation and a Memorandum of Agreement in order to avoid a charge of fraud. Richard Lefebvre from the union and Chantal Paquet were also present at this meeting.*
15. *Mr. Larock and Ms. Paquet recommended that I think it over quickly and that, if I signed my letter of resignation, it had to be that day. So I had no choice but to sign the letter of dismissal and the Memorandum of Agreement in order to avoid having a fraud complaint put on my employment record. A complaint like that could have had disastrous consequences for my future employment prospects in or outside the federal Public Service.*
16. *I accordingly submit that the choice imposed by my employer consisted of a termination. If I had not been placed in this situation, I never would have resigned from my position as Supervisor, Electronic Printing.*
17. *I submit that the penalty imposed by my employer was disproportionate by comparison to the alleged fraud and that there was no direct link between the alleged fraud and the nature of my work.*
18. *Lastly, I submit that I was never criticized by my employer whether in connection with the performance of my work or my attitude towards the work, my supervisors or my co-workers.*

Violation of the rules of natural justice

19. *The decision of the third level of the House of Commons, rendered on June 6, 2002, by R.R. Walsh, and concerning the grievance violates the rules of natural justice.*
20. *The third decision-making level of the House of Commons did not give me an opportunity to be heard and make representations on the nature of my grievance. A decision dismissing my grievance was made without my being informed of a hearing date.*

Remedial action requested

21. *In analysing the remedial action requested, the Board should take into account the fact that I have had successive employment contracts since 1995, without interruption. The only times I did not work were when Parliament was not sitting.*
22. *I submit that the Board cannot take my most recent employment contract in isolation in order to find that my employment relationship with the House of Commons terminated with it, without notice and without compensation.*
23. *I submit that the effect of this succession of contracts was to make my employment indeterminate.*

Reinstatement as an employee at the House of Commons

24. *I think I am entitled to be reinstated as an employee at the House of Commons. I ask that the House of Commons find me another job with a salary equivalent to what I was entitled to as an SPR-02.*
25. *I also request that the House of Commons pay me the salary to which I have been entitled since May 6, 2002.*

[sic for the quotation as a whole]

[53] After paragraph 14, Ms. Charron commented that Mr. Lefebvre testified that this “case” was not one he felt strongly about and that he felt caught. He had no experience in this kind of case. Ms. Charron had confidence in him; he was there to help her and she did not have the help she needed.

[54] Ms. Charron said that she did not understand anything, that she was in too much shock and thought that Mr. Lefebvre had not been a good adviser.

[55] Ms. Charron submitted that she never would have signed the resignation were it not for the dismissal for fraud. If the fraud were so important, why did MP Marc Assad suggest that she sign the resignation and reapply in September. Even Mr. Larock, the manager, had told Ms. Charron that she could reapply in September.

[56] Ms. Charron never thought she had acted dishonestly. She was not a manager at the time the incident took place. Between June and September, she was an employee like the others.

Reasons for Decision

[57] The issue I must decide is whether I have the jurisdiction to hear the grievance of Suzanne Charron who claims to have been the subject of a disguised discharge.

[58] Section 63(1) of the *Parliamentary Employment and Staff Relations Act* lists the kinds of grievances over which an adjudicator has jurisdiction. It reads as follows:

63. (1) Where an employee has presented a grievance, up to and including the final level in the grievance process, with respect to

- (a) the interpretation or application in respect of the employee of a provision of a collective agreement or an arbitral award,
- (b) disciplinary action against the employee resulting in suspension or a financial penalty,
- (c) the termination of employment of the employee, other than rejection on probation in respect of an initial appointment,
- (d) demotion of the employee,
- (e) where the employee has been denied an appointment, the employer's evaluation of the skill, fitness and ability of the employee with respect to the employee's qualification for the appointment, or
- (f) subject to subsection 5(3), the employer's classification of the employee,

and the grievance has not been dealt with to the satisfaction of the employee, the employee may refer the grievance to adjudication.

[Emphasis added]

[59] This language resembles the provisions of section 92(1) of the *Public Service Staff Relations Act*. There is an enormous amount of case law on that Act concerning grievances submitted as a result of dismissals. The principles stated in that case law are, in my opinion, applicable to the case at bar.

[60] These principles are listed in the decisions relied on by the employer. In *McNab (supra)*, the adjudicator recognized that the facts had to be examined in order to determine whether there was a subjective intent to resign and an objective act. He also recognized that a positive effort to withdraw a resignation must be made with due diligence; that is, within a few days of submitting the resignation.

[61] In *Bodner (supra)*, the adjudicator referred to the test that the employer had to have acted coercively and, in *Arsenault (supra)*, the adjudicator considered a situation where the employee chose between dismissal and resigning.

[62] Ms. Charron, like the grievor in *Hélène Arsenault*, had to choose between dismissal and resigning. Ms. Charron adopted the arguments of the employee's representative in *Arsenault*. But they cannot succeed here either.

[63] Ms. Charron was not the subject of any threat or coercion. She had a choice between a dismissal with a disciplinary record or a resignation without a disciplinary record but with good references. The choice was not easy but the emotional pressure that she was under was not caused by the employer.

[64] Ms. Charron had the time to reflect and ask for advice. She now regrets her choice and has doubts about the quality of the advice she received. However, she herself chose the person who represented her. She did not use all of the time she had at her disposal to seek other advice.

[65] Ms. Charron signed both the letter of resignation and the Memorandum of Agreement that led to the cancellation and destruction of the letter of dismissal. In so doing, Ms. Charron clearly demonstrated a subjective intent and the objective act of resigning.

[66] Ms. Charron did not at any time before her grievance attempt to have her resignation withdrawn. Even her letters of May 21, 2002, do not say that she was withdrawing her resignation but rather that she found it unfair.

[67] Ms. Charron was aware of the significance of the documents that she signed. Mr. Lefebvre testified that he had explained to Ms. Charron that signing the Memorandum of Agreement and the Release meant that it was all over with the House of Commons, that she could not go back on her decision. Ms. Charron knew, therefore, what she was doing when she chose to resign. She wanted to avoid having a disciplinary record for fraud.

[68] Ms. Charron had received training in staff relations and the Staff Relations Handbook and she therefore knew or ought to have known that she could challenge her dismissal by way of grieving it. Ms. Charron recognized that her conduct deserved

punishment. She regretted her action when she became convinced that the loss of her employment was too high a price for a violation that she considered not to be serious.

[69] Unfortunately, I have no jurisdiction to remedy the mistake in judgment that led an employee to leave her job voluntarily. Ms. Charron is solely responsible for her actions. When she followed suggestions and advice that she had gathered from here and there and everywhere, Ms. Charron's actions were hers and she must bear the consequences of them.

[70] Ms. Charron freely chose to resign and, even if she has reason to regret this choice, I must dismiss her grievance because I have no jurisdiction to hear it.

**Evelyne Henry,
Deputy Chairperson**

OTTAWA, October 8, 2002.

P.S.S.R.B. Translation