

Date: 20220525

File: 566-02-14742

Citation: 2022 FPSLREB 43

*Federal Public Sector
Labour Relations and
Employment Board Act and
Federal Public Sector
Labour Relations Act*



Before a panel of the
Federal Public Sector
Labour Relations and
Employment Board

BETWEEN

PATRICIA YOTT

Grievor

and

**TREASURY BOARD
(Correctional Service of Canada)**

Employer

Indexed as

Yott v. Treasury Board (Correctional Service of Canada)

In the matter of an individual grievance referred to adjudication

Before: Bryan R. Gray, a panel of the Federal Public Sector Labour Relations and
Employment Board

For the Grievor: No one

For the Employer: Pierre Marc Champagne, counsel

Decided upon the basis of material on file.

REASONS FOR DECISION

I. Individual grievance referred to adjudication

[1] Patricia Yott (“the grievor”) grieved the termination of her employment due to unsatisfactory performance, dated June 15, 2017, from her CR-04 position with the Correctional Service of Canada. The grievance was referred to the Federal Public Sector Labour Relations and Employment Board (“the Board”) on January 23, 2018. On that same date, the grievor’s bargaining agent gave notice to the Canadian Human Rights Commission of the allegation that the termination involved an alleged breach of her human rights due to family status, thus constituting an alleged breach of the no-discrimination clause of the relevant collective agreement.

[2] The termination and discrimination grievances were scheduled for a hearing before the Board on June 24 to 28, 2019. However, the grievor’s bargaining agent withdrew its representation, which caused the withdrawal of the discrimination grievance, since under the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2), an alleged collective agreement breach requires bargaining agent representation before the Board.

[3] The hearing of the termination grievance was then postponed to allow the grievor to consider her options to retain counsel or possibly represent herself at a future hearing date. Following an unfortunate pandemic-related delay, on November 30, 2021, she was sent a notification of her March 22 to 25, 2022, hearing.

[4] The Board Member assigned the file then began to seek contact with the parties at the end of January 2022, through the Board’s registry, to determine a mutually convenient date to convene a case management conference by either telephone or video to help the parties prepare for the hearing.

[5] No reply was received from the grievor. The Board instructed its registry to seek contact through any and all available means using the information that the grievor had supplied in her past contact with the Board. The March 2022 hearing dates were postponed out of an abundance of caution as the registry sought potential updated contact information for the grievor through the offices of her former bargaining agent and employer.

[6] On March 23, 2022, the registry sent the following letter to the grievor at several addresses, by registered mail. Using that method required her signature for her to receive it. Alternatively, Canada Post was to return the letter, were it undeliverable.

Dear Ms. Yott,

*Your grievance numbered 566-02-14742 regarding the termination of your employment was scheduled for a hearing on **March 22 to 25, 2022.***

Because we received no response to the notice of hearing and request for your participation in a pre-hearing conference call, the Board postponed your hearing date in order to undertake continued efforts to locate you.

*However, if we do not receive any communication from you by **April 15, 2022**, the Board may decide on its own motion to close your grievance adjudication file without any further notice to you.*

If your file is closed, you will not be able to pursue it later and your opportunity to have your grievance adjudication heard by the Board will be lost.

Please contact me as soon as possibly upon your receipt of this letter.

...

[Emphasis in the original]

[7] The Board received confirmation of the letter's successful delivery to the grievor, including her signature of receipt, at 1:34 pm on March 31, 2022, as confirmed by Canada Post.

[8] The Board notes that it is the grievor's responsibility to maintain communication with the Board and to advise it of any new addresses.

[9] The Board also notes the clearly communicated message, in layperson language, which stated that if she did not reply in some manner and indicate her intention to pursue her grievance before the Board, the file would be closed, and her opportunity to have her grievance heard by the Board would be lost.

[10] Since then, the Board has received no communication from the grievor.

[11] The Board has previously considered such cases, and I note the following passage in *Brennan v. Deputy Head (Statistics Canada)*, 2016 PSLREB 104:

...

29 In Cooper, the former Board determined that there is a general public interest in the efficient administration of justice that advances dispute resolution, prevents unnecessary delays and is respected by the parties. These principles equally apply to the present case.

...

[12] For the same reasons as found in *Brennan*, I conclude that there is no value in using scarce Board resources to schedule a hearing again that the grievor is most likely not to attend, for the reasons noted in this decision.

[13] Given the clear notice to the grievor and her lack of reply despite being given more than one month to phone, fax, email, or write to the Board by post, and given her lack of any response, on its own motion, the Board declares the file abandoned and orders the grievance dismissed.

[14] For all of the above reasons, the Board makes the following order:

(The Order appears on the next page)

II. Order

[15] I order the grievance in file 566-02-14742 dismissed.

May 25, 2022.

**Bryan R. Gray,
a panel of the Federal Public Sector
Labour Relations and Employment Board**