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Public Service
Staff Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

MARIE-HÉLÈNE BEAUDRY

Grievor

and

**THE TREASURY BOARD
(Citizenship and Immigration Canada)**

Employer

EXPEDITED ADJUDICATION DECISION

Before: Yvon Tarte, Chairperson

For the Grievor: Cécile La Bissonnière, Public Service Alliance of Canada

For the Employer: Mathieu Giroux

(Note: The parties have agreed to deal with the grievance by way of expedited adjudication. The decision is final and binding on the parties and cannot constitute a precedent or be referred for judicial review to the Federal Court.)

Heard at Saint-Sauveur, Quebec,
May 12, 2004.

REASONS FOR DECISION

[1] Ms Beaudry has grieved a three-day suspension imposed by the employer on August 30, 2002. The parties are in agree on the following facts:

[Translation]

1. *Ms Marie-Hélène Beaudry has been employed by the Public Service of Canada since June 22, 1992. At Citizenship and Immigration Canada (CIC), she has occupied the position of clerk at the CR-04 group and level in the Information Section since May 17, 1999. The position occupied by Ms Beaudry requires top secret security clearance.*
2. *Ms Beaudry acknowledged that she had read and understood the Conflict of Interest and Post-Employment Code for the Public Service when she signed her letter of offer in 1999. On July 7, 1999, she also signed a form certifying that she had read and understood the Policy on the Use of Networks.*
3. *On May 23, 2002, representatives of CIC and the Canadian Security Intelligence Service (CSIS) met with a person as part of his refugee status claim. The claimant stated that he knew a CIC employee, Ms Beaudry, and lived at her home.*
4. *On May 23 or 24, 2002, Ms Beaudry's co-workers learned that she was providing accommodation for a refugee status claimant.*
5. *On May 27, 2002, Mr. Daniel Théorêt, Ms Beaudry's manager, was told by the departmental representative who conducted the interview as part of the refugee status claim that Ms Beaudry was providing accommodation for a refugee status claimant.*
6. *On May 27, 2002, Ms Beaudry met with Mr. Théorêt in order to ask him whether the CIC and CSIS representatives' interview with the claimant had been abnormally lengthy (five hours) and what the next steps were. Mr. Théorêt refused to answer these questions and notified Ms Beaudry that she was potentially in a conflict of interest situation. He then advised her to remedy the situation by asking the claimant to find other accommodation. He also asked Ms Beaudry to produce a statement about these facts, which she did on May 28, 2002.*
7. *On May 30, 2002, an administrative inquiry was initiated into a potential conflict of interest situation involving*

Ms Beaudry. Ms Beaudry made no statement about potential conflict between her personal interests and her professional activities.

- 8. On May 31, 2002, Ms Monique Leclair, Director General of CIC's Quebec Region, notified Ms Beaudry of the inquiry and told her that, pending the outcome, she would be assigned to the Finance and Administration Section.*
- 9. On June 3, 2002, Ms Beaudry took sick leave until August 28, that is, essentially for the entire duration of the inquiry.*
- 10. When the board of inquiry met with Ms Beaudry on May 31, 2002, concerning her potential conflict of interest situation, she stated that she had always contacted the claimant using her own e-mail, not the e-mail at work, except perhaps in one instance. She added that she had never consulted the claimant's immigration file.*
- 11. A computer systems analysis established that Ms Beaudry consulted the claimant's electronic file in the Field Operations Support System nine (9) times, starting on January 19, 2002. Ms Beaudry also used departmental e-mail to contact the claimant three (3) times between January 7 and 17, 2002.*
- 12. The inquiry established that Ms Beaudry provided accommodation for a claimant of Palestinian origin, a friend of her late brother. The claimant entered Canada on April 19, 2002, on a visitor's visa, and claimed refugee status in Canada on May 2, 2002.*
- 13. The inquiry concluded that Ms Beaudry never told management that she was providing accommodation for a refugee status claimant. She also used her position at CIC to obtain confidential information concerning the claimant, and even helped him submit a refugee status claim.*
- 14. On August 30, 2002, Ms Beaudry was suspended for three (3) days. That same day, at another meeting, she was offered a transfer to an equivalent position (Administrative Assistant, Security and Property and Product Management) in the Finance and Administration Section, a position she had occupied since the beginning of the inquiry. Management gave Ms Beaudry two or three days to consider the transfer. On September 3,*

2002, Ms Beaudry voluntarily accepted the position offered to her.

15. Ms Beaudry had no disciplinary record. Management considered her a good employee. She took immediate action when her manager told her that the claimant should no longer live at her home.

[2] The grievor's actions were very serious. If it had not been for Ms Beaudry's co-operation, the fact that she had no disciplinary record, her seniority and the fact that she was a good employee, her misconduct could have led to a much more serious disciplinary sanction.

[3] The fact that Ms Beaudry accepted the offer of a transfer to an equivalent position requiring a lower security clearance cannot open the door to the argument that the employer had imposed two sanctions on her for the same misconduct.

[4] The grievance is therefore dismissed.

**Yvon Tarte,
Chairperson**

Ottawa, June 3, 2004.

P.S.S.R.B. Translation