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*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

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BETWEEN

**FRANCINE ALLARD**

Grievor

and

**DEPUTY HEAD  
(Canada School of Public Service)**

Respondent

Indexed as

*Allard v. Deputy Head (Canada School of Public Service)*

In the matter of an individual grievance referred to adjudication

**Before:** Chantal Homier-Nehmé, a panel of the Federal Public Sector Labour Relations and Employment Board

**For the Grievor:** Philippe Coderre, counsel

**For the Respondent:** Andréanne Laurin, counsel

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Heard at Ottawa, Ontario,  
July 16 to 18, 2018, and January 30 and 31 and February 1 and 26, 2019.  
(Written submissions filed March 8, 18, and 25, 2019.)  
[FPSLREB Translation]

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REASONS FOR DECISIONFPSLREB TRANSLATION

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**I. Individual grievance referred to adjudication**

[1] When her grievance was referred, Francine Allard (“the grievor”) was not represented by a bargaining agent and was working as a specialist team leader, at the PE-05 group and level, in the Learning Programs Branch of the Canada School of Public Service (“the School”).

[2] On April 2, 2015, the School imposed a two-day unpaid suspension on her for insubordination and for violating its *Work Place Violence Prevention Policy* (“the Policy”).

[3] The grievor submits that the events that led to filing the grievance occurred from March 2014 to April 2015. The grievance’s wording is set out on two pages, in which she alleges that the School failed to respect procedural fairness and that it demonstrated bias. She maintains that she did not commit the alleged facts, management interfered in the investigation into the work-place-violence complaint, and progressive discipline was not respected.

[4] She asks that the two-day unpaid suspension be rescinded, that the salary be reimbursed for the two days of wrongful suspension, and that she be awarded \$5000 in moral damages, subject to adjustment. On the first day of the hearing, she verbally amended her damages request to \$30 000. The School opposed the change, stating that it was late and that it contradicted the principles set out in *Burchill v. Canada (Attorney General)*, [1981] 1 FC 109 (C.A.); and *Scheuneman v. Canada (Attorney General)*, [2000] 2 FC 365 (T.D.).

[5] As of the hearing, her personnel file contained neither the disciplinary measure nor any other disciplinary measures. She has not worked at the School for several years. At the pre-hearing conference before the Board, her representative informed me that a civil lawsuit was filed against the School for defamation and damage to reputation.

[6] Although mediation was offered several times for this file, the parties refused it. A decision in this case is unlikely to help resolve the broader issues that have caused conflict between them for so long. Nevertheless, the grievor decided to pursue her grievance to the hearing with a private-sector lawyer’s help.

[7] The ample evidence spanned 7 hearing days and involved 120 pages of transcribed notes, plus time for written arguments. The grievance is allowed in part, for the reasons that follow. The preponderance of the evidence established that the grievor committed insubordination by spreading rumours against her colleague after she was warned to stop that behaviour. However, the School failed to demonstrate that she engaged in behaviour that amounted to work place violence as defined in the *Policy*. She did not prove that she suffered moral damages related to the disciplinary measures that would justify an order of damages. Therefore, the request is denied.

## **II. Summary of the evidence**

[8] The School called these eight witnesses: Albert Bissonnette, the investigator of the work-place-violence complaint made against the grievor; Nancy Cantin, Director, Human Resources; John Prentice, Senior Regional Director, Language Training and Business Development; Carole Boire, Acting Director, Language Training; Mélanie Bernard, Senior Labour Relations Advisor; Patrick Boisvert, Assistant Director, Security; Jocelyne Melançon, co-worker; and Jean Roy, co-worker.

[9] In addition to testifying, the grievor called these four witnesses: Michel Lefebvre, her spouse; Maude Prud'homme, co-worker; Robert Beaumier, co-worker; and Bruno Clairmont, Health and Safety Manager for the School.

[10] Mr. Bissonnette, President, Proactive Security Inc., gave a brief overview of his career as an investigator with the Royal Canadian Mounted Police and as a physical security specialist. On December 2, 2014, the School mandated him to carry out fact-finding for the work-place-violence complaint that Ms. Boire and Ms. Bernard made against the grievor. He met with Assistant Deputy Minister Danielle May-Cuconato and Ms. Cantin. The contract, dated December 2, 2014, stipulated that the fact-finding had to be completed before the fiscal year-end. Ms. Cantin emailed him the contact information of everyone involved. The email stated that the people to be interviewed included Ms. Boire, Ms. Bernard, Mr. Boisvert, and the grievor. Ms. Cantin was his contact, and she assisted him with the investigation.

[11] The report, dated December 24, 2014, includes among other things an executive summary, the complaint, the investigation's purpose, the mandate, the scope of the process, the roles and responsibilities, the work requirements, the investigation, the

rights of persons during the investigation, the investigation's results, the findings, and the analysis of the grievor's response to the complaint.

[12] In all, Mr. Bissonnette interviewed the following eight people: Ms. Bernard, Tanya Cullen, Mr. Boisvert, Ms. Boire, Mr. Clairmont, the grievor, Mr. Beaumier, and Ms. Prud'homme. Based on his understanding of s. 20 of the *Canada Occupational Health and Safety Regulations* (SOR/86-304; "the *Regulations*"), he could not interview Mr. Lefebvre because he was not an employee. Although he was present and the grievor wanted him interviewed, Mr. Bissonnette considered him irrelevant because he was not an employee.

[13] Once the report was written, the grievor had the opportunity to comment on it. Mr. Bissonnette analyzed her comments and determined that they had no bearing on the facts as gathered. Her main comment was that not all witnesses were interviewed.

[14] He did not find it relevant to contact Yvon Kenny, the guard at the building entrance, as he was aware only of the time that Mr. Lefebvre arrived at the November 28, 2014, meeting, which was not in question in this case. On December 19, 2014, Mr. Bissonnette emailed Ms. Prud'homme. She replied that she had not been in the office on November 28, 2014. The only person who heard anything was Mr. Beaumier. He heard Mr. Lefebvre say, "[translation] It's not strong", or "[translation] it is not strong". Mr. Bissonnette did not retain this information for the investigation report, as Mr. Lefebvre was not part of the investigation.

[15] In cross-examination, Mr. Bissonnette acknowledged that Mr. Beaumier had been behind the foot of the stairs and that he had no direct view of the events of November 28, 2014. He did not visit the site.

[16] The fact-finding demonstrated that the incident took place during a pre-disciplinary hearing involving the grievor that was scheduled for November 28, 2014, from 3:00 to 4:00 p.m. She was to be accompanied by her spouse, Mr. Lefebvre. He was to act as her representative. Because of bad weather, he arrived at approximately 3:55 p.m. At that point, he and the grievor encountered Ms. Bernard and Ms. Boire in the hallway, who informed the grievor that it was too late, as only five minutes remained before the meeting was to end. Ms. Boire and Ms. Bernard turned away, to go to their offices. Mr. Lefebvre and the grievor walked quickly to catch them up. Once they caught up, the discussion became louder, but there was no shouting. They

exchanged words. Ms. Boire informed the grievor that there was not enough time left. Ms. Bernard said that she could not stay later due to family obligations. The grievor allegedly said, “[translation] The four of us are here. We can talk.” Ms. Boire said that the grievor pointed a finger at her and said that she would make a harassment complaint against her and that Mr. Prentice and Ms. May-Cuconato would be informed.

[17] The only two points in dispute were the distance between Ms. Boire and the grievor and the finger-pointing. Ms. Boire said that the grievor pointed a finger 3 inches from her face. The grievor said that it was 30 inches from Ms. Boire’s face, and Mr. Boisvert said that she pointed it at Ms. Boire at a distance of 2 hands from her face. Ms. Bernard indicated to everyone that things had become heated and that she had raised her hand.

[18] During the investigation, Mr. Boisvert confirmed that the grievor had had a two-inch stack of documents in her hands. Mr. Bissonnette did not accept the grievor’s comment that Mr. Boisvert could not have seen either Mr. Lefebvre or her from his office.

[19] Mr. Bissonnette acknowledged that he did not consider important the fact that Ms. Bernard raised her hand to Mr. Lefebvre’s face or the possibility that that gesture caused voices to raise. He limited himself solely to the grievor’s actions.

[20] The interviewees confirmed that Mr. Lefebvre allegedly said that management was not very strong and that there was no leadership. Ms. Bernard said that she had to leave, as did Ms. Boire. Mr. Lefebvre and the grievor went to her office. Based on the gathered facts, Mr. Bissonnette found that work place violence had occurred. In an email to Mr. Prentice on November 28, 2014, Mr. Lefebvre allegedly admitted that he had lost patience. Human Resources allegedly sent the email to Mr. Bissonnette, who considered it in his report.

[21] Mr. Bissonnette admitted that Mr. Lefebvre was competent but not compelling. In his opinion, although Mr. Lefebvre witnessed the incident, he was not required to contact Mr. Lefebvre during his investigation. He admitted that he should have interviewed Mr. Lefebvre, although he might have refused to participate in the investigation. Normally, everyone present should have been interviewed.

[22] He concluded that work place violence and aggressive activity took place and that the grievor pointed a finger at Ms. Boire and threatened her, to intimidate her. In his opinion, all those behaviours combined amounted to work place violence. The grievor was in Ms. Boire's personal space, and she used threatening tactics.

[23] He agreed that his investigation was not a full administrative investigation but was merely fact-finding. He explained that management did not request a more extensive administrative investigation. The fact-finding investigation sought simply to determine whether the allegations met the definition of "work place violence". He agreed that his analysis under s. 20 of the *Regulations* did not look into whether the harm that Ms. Boire alleged in the complaint against the grievor was reasonable relative to the grievor's actions.

[24] He concluded that it was not her raising her voice at her manager that amounted to work place violence. Instead, it was her finger-pointing, raising her voice, threatening to complain, and being in her manager's personal space. Those gestures and words were important. The combination of all the actions met the definition of "work place violence".

[25] Still in cross-examination, he confirmed that he reported directly to Ms. Cantin while carrying out his investigation. He was not aware if she had any conflicts with the grievor. He said that it was his second investigation into a work-place-violence complaint and that he did not know if the grievor was consulted about his appointment as the investigator. His only role was to identify the facts. He did not consider the context in which the conflict took place. He knew that the grievor had certain workplace frustrations, but he did not consider them important in his analysis.

[26] He explained that the School asked him to make discipline recommendations, of which the grievor did not receive a copy. He simply intended to make recommendations under the *Policy*. Making such recommendations was not the norm. Apart from the recommendations that were not in the investigation report adduced as evidence, he acknowledged that the report was the same. He admitted that changes were made to the report, but he did not know what they were. The report was written on December 24, 2014. At the hearing, the School's representative explained that Mr. Bissonnette prepared one final report for management and another one for the grievor.

[27] As of the events that led to the conflict, Ms. Cantin was the director of Human Resources; she was responsible for labour relations. In late November 2014, Ms. May-Cuconato, the assistant deputy minister, assigned her to coordinate with the investigator of the work-place-violence complaint made against the grievor. Nancy Leigh, a human resources special advisor, also helped the investigator. She provided Mr. Bissonnette with the interviewees' contact information as the investigation progressed. He asked her to contact certain people so that he could communicate with them. Apart from those who had made the complaint, he determined whom he should meet with. As the director of Human Resources, Ms. Cantin had to take note of Mr. Bissonnette's report and analyze it for recommendations. After reviewing the investigation report, Ms. May-Cuconato asked Ms. Cantin to analyze it and to make a recommendations report for management.

[28] Ms. Cantin knew the grievor because she had worked with her in language training programs. They worked in the same department but for different supervisors. She worked in language training, while the grievor worked for a special program. They had the same director from 2007 to 2009.

[29] Ms. Cantin confirmed that the only Human Resources person who reported to her was Nathalie Rodrigue, Acting Human Resources Advisor. Ms. Bernard was also a human resources advisor, but she did not report to Ms. Cantin. Ms. Rodrigue was assigned to review the report. Ms. Cantin did not know if Ms. Rodrigue was the only one to review the report. There was also Josée Baril, another human resources advisor, who took over for the meetings with Mr. Prentice, to advise him on actions to take to follow up on the report's findings.

[30] Ms. Cantin confirmed that she did not know if it was common practice for Human Resources to investigate work-place-violence complaints. The School did not have a health and safety committee.

[31] In cross-examination, Ms. Cantin explained that she had no problem with the grievor and had never had a conflict with her and that therefore, she did not feel that she was in a conflict of interest. She knew that the grievor had left the School to work for Canadian Heritage and that she had returned. She did not recall taking any supervisory duties from the grievor on her return. She remembered that when the grievor returned, some cuts had been made, and that some confusion arose about the

grievor's duties. She knew that the grievor had requested clarification about her role and responsibilities.

[32] Ms. Cantin did not know if other colleagues lost their management duties. She did not recall refusing her anything. It was not her place to refuse anyone anything. She recalled that the mandate of Ms. Boire's group and the grievor was impacted significantly. Major cuts were made. Ms. Cantin did not remember creating a PE-06 position. However, she admitted that she was involved in the acting appointment process at the PE-06 group and level. She acknowledged that Mr. Roy and the grievor participated in that competition. She recognized that she had to complete all informal meetings before making the appointment.

[33] Between June and November 2014, when the events that led to the work-place-violence complaint and the grievance's filing occurred, Ms. Boire was the School's acting director of language training. She was responsible for 30 to 40 people across 3 business lines. It was a very busy time with new strategies and new directions for language training. Management applied significant pressure for presentations to the assistant deputy minister.

[34] In 2012, the School went through several cuts. In language training, all the teachers lost their jobs. From 2012 to 2016, many changes and transitions occurred. Ms. Boire recalled a meeting with the grievor in 2012 at which Ms. Cantin informed the grievor that her PE-05 position had been abolished. At that time, the grievor had to report to Ms. Boire. The grievor had to take up a new position. She had lost her substantive position and no longer wanted to stay in language training. Before 2014, Ms. Boire did not know her very well.

[35] Ms. Boire was the grievor's manager, and the grievor reported to her. From early 2014 to April 2014, after the grievor returned from her secondment, she reported to Mr. Roy, who was acting on an interim basis at the PE-06 group and level. From June to November 2014, she reported directly to Ms. Boire.

[36] When the grievor returned from her Canadian Heritage secondment, she wanted to know why she was not returning to her substantive position, at the PE-05 group and level and with supervisory duties, which she had held before leaving the School on secondment. She held a position at the PE-05 group and level and worked on a special project with universities.



[37] When she returned in 2014, the grievor asked Human Resources to investigate and find out what had happened to her position. Ms. Cantin and Ms. Boire met with her to explain that the position had not existed since the 2012 cuts. In June 2014, Ms. Boire met with Ms. Bernard to gather more information for the grievor. Ms. Bernard was to clarify to her what had happened. In all her emails, the grievor complained that she had lost her substantive position with supervisory duties. Ms. Boire did not know what had happened, which is why she asked Human Resources to look into it.

[38] At that time, language training and product development underwent many changes. Ms. Boire worked extensively on presentations for executives; she wanted to improve the perception of online programs and products compared to private-sector second-language products.

[39] When the grievor returned from Canadian Heritage, she had to report to Mr. Roy, the only acting PE-06 on the team. In a meeting on June 9, 2014, she informed Ms. Boire that she did not agree to being supervised by him; she asked to report directly to Ms. Boire. According to the grievor, all School appointment processes were shams. In her opinion, the acting appointment process at the PE-06 group and level that Mr. Roy obtained had been fixed. She alleged that he had neither the skills nor the linguistic profile required for the position.

[40] Ms. Boire informed the grievor that she would consider her request and promised to look into the possibilities. The grievor wanted a supervisory position at the PE-05 group and level. She was then in a new position as a learning specialist with no staff supervision. Mr. Roy was to return to his position at the PE-05 group and level, and Ms. Boire was to review the grievor's duties, to give her new ones.

[41] In the meeting with the grievor and Ms. Cantin, the grievor was upset because her position had been abolished. She was frustrated because Mr. Roy returned to his position. She raised her voice and said that she would take action. Ms. Bernard tried to make her lower her voice, to no avail. The meeting quickly deteriorated, and the grievor insulted her former director general and her former colleagues.

[42] The grievor alleged that her former director harassed her, that many of her colleagues were not qualified for the positions that they held, and that all School appointment processes were rigged and shams. She accused Mr. Roy of taking all the credit for the universities project and reported that one of her colleagues obtained her

job because of her physical appearance. Ms. Boire tried to listen to the grievor's complaints against her former director, but several years had already passed. The grievor spoke to everyone in the workplace about all her problems, the harassment allegations, her position being abolished, and the appointment processes.

[43] In Ms. Bernard's presence, Ms. Boire verbally warned the grievor that she would not tolerate her denigrating, defaming, or slandering her colleagues. According to Ms. Boire, it was unacceptable to denigrate so many people in the workplace. That meeting was the first time she warned the grievor to stop the slander and stated that if she continued, she could face harsher discipline.

[44] Since 2012, the work atmosphere had been terrible. People panicked, and morale was very low. According to Ms. Boire, the work climate was already bad, and the grievor's unacceptable behaviour contributed to the negative atmosphere. She did not see the grievor's behaviour as a cry for help. She did not see the grievor's new tasks as demeaning. Her work was important and required in-depth analyses.

[45] The grievor's behaviour did not change. She constantly uttered the same insults about her colleagues. Every time Ms. Boire met with her, she repeated the same slander. Once, the grievor went to Ms. Boire's office to inform her that she was in trouble. The grievor alleged that she had evidence that Mr. Roy did not meet his position's linguistic profile. She had not been successful in the appointment process but had made no complaint. Ms. Boire informed her that enough was enough and to stop.

[46] Ms. Boire explained that as a manager, she hoped that the situation would resolve with time and that the grievor would eventually stop. The grievor continued to repeat the same frustrations. She complained about Mr. Roy's language skills after he was appointed to the acting position at the PE-06 group and level. Ms. Boire asked the grievor if she had made a staffing complaint. She replied that she had not, so Ms. Boire instructed her to stop talking about it.

[47] After the June 9, 2014, meeting, the grievor continued to spread slander at several meetings. Ms. Boire informed her that that was enough and that she was busy with senior management requests. The grievor complained constantly about School competitions but never made a complaint.

[48] In an email dated October 3, 2014, Ms. Boire reiterated her expectations to the grievor. On October 2, Ms. Boire met with her entire team to discuss the presentation to the deputy minister. Approximately 30 to 40 people were there. The grievor arrived late. She interrupted the meeting in front of everyone, spoke loudly, got up noisily by pushing a chair, and left the meeting, slamming the door behind her. Before emailing her on October 3, 2014, Ms. Boire tried to meet with her in person to outline her expectations and to instruct her to stop the slander. The grievor told everyone that Ms. Boire was not qualified for an EX-01 position. Despite the warnings, the slander about her continued.

[49] The grievor refused to discuss her behaviour and refused to work on the deck and complete the requested work. She continued to express animosity toward Mr. Roy because he worked on the presentation to the deputy minister. She had performance issues. Often, Ms. Boire tried to meet with her to discuss work, but the grievor was not in her office. Several times, Ms. Boire tried to meet with the grievor to discuss her expectations. Several employees complained to Ms. Boire about the grievor's unacceptable behaviour, which did not respect the School's code of conduct. That was why Ms. Boire sent the October 3 email. She warned the grievor that if she continued to spread slander, it could be considered misconduct and could lead to disciplinary measures. Her colleagues reported the misconduct directly to Ms. Boire.

[50] On October 3, 2014, the grievor asked Ms. Boire to take part in conflict resolution. They had never had any conflict. Ms. Boire had never been her director or supervisor. She did not see any conflict. In her opinion, they started off on the right foot. Her first contact with the grievor was before she arrived at the School. The grievor did not want to report to Mr. Roy, which Ms. Boire changed. Therefore, Ms. Boire refused to participate in a conflict resolution session with her. The grievor wanted a witness present at their meeting. Ms. Boire did not see the need for a witness. In her email to the grievor, she reiterated her expectations about the work and the grievor's behaviour. The grievor replied to the email. She did not reply to the grievor's email, as she did not see the point of responding.

[51] In November 2014, despite Ms. Boire's warnings to stop, the grievor continued the slander. She continued to spread false information about Mr. Roy to other colleagues. She tried to denigrate him relative to the acting PE-06 position that he had obtained under Ms. Cantin's direction. The colleague in question, Ms. Melançon,

informed the grievor that she was not interested, but the grievor insisted that she had proof. Mr. Roy sent the email chain to Ms. Boire. As the grievor's director, she took note of the emails and forwarded them to Ms. Bernard in Human Resources. The grievor accused Ms. Boire of being in trouble because of the position's linguistic profile. The grievor spread slander multiple times, first in June, and then in October and November.

[52] On November 26, 2014, Ms. Boire emailed the grievor to call her to a pre-disciplinary hearing on November 28 at the Asticou Centre in Gatineau, Quebec. The hearing was held to understand the circumstances of a hallway discussion that the grievor had with Ms. Melançon on November 14 and email exchanges between them dated November 14, 2014, about Mr. Roy's linguistic profile. After much back-and-forth between Ms. Boire and the grievor to find a time when everyone was available, including the grievor's representative, it was agreed to schedule the meeting for November 28, 2014, from 3:00 to 4:00 p.m., at the Asticou Centre.

[53] On November 27, 2014, the grievor informed Ms. Boire that her representative, Mr. Lefebvre, had to drive from Borden, Ontario, to the Asticou Centre, and that they might be late for the meeting given the long distance that he had to travel. However, the grievor said that they should be present between 3:00 and 4:00 p.m., as planned.

[54] On November 28, 2014, Ms. Boire met with Ms. Bernard at 2:45 p.m. at the Asticou Centre. At 2:55 p.m., Ms. Boire and Ms. Bernard waited for the grievor and her representative, Mr. Lefebvre. Ms. Bernard had to leave the meeting at 4:00 p.m. because of family obligations. The grievor and her representative did not arrive on time. They arrived a few minutes before the meeting was supposed to end. As not enough time was left for the meeting, Ms. Boire and Ms. Bernard left the meeting room. As they left the room, the grievor shouted at them, saying, "[translation] It is not 4:00 yet." She instructed them to return to the meeting room. She said, "[translation] You will listen to us." The grievor and Ms. Bernard, who had to leave, had an exchange. The grievor and her representative shouted at them to come back, followed them into the hallway, and instructed them to return to the meeting room. The grievor threatened to make a complaint about Ms. Boire to the director general, Mr. Prentice. Ms. Boire and Ms. Bernard hurried to her office. Ms. Boire heard both the grievor and her representative walking quickly. She felt like she was being chased. The grievor and her representative walked at a brisk pace. Ms. Boire became frightened.

[55] According to the Asticou Centre meeting room floor plan, Ms. Boire and Ms. Bernard were both in room 2500. As they walked out of the meeting room, they turned left. Ms. Boire felt like she was being chased. She saw the grievor and her representative, who was in a military uniform. It felt like the longest walk of her life. The grievor and her representative caught up with them in front of the washroom. The four of them were in front of the washroom. The grievor and her representative dominated the conversation, and Ms. Boire was unable to intervene. From what Ms. Boire recalled, the grievor pointed a finger two inches from her face. The grievor informed Ms. Boire and Ms. Bernard that she wanted to be heard. The tone escalated, and Ms. Boire became very frightened. Mr. Boisvert's office was directly next to hers. Ms. Bernard asked him to listen to the conversation. Ms. Boire could not see him in his office. She saw him get up and stand by the door. The conversation ended; Ms. Bernard went home, and the grievor went to her office. Ms. Boire did not recall if Ms. Bernard put her hand in the face of the grievor's representative.

[56] Ms. Boire explained that at the time, she felt helpless because she could not say anything. The grievor shouted at her from two inches from her face. When she reached her office, she was shaking.

[57] Mr. Prentice, the director general, knew about the situation with the grievor. Ms. Boire called him to tell him what had happened. He told her to write a report. She could not. At that point, all she wanted was just to leave the office and go home. Mr. Boisvert visited her office to ask how she was doing. She informed him that she was not doing well at all. She was eager to leave the workplace. She was afraid that the grievor and her representative would come back and harass her. She asked Mr. Boisvert to escort her to her car.

[58] Ms. Boire clearly remembered the grievor pointing a finger two inches from her face and both the grievor and her representative shouting this at her: "[translation] You will listen to me. I want you to listen to me. This is harassment. I will make a complaint against you." Feeling hurt and upset, Ms. Boire drove home in her car. In the car, she began to cry; she cried and trembled.

[59] Ms. Boire informed her spouse as to what had happened. She contacted Ms. Bernard, who was also not doing well. Ms. Boire vomited. She contacted the director of security, Rémi Payette, to inform him that she was a victim of work place

violence. She drafted a report on the incident so that she would not forget the details. She wanted to make a work-place-violence complaint against the grievor and her representative. She wanted to tell the story. She wrote a draft, which is the document that she gave to Mr. Prentice; it is the incident report that was adduced as evidence.

[60] She was stressed and afraid. She felt that it was unacceptable to be treated that way in the workplace. Mr. Prentice suggested that she take the next day off. The day after that, she went to the office a little later than usual because she was afraid to be there alone. She drafted her complaint in a Word document and gave it to Mr. Prentice, her director general. He informed her that the grievor would work remotely for awhile and that the grievor would no longer report to her. From then on, she could no longer supervise the grievor. She could not handle seeing the grievor's face again.

[61] In December, an employee informed Ms. Boire that the grievor had said that she was under investigation. Ms. Boire had to intervene with that employee's manager to clarify the situation, and Mr. Prentice had to intervene, to warn the grievor that the investigation into the work-place-violence complaint was confidential. In January 2015, the grievor made a complaint against Ms. Boire that contained 11 allegations. Ms. May-Cuconato dismissed the entire complaint.

[62] Ms. Bernard was the School's senior human resources advisor from June 2014 to January 2015. She provided labour relations advice and guidance to managers. Ms. Boire became her client in February 2014. She had no hierarchical relationship with the grievor. She advised and counselled Ms. Boire on managing the grievor's performance appraisal.

[63] Ms. Bernard recalled that the grievor refused to perform the tasks that Ms. Boire requested of her. The grievor talked behind people's backs and spread slander. Ms. Bernard advised and counselled to address the situation and manage the grievor's behaviour. Her role was to try to help manage the situation. When the grievor returned from secondment, Ms. Bernard looked into what had happened to her position. She traced the grievor's position back to 2001 to find out what had happened during the workforce adjustment. She recalled the June meeting with the grievor and Ms. Boire. Ms. Bernard gave the grievor the information that she had found. The grievor's position no longer existed. The grievor asked senior management to sort out her position, but it had been abolished. When it happened, she did not receive a letter. The

School believed that the grievor would be appointed permanently to the Canadian Heritage position.

[64] The grievor started to become upset. She was aggressive and reacted strongly. She spoke about things from the past. She refused to report to Mr. Roy. At the pre-disciplinary meeting, she admitted that she had a hard time expressing her opinions respectfully. Ms. Boire instructed her to stop spreading slander about Mr. Roy. The grievor contested his language skills. She accused her former manager of harassing her and accused Ms. Bernard's colleague of saying that the grievor obtained her position because of her appearance. Ms. Bernard's only involvement in the meeting was to ask the grievor to lower her voice. Ms. Boire asked the grievor to work on a special project, and she accepted. The meeting ended neutrally.

[65] Ms. Bernard explained that the pre-disciplinary meeting on November 28, 2014, was held to discuss the email exchange between the grievor and Ms. Melançon about Mr. Roy's language skills. The grievor had already been warned to stop, but she persisted. She had the opportunity to change her behaviour but did not. The pre-disciplinary meeting was held also to obtain the grievor's version of the facts.

[66] Management wanted the pre-disciplinary meeting to take place as quickly as possible. Since the grievor was not unionized, she could choose her representative. She wanted her spouse to represent her. Her representative was not available until 4:00 p.m. on November 28. Management did not have to adjust to her representative's schedule. Typically, the person called to a pre-disciplinary hearing must choose someone who is available on the date determined by management. In the end, they agreed on a suitable date and time. Ms. Bernard could not stay past 4:00 p.m., as she had family obligations. In an email exchange with the grievor, the grievor understood that Ms. Bernard could not stay past 4:00 p.m. No request was made for a teleconference; they discussed only an in-person meeting. That type of meeting was rarely conducted by telephone. It was preferable to meet in person. The grievor had three options and chose 3:00 p.m.

[67] The pre-disciplinary meeting was scheduled for November 28, 2014. Ms. Bernard recalled being in the room with Ms. Boire. They received no message or information about a delay. The grievor's representative had to drive for five hours. At around 3:55 p.m., they left the meeting room. As she turned the corner in the hallway,

Ms. Bernard heard a shout stating, “[translation] “It is not 4:00 p.m. yet; we are on our way.” Ms. Boire said that it was too late and that the meeting was over. The grievor said, “[translation] It is not 4:00 p.m. yet. You, Carole, get back in the room.”

Ms. Bernard responded to her, “[translation] “You know why I cannot stay.” The grievor responded, “[translation] You just have to get yourself a babysitter.” The grievor spoke aggressively and told her spouse to hurry up.

[68] Ms. Bernard and Ms. Boire continued to walk. Ms. Bernard heard footsteps behind her that grew quicker. They were heading toward Ms. Boire’s office. They continued to the top of the stairs. The grievor and her representative joined them. The grievor stood directly in front of Ms. Boire, to stop her from entering her office. The grievor instructed Ms. Boire to enter her office and said, “[translation] We need to talk.” Ms. Boire said this: “[translation] No, the meeting is over. I will make the decision based on the information that I have on hand.” The grievor’s representative raised his voice and replied to Ms. Boire with this: “[translation] You brought me all the way from Borden for nothing. What kind of leadership is this here?” She found it daunting to face a man of such stature, in military uniform.

[69] Ms. Bernard remembered that the grievor pointed her finger three to four inches from Ms. Boire’s face. Ms. Boire said almost nothing. She froze. The grievor was aggressive and spoke very loudly. Her representative was visibly in a bad mood, as he had travelled a long way. He spoke loudly. He was frustrated that the meeting would not take place. Ms. Bernard remained calm.

[70] Ms. Bernard saw Mr. Boisvert in his office and asked him to witness the conversation. The grievor’s representative approached Ms. Bernard and asked her if someone there, other than her, could attend the meeting. She raised her hand in her personal space and said to him, “[translation] Sir; please sir”, and he pointed a finger at her. The grievor stared at Ms. Bernard for a few seconds, then looked at Ms. Boire while still pointing her finger and said this: “[translation] I will make a complaint against you.”

[71] The grievor and her representative went to the grievor’s office, and Ms. Boire went to hers. Ms. Bernard had to leave the office and go home. Once in her car, she phoned her manager, Ms. Rodrigue, to tell her what had happened. She also phoned Ms. Boire to ask how she was doing, but there was no answer. Then, she tried to phone



Mr. Boisvert to find out if he knew where Ms. Boire was, and he informed her that he had taken her to her car because she had been very upset. Eventually, she returned home. Ms. Bernard had no memory of how she made it back to her car. She was very upset about what had just happened. It was her worst-ever workplace experience.

[72] According to Ms. Bernard, the aggravating factor was the fear that she felt. The grievor had spoken aggressively. The entirety of the situation frightened her. She knew that the meeting would be tense, but she thought that everyone would behave professionally. From then on, every time she went to the Asticou Centre, she made sure not to bump into the grievor. She sent her account of what she had gone through to Mr. Clairmont and her director, Ms. Cantin. She instructed Ms. Boire to contact Mr. Payette in security. As to what happened next, Ms. Bernard was not involved in any other aspect of the investigation. She testified as a complainant to the investigator, Mr. Bissonnette.

[73] In cross-examination, she explained that she did not think to call the police or to accompany Ms. Boire to her office. All that she could think about was returning home for her family obligations. Every time she had to go to the Asticou Centre, she was nervous at the idea of seeing the grievor again. She felt uneasy for several weeks, but she got over it. The incident affected her, but she was still able to cope.

[74] Mr. Prentice took over the file for the November 28, 2014, pre-disciplinary hearing. After discussing the matter with him, Ms. Bernard concluded that she could be neutral and that it made more sense for her to participate as an attendant, to take notes. Her manager, Ms. Cantin, agreed. Ms. Bernard was familiar with the case. The incident occurred several months earlier. She felt that she could be neutral. The grievor did not agree that Ms. Bernard should be present, as she was concerned that Ms. Bernard was not neutral. Mr. Prentice was her client, and she was professional enough to take notes.

[75] The pre-disciplinary meeting took place with the grievor, her lawyer Philippe Coderre, Mr. Prentice, and Ms. Bernard. The meeting was scheduled for January 14, 2015. Ultimately, the date had to be changed as Mr. Coderre was unavailable. Management gave the grievor a second opportunity to hear her side of the story.

[76] In terms of recommendations, Ms. Bernard simply reported the facts pertaining to the events of November 28, 2014, and the case law that she gave to her manager to determine whether misconduct had occurred. That report was given only to her manager. She had no further involvement.

[77] At the pre-disciplinary hearing that finally took place in January 2015, the grievor again repeated the same slander about Mr. Roy's linguistic profile. She focused on the documentation that she had obtained. She recounted that Ms. Cantin had told her that she had obtained her position because of her appearance and that Ms. Cantin asked the grievor what she had done to be promoted. In addition, the grievor continued the slander and added information about Mr. Payette's marriage. The pre-disciplinary hearing was held to obtain the grievor's version of the facts with respect to the emails that she exchanged with Ms. Melançon about Mr. Roy's linguistic profile. The grievor constantly sought to undermine Mr. Roy's authority. She wanted to prove at all costs that she was right. Ms. Bernard did not know the result of the disciplinary measure. Ms. Cantin made the final recommendation.

[78] Ms. Bernard spoke about a training course that all employees were to attend in November 2014. She recalled that on November 20, 2014, the grievor attended a course entitled, "[translation] Workplace gossip". At the pre-disciplinary hearing in January 2015, the grievor continued to make negative and derogatory comments about certain people. She knew about the *Policy*, not only because it was provided to all School employees but also because she had helped draft it.

[79] The School called Mr. Boisvert to testify. In November 2014, he was the assistant director of leadership programs. He was responsible for designing and delivering an introductory course for new directors general and was in charge of different special projects in the academic sector. He had no hierarchical relationship with the grievor. Ms. Boire was his colleague; they did not work together. She reported to another director general. From what he recalled, it had been late in the day, around 4:00 p.m., on November 28, 2014, and he had been sitting at his desk.

[80] He saw Ms. Boire and Ms. Bernard arrive, as well as the grievor and a man in combat gear. They all stopped in front of the printer just outside the washroom. He heard Ms. Boire say that unfortunately, they would have to postpone the meeting. The grievor said that the meeting was to take place from 3:30 to 4:30 p.m. Ms. Bernard said

that unfortunately, the meeting would have to be postponed because she had to leave the office and go home. The man dressed in combat gear raised his voice some and stated that he had driven five hours to get to the meeting. Mr. Boisvert heard him say, “[translation] What kind of leadership is this here?”

[81] Ms. Bernard responded to the man dressed in combat gear, telling him to calm down; he was the grievor’s representative. The grievor stood in front of Ms. Boire and pointed her finger. She stated that she would make a harassment complaint against her. Ms. Bernard said that they had to end the conversation. She looked at Mr. Boisvert and asked him if he had witnessed what had just happened, and he replied in the affirmative. Ms. Boire passed his office to reach hers. He rose, to go see her. He saw her shaking slightly. She informed him that she wanted to leave the office immediately because she felt unsafe. Ms. Boire asked Mr. Boisvert to escort her to her car. He tried to comfort her somewhat, and she went home for the weekend.

[82] Mr. Boisvert recalled that Ms. Bernard was professional and that she remained composed when she said that the meeting was over. Ms. Boire did not speak. She held documents in her arms. He recalled that the grievor was animated and that her voice sounded aggressive. He could see only the soldier’s left arm. He sensed that the grievor’s representative was frustrated.

[83] Mr. Boisvert’s only subsequent involvement was to write an email about what he had observed. Ms. Bernard called him to ask him to relate what he had heard and seen. He did not intervene in the discussion, as Ms. Bernard had already made a good start. He did not have to intervene. He did not remember seeing Mr. Beaumier. He remembered that the grievor had documents in her arms and that Ms. Boire had a binder.

[84] Ms. Melançon testified for the School. In November 2014, she was a learning advisor at the School. She was one of the grievor’s employees before the grievor left the School on secondment. When the grievor returned, Ms. Melançon reported to Mr. Roy.

[85] In November 2014, Mr. Roy was her manager. In an email exchange, the grievor stated that she had documents that demonstrated that Mr. Roy did not have the linguistic profile required for his position. The grievor attempted to strike up a conversation with Ms. Melançon in the hallway. At that point, she instructed the

grievor to stop gossiping and said that it was false information that was damaging to both the grievor and Mr. Roy.

[86] Ms. Melançon knew that the grievor was very upset about the injustices that she claimed to have experienced at the School. However, Ms. Melançon did not want to become involved. Mr. Roy spoke to Ms. Boire about it and then asked Ms. Melançon if she could send the email exchange to Ms. Boire, which she did. In January 2015, Mr. Prentice asked her to send him her version of the facts, which she did in an email dated January 20, 2015.

[87] In cross-examination, Ms. Melançon explained that she went to see Mr. Roy to confirm his linguistic profile to stop the rumours. Ms. Boire called her into her office, and she and Mr. Roy informed her that there were conflicts involving the grievor and that the grievor lacked discretion and often spoke out against management. Ms. Boire vaguely said to her that there were conflicts.

[88] Mr. Roy testified that in November 2014, he reported directly to Ms. Boire. On November 14, 2014, Ms. Melançon sent him an email exchange that she had had with the grievor about Mr. Roy's language skills. He informed Ms. Boire. Several incidents had occurred in the preceding months, including discussions behind his back about personal documents that involved him. He found the conduct bizarre and wanted it to stop. The grievor slandered him to employees who reported to him, and they verified that information with him. The grievor accused him of stealing her universities project and taking credit for its success.

[89] Mr. Roy explained that the grievor was the manager responsible for the universities project for two years. In the third year, she left her position to go on secondment. He took over the language training project, and the project ended. She constantly made negative comments about him. After he supervised her, he began to hear echoes. She would talk about him behind his back to her colleague, Mr. Beaumier. The comments began in April.

[90] At first, they were small things, but the comments began to worsen after June, until November. The slander continued until Mr. Roy left the language training team. The grievor never shared her concerns with him directly. It made for a difficult work environment. She constantly made vulgar remarks about her former manager. Her anger returned often; it ate at her. It all negatively impacted him and the School's team.

[91] Mr. Roy explained that he had a good relationship with the grievor and that he worked with her on the universities project just before she left for her Canadian Heritage secondment. He recalled her complaining about the injustices that she experienced on losing her supervisory duties. The School's environment was negative, and it was not just because of the problems with the grievor. Some people were more toxic than others, but Mr. Roy's immediate team was fine. Negative comments about him were shared with Ms. Melançon and Mr. Beaumier. The grievor said that Mr. Roy stole her job and took credit for the universities project, and she made all sorts of other comments that made him want to leave his position. Initially, he tried to talk to her, but in the end, he wanted to leave. They avoided each other and never crossed paths.

[92] In the November email exchange, the grievor had personal documents about Mr. Roy that she tried to share with employees who reported to him. Ms. Melançon asked him if he had his level C in English. He had always maintained his level C in English. He did not understand why the grievor had those documents and why she wanted to share them with the employees who reported to him.

[93] Mr. Roy confirmed that he held the PE-06 acting position for 14 months. He applied for the position in April 2013, and the language requirements were EEC. He was exempt from comprehension and writing testing. For level C, he had to be tested every 5 years. He retested during his PE-06 acting period and maintained his linguistic profile.

[94] In June 2014, Mr. Prentice was the director general of regional operations for language training and national planning. As the director general, he had the delegated financial authority of the deputy head. The grievor reported to Ms. Boire, who reported directly to him. His working relationship with the grievor was the same as with all other employees, friendly and professional, and he had no conflict with her. As the director general, he would have been informed of the problems that arose in language training in early summer 2014. Ms. Boire informed him that there were problems with the grievor, which were managed with help from Labour Relations. He knew about her disgraceful behaviour, namely, spreading rumours. He knew about the discussions that took place between her and her manager and about the file's progress. He knew what was going on. He met with Ms. Boire every two weeks. He was informed of the grievor's malicious discussions and about issues about a respectful workplace. Efforts were

made to increase awareness of the consequences and reinforcement if the grievor's behaviour did not stop. During those discussions, he did not know the grievor's side of the story.

[95] In 2014, the workplace underwent a major transformation that was affected by changes to the School's priorities, other business lines, different language training models, and decisions related to workforce adjustment in the unit. As in any workforce-adjustment situation, there was tension, and it was a tense place. Major structural changes were made to service delivery. The grievor held a position that was abolished, but she was able to obtain a position elsewhere. Attempts were made to help her find a suitable job in the client services division, but she was not satisfied. At language training, Mr. Prentice tried to help all affected employees find solutions, keep them busy, and make them feel valued. That can be difficult during a workforce-adjustment period.

[96] A two-day suspension was imposed on the grievor for spreading slander in the workplace and because of the findings of the investigation into the work-place-violence complaint. The disciplinary letter addressed two events: workplace rumours and inappropriate behaviour, and a finding that work place violence occurred on November 28, 2014. In cross-examination, Mr. Prentice admitted that it took four to five months to impose a two-day suspension. In his opinion, it was not an unreasonable amount of time to make a fair and informed decision.

[97] Both he and the grievor signed the disciplinary letter. In his decision to impose a two-day suspension, he considered not only the mitigating circumstances but also the aggravating ones, as the grievor had completed training on workplace rumours and the *Values and Ethics Code for the Public Sector* ("the *Values and Ethics Code*").

[98] Mr. Prentice recalled his email exchange with the grievor about Ms. Bernard attending the pre-disciplinary hearing to take notes. The grievor was concerned that Ms. Bernard could not be impartial because she was involved in the work-place-violence complaint. Ms. Bernard's presence was necessary because she knew the circumstances surrounding the events that led to the allegations of rumours and work place violence. She observed those events. Therefore, she was the best person to attend the pre-disciplinary hearing. He was convinced that her presence had value as the note-

taker. The pre-disciplinary hearing was held to allow the grievor the opportunity to present any additional information before discipline was imposed.

[99] In cross-examination, Mr. Prentice stated that he was convinced that Ms. Bernard could help him take notes and that she would not be biased and that the grievor agreed with it. Ms. Bernard knew the most about the case. Ms. Rodrigue's help would not have been effective. The grievor was comfortable with Ms. Bernard taking notes because Mr. Prentice trusted her note-taking.

[100] Before imposing discipline, Mr. Prentice asked Ms. Melançon for a direct account of her interactions with the grievor. He wanted to verify the information that the grievor gave him at the pre-disciplinary hearing. The grievor had mentioned that she, her spouse, Ms. Boire, and Ms. Bernard had had an altercation because the pre-disciplinary hearing on the workplace-rumours allegations could not proceed as her spouse arrived late for the meeting. She was upset that the pre-disciplinary hearing did not happen.

[101] Mr. Prentice recalled that he received an email from the grievor's spouse on November 28, 2014, at 11:23 p.m., in which he described the events of November 28, 2014, and apologized for losing his cool with respect to the events. To some extent, the email corroborated what had taken place. In Mr. Prentice's opinion, it went beyond what he considered normal behaviour. In his opinion, it confirmed what had taken place. The grievor and her spouse had behaved unprofessionally and unusually, and she might have committed wrongdoing. The email was evidence of what had happened.

[102] In cross-examination, Mr. Prentice admitted that the email was a major factor in the decision to suspend the grievor. He conceded that he did not say that the grievor had done one thing or another, but he acknowledged that inappropriate and unprofessional behaviour took place.

[103] In Mr. Prentice's decision-making process, he took into account the final investigation report on the work-place-violence complaint. Investigator Bissonnette summarized the people interviewed, which Mr. Prentice considered was a statement of the facts. Mr. Prentice knew that the grievor had the opportunity to comment on the report and that Investigator Bissonnette took her concerns into account. She expressed concerns about who would be interviewed and who might have more information

about what had happened. She was also concerned that her spouse was not interviewed. Her representative did not comment on the report.

[104] She questioned Investigator Bissonnette's competence after the report was finalized. The choice of investigator could not be challenged once the report was finalized. Labour affairs officers from Employment and Social Development Canada's Occupational Health and Safety Division informed the parties concerned that the investigator's competence had to be challenged when the investigation began, to ensure that the selection of investigator complied with the law. It could not be done once the report was finalized. Ultimately, the grievor was suspended for one day for spreading slander in the workplace and one day for engaging in inappropriate behaviour on November 28, 2014, in accordance with the third-party assessment and the investigation report's results. Furthermore, the grievor knew that her behaviour was unacceptable.

[105] In cross-examination, Mr. Prentice said that the witnesses that the grievor identified at the pre-disciplinary hearing were not contacted. He did not verify the new information that she had provided. He did not consider it relevant to contact her spouse because he was not part of the investigation. He considered that a fact, and it was discussed in the report. He had the email from the grievor's spouse, and in his opinion, it was enough. Mr. Boisvert substantiated the events as they occurred, stating that they occurred as Ms. Boire and Ms. Bernard had described them. The investigation report clearly indicated that something inappropriate happened. Mr. Prentice believed that much of what the report stated was proven and that some form of discipline was warranted. According to the grievor, Ms. Boire's actions provoked her. In his opinion, provocation does not justify work place violence. He did not consider the grievor's workplace frustration a mitigating factor.

[106] Efforts were made to accommodate the grievor's requests. Ms. Bernard had family obligations and had to leave work at a specific time. The grievor could have expressed her dissatisfaction in ways other than what took place. There were other mechanisms to review the matter. Processes were in place to try to resolve the issues. The pre-disciplinary hearing was postponed because her representative was unavailable. Mr. Prentice believed that every effort was made to accommodate her requests.



[107] Based on the evidence he possessed, Mr. Prentice decided to impose a one-day suspension for the rumours and a one-day suspension for the November 28, 2014, incidents and the work place violence as concluded by the investigator. When he made his decision, he did not consider any single piece of evidence on its own. The two days were to be served consecutively. It was the most practical approach to resolving both issues with the same process. The grievor knew what was acceptable and unacceptable in the workplace. Twice, she was warned to stop spreading slander. It is reasonable to state that every workplace has a code of conduct. No amount of ignorance on anyone's part mitigated what had happened.

[108] The grievor knew the *Policy* and the codes of conduct. The *Values and Ethics Code* applies to all public servants, employees, and managers, who must comply with it. It clearly states the obligation to respect others and to communicate respectfully and fairly with others. Respect and courtesy were added to the School's code. Throughout the process, the grievor showed no remorse. She showed no awareness or regret. She showed no sense of responsibility or ownership for the rumours. Her resistance to admitting any wrongdoing was evident. She was frustrated, but that did not excuse her behaviour. Employees had processes to resolve workplace conflicts, which she did not pursue. Nothing justified her actions. Ms. Boire was in shock. On the day of the incident, Mr. Prentice spoke with Ms. Boire, and her voice shook. She was upset and complained of nausea. She had never experienced anything like it before and was shaken. She expressed emotional and physical distress at what had happened and was concerned about how to proceed because the workplace was small. Mr. Prentice did not feel that Ms. Boire and Ms. Bernard had overreacted.

[109] In November 2014, the grievor had not yet made her complaint against Ms. Boire. The grievor's email dated November 28, 2014, at 4:43 p.m., was not a formal complaint against Ms. Boire. Mr. Prentice waited for the grievor to make a formal complaint before he launched the formal investigation. Complaints were generally made to the director general of Human Resources, who received and dealt with them. The grievor having made a harassment complaint against Ms. Boire was not a factor in Mr. Prentice's decision. He understood that the grievor's spouse had been frustrated about being late and that the situation could have been frustrating, but according to the assessment of the facts as he concluded them, it did not justify what happened.

[110] After the events of November 28, 2014, Mr. Prentice took steps in all the parties' interests to transfer the grievor to the client services group, to avoid any discomfort with the other parties. During a discussion between Ms. May-Cuconato, the director of Human Resources, and Mr. Prentice, it was decided that they would implement security measures in one of the hallways, for everyone's safety.

[111] On November 29 or December 1, 2014, he received a call from Ms. Boire and corresponded by email with the grievor about whether she could work from home until she could be transferred to client services. Both the grievor and Ms. Boire preferred not to be in the same physical location. He recalled asking Mr. Clairmont to escort the grievor from the building. He could not recall whether he or Human Resources made that decision.

[112] The grievor testified about her time at the School since 2003. In April 2014, she returned to the School from a secondment at Canadian Heritage. She was offered a return to Mr. Roy's position at the PE-05 group and level or to her previous position at the PE-05 group and level but on a different team. A few months earlier, she participated in an appointment process for the acting position at the PE-06 group and level on Ms. Cantin's team. The grievor wanted to stabilize her situation because she had lost her supervisory duties. She tried to find a position similar to what she had done previously. Unfortunately, she came in second. Mr. Roy was the successful candidate.

[113] The grievor reported to Ms. Boire. Her role was no longer the same, as the universities project ended that she had worked on. She did not understand why she no longer had staff to supervise. She wanted to clarify the matter, along with the other issues and rumours that were circulating about her, which were that she had performed sexual favours to secure her PE-05 position. She requested a meeting with Ms. Boire and Ms. Cantin. She was disappointed that she no longer had management duties. The offer letter that she signed mentioned a team leader title. However, she had no team. It was as though she had taken a step backward and had returned to a PE-04 position. She found it unfair and wanted people to stop saying that she obtained the job because of her looks. She was completely denigrated, and it was insinuated that she had her head in the clouds and that she obtained jobs without demonstrating any competence. She found it hurtful.

[114] The rest of the meeting went nowhere. Ms. Boire and Ms. Bernard did nothing because the rumours about her continued. She did not feel welcome, and it appeared that her inquiries about her position were not considered. She wanted meaningful tasks to contribute to the School and to advance. Her tasks did not challenge her. She was in charge of developing videos, which were a new tool for learning about managers' official-languages roles and responsibilities. She also organized activities such as a panel discussion with senior managers on language training tools. Those tasks did not challenge her. She felt that her experience and managerial background were not being used. Her relationship with Ms. Boire was strained as she tried to understand what had happened to her supervisory duties. She was informed that there would be one PE-05 position with management duties, which Mr. Roy held, and one without them. She felt left out. At the informal meeting for the PE-06 acting position, she wanted to understand why she had been screened out. Despite the explanations, she felt that things were missing.

[115] According to the grievor, the rocky relationship with Ms. Boire had as its source the fact that she was offered Mr. Roy's position. The grievor wanted her previous position back, with the same duties as before her secondment. She knew that eventually, Mr. Roy would return to his position, as he was only acting in the PE-06 position. It did not seem to be understood that she was floating around the organization. Ms. Boire was very adamant that there were no other positions. The grievor's duties bore no resemblance whatsoever to her duties before her secondment.

[116] In April 2014, the grievor wrote to Ms. Boire to ask her to attend a mediation session involving the grievor, Ms. Boire, and Mr. Roy. She wanted to be heard and have her requests understood. Ms. Boire replied that the grievor was on secondment. She did not want to be on secondment. She wanted her position. She had no idea what had happened while during her absence. If her position had been declared surplus, as Mr. Prentice explained, why not give her a letter with her options? She would have had priority status. At that point, she could have found another position. She wanted to clarify the situation. She copied Mr. Roy because at that time, he was her supervisor; she reported to him. She felt that Ms. Boire and Mr. Roy stood in her way. Given the tension between her and Ms. Boire, she wanted a neutral environment in which to discuss solutions. Since Ms. Boire was the director, the grievor wanted to ask her to check with the other directors, to find the grievor a position more like hers.

[117] The grievor admitted that she often verbalized her dissatisfaction. Considerable frustration came out of her in her words and in how she expressed herself. She thought that it irritated Ms. Boire. The grievor wanted her questions answered; she did not want to start a war. She felt that she was left to her own devices. School policies were not followed.

[118] In May 2014, Ms. Boire called her to a meeting with Human Resources to discuss human resources and the grievor's duties. Ms. Boire informed her that she did not require someone to accompany her. The grievor understood that the Human Resources person had to analyze her position. She found it strange, as Ms. Bernard was a labour relations and not a classification specialist.

[119] On June 9, 2014, the meeting was held at the Asticou Centre. It was just Ms. Boire, Ms. Bernard, and the grievor. The meeting lasted about an hour. The grievor recalled stating that Ms. Boire had taken away her management responsibilities and had assigned her to prepare a deck that universities in other provinces would use as a language training tool. She also remembered that she was transferred from the position under Mr. Roy to the other PE-05 position. She did not understand the purpose or relevance. She did not understand why responsibilities were still being taken from her. She continued to ask the same questions about her position. She did not understand why her position was made surplus and why she was not notified. She did not receive a letter informing her about it. She wanted to understand why she was left out of the PE-06 acting appointment process. She did not believe that working on the deck was useful work for the organization. She did not understand what Ms. Boire meant by slander. Was it about her comments on the PE-06 appointment process or about how her return to work was handled? The grievor felt that Ms. Boire said things without also providing concrete examples. Ms. Boire instructed her to stop the slander. The grievor never received an answer to that question. Ms. Bernard attended all meetings.

[120] After June 9, 2014, the grievor continued to report to Ms. Boire. She was supposed to report to Mr. Roy, but Ms. Boire agreed that because of the deck project, the grievor would report to her directly. Ms. Boire gave her very little instruction. She recalled that Ms. Boire gave her a paper with handwritten notes. Those were the only instructions that she received. She did not think that it was serious work. She felt that she was being discarded.

[121] Initially, Ms. Boire and the grievor agreed to meet every two weeks to discuss the project's direction and to make any necessary adjustments. The meetings were often cancelled. Between June and September, they met two or three times formally and a few times informally. The meetings never went anywhere. Ms. Boire tended to stray from the meeting's purpose. Often, she asked questions about the grievor and her personal life. Ms. Boire made all kinds of comments that were unrelated to the task. She spoke about the task, but there were deviations.

[122] According to the grievor, Ms. Boire constantly mentioned slander, but it was completely untrue. The grievor was criticized for her tone and approach. The criticism was always the same. To address the comments, the grievor sought help from an expert at the Treasury Board to help improve her verbalizing. She considered herself a straightforward person. She was raised in a strict environment and was very direct. Before writing to Ms. Boire, she had the expert proofread her emails.

[123] After returning from secondment, the grievor took courses in human resources management and public administration management. She found a mentor who was a former deputy minister to help her change her approach, to improve. Meanwhile, the relationship with Ms. Boire grew increasingly strained over time because of the workplace changes, the unanswered questions, the rumours circulating about the grievor, the accusations that she was gossiping with others, and the fact that she did not know where the rumours came from. Other colleagues said that the grievor criticized Mr. Roy. She did not know the nature of the comments other than what Mr. Roy said. She criticized how her return to work had been handled. She did not criticize him.

[124] On October 2, 2014, Ms. Boire organized a team meeting. She gave an overview of what was taking place in management. She mentioned that she presented a deck. The grievor asked for more details about the deck, specifically about language training. Rumours were circulating that language training would be cancelled. The grievor wanted to know Ms. Boire's management intentions.

[125] The grievor asked Ms. Boire why she did not mention it to her when she worked on the deck. Ms. Boire neglected to tell the grievor that the deck's subject was the future of language training. The grievor wanted to know why she did not receive that information. She began to cry and got up to leave the room. She felt her emotions

taking over. Rather than say what was on her mind and overreact, she decided that it was best to leave the meeting.

[126] On October 3, 2014, Ms. Boire decided to call the grievor to a meeting to discuss her behaviour at the October 2 meeting. The grievor insisted on having a witness present. Her daughter was ill, so she had to work from home that day. Ms. Boire replied by email that she was not obligated to accept a witness for a work-related meeting. She informed the grievor that according to the terms of her group's collective agreement, she had the right to be accompanied by a person of her choice if the meeting was disciplinary or about a grievance. For a work-related meeting, Ms. Boire said that there was no such obligation and that it was within her managerial rights to ask the grievor to meet with her. She informed the grievor that insubordination could be defined in terms of an employee's disobedience with respect to, or refusal to comply with, a supervisor's request, directive, regulation, or any other form of request and any form of rudeness or lack of respect.

[127] Ms. Boire informed the grievor as follows as to what she expected of her in performing her duties. She told the grievor that in case of an absence, the grievor had to inform her; she warned the grievor to stop all slander against other employees, superiors, and the organization; she said that this was her second warning; and she asked the grievor to work and interact professionally, courteously, and respectfully.

[128] In response, the grievor drafted an approximately two-page email in which she stated that she respected and complied with requests as long as she received answers to her questions and clarification requests. She asked for proof of when she had refused to perform her duties. With respect to slander, she replied to Ms. Boire that that was the second time that Ms. Boire had mentioned it to her and that each time, she asked Ms. Boire for clear and concrete examples of when she would have spread slander. The grievor requested respect for her job description and the offer letter that was duly signed on December 23, 2009. For valid operational reasons, if management could not comply with providing those official documents, it had 30 days to present her with a complete, accurate, and up-to-date job description in line with her group and level. She expected management to work with her to ensure that the tasks identified for her would serve the organization well, be rewarding and meaningful for her, and enable her to learn and grow and to put all her knowledge, skills, and experience to work for the organization. She reiterated her right to a stimulating work

environment free of harassment and violence in which she would be happy to go to work. She demanded that a performance agreement be drafted commensurate with her abilities, skills, knowledge, and aspirations and in line with her job description and the organization's objectives, given that she had been without a performance agreement since June 10, 2014. In her email, she said that she required management to adhere to all leadership practices respecting key leadership behaviours. Finally, she referred Ms. Boire to her obligations as a director.

[129] The grievor explained that important to her in the rest of the exchange was that Ms. Boire understand that the workplace had rules. The grievor had no supervision or performance appraisal. She found it difficult to produce quality work without knowing what was expected of her. Many completely untrue rumours were circulating that she had had a relationship with a colleague. They damaged her reputation and that of the colleague, and she wanted them to stop.

[130] In the same email, the grievor said that she believed that she was being psychologically harassed; she felt bad and was losing her composure, and, as a result, her mental health suffered. She felt that Ms. Boire always picked on her and said negative things about her. Ms. Boire never had anything positive to say about her; she felt useless and unwelcome. She felt that she had no place in the organization. The rumours and comments damaged her mental health and her self-esteem.

[131] On October 22, 2014, Ms. Boire wanted to see the deck that the grievor was working on. She presented her with a draft. The grievor felt that she was performing well because Ms. Boire told her to keep it up. However, before long, Ms. Boire criticized her work on the deck and said that it was no longer what she was looking for. Therefore, the grievor requested a meeting with Mr. Prentice on November 7, 2014. She had just informed Ms. Boire that with Mr. Prentice's help, she had found a new position on another team. She believed that the negative comments about her performance on the deck were a reprisal by Ms. Boire.

[132] On November 12 and 13, 2014, the grievor attended the Departmental Advisory Committee on Official Languages' annual meeting. Only she and Ms. Melançon attended. At it, she spoke with Ms. Melançon about linguistic profiles for secondments. Someone from Treasury Board had given a presentation on linguistic profiles in appointment processes. Referring to the document on official languages in

appointment processes, the resource person said that it was important for a person to have the necessary linguistic profile for the position. The grievor believed that the School overlooked the linguistic profile for an acting position at the PE-06 group and level. She was critical of the process. She obtained documents suggesting that Mr. Roy did not have the required linguistic profile. She made an access-to-information request to see Mr. Roy's answers. She wanted to compare her answers with his. She received feedback on her answers at the informal meeting with management.

[133] According to the grievor's recollection, the conversation with Ms. Melançon did not take place in a hallway but rather at the conference that they both attended. The grievor did not share with anyone the documents that she obtained through her access-to-information request about Mr. Roy's appointment to the acting position at the PE-06 group and level. She felt terrible that Ms. Melançon went to see Mr. Roy. She would have preferred it had Ms. Melançon discussed the matter with her. She had the impression that Ms. Melançon did not believe her and thought that she was complaining. She was frustrated with the process. She did not want to hurt Mr. Roy.

[134] Not long after that, she received a request for a pre-disciplinary meeting on November 26, 2014. She did not know why she was being summoned to a pre-disciplinary meeting for a supposed hallway conversation. She wanted her spouse to accompany her, as he had significant management knowledge and is a very calm person. She did not want to involve anyone from the School in the situation. She preferred to choose an outsider. It was a complex situation, as Ms. Bernard, who accompanied Ms. Boire, had to leave the office by 4:00 p.m. for family obligation reasons.

[135] The grievor's spouse came from Borden. He had to drive five to five-and-a-half hours to get to the meeting. Ms. Boire insisted that the meeting take place on that date, as soon as possible. In the end, the grievor chose the 3:00 to 4:00 p.m. option. Initially, those times posed a problem; she accepted the best of the proposed options. She felt that she was being picked on. On the issue of slander, once again, Ms. Boire could not provide her any concrete examples. That is why the grievor decided to speak to Ms. May-Cuconato on November 26, 2014. She was the assistant deputy minister and the resource person with respect to workplace harassment. The grievor tried to talk about it with Mr. Prentice. She reached the formal complaint stage against Ms. Boire.



[136] On November 28, 2014, the pre-disciplinary meeting was scheduled to take place from 3:00 to 4:00 p.m. The grievor arrived at the office around 2:30 p.m. and waited for her spouse in the commissioner's office. At 3:20 p.m., her spouse called to tell her that he was on the ferry in Quyon and that it would take about 20 minutes. She figured that the timing would be tight but that there was still a chance that there would be enough time for the meeting. She tried to have as little contact as possible with Ms. Boire and Ms. Bernard. She felt resistance; in hindsight, she should have sent a note to warn them. She did not. Her spouse arrived at 3:55 p.m. As her spouse walked through the door, she saw Ms. Boire and Ms. Bernard exit the meeting room. The grievor raised her hand and said, "[translation] Carole, he has arrived." She spoke loudly. Ms. Boire informed her that it was too late. They could not settle anything in five minutes. The grievor replied, "[translation] Carole, go back to the room; he has arrived." Ms. Bernard said that she could not stay. She had family obligations, as the grievor knew. The grievor replied, "[translation] Find yourself a babysitter." She said that she regretted her words and that she should not have said that. Her spouse could not believe the situation. He was dumbfounded. He had just driven 5 hours. He wanted to meet Mr. Prentice, but his office was in a building on Sussex Drive. He was in uniform, as he had been assigned to a student group in Borden at the time and had left as quickly as possible, without changing.

[137] At that moment, the grievor intended to go to her office to write an email. On the way down the hallway to her office, she and her spouse were behind Ms. Boire and Ms. Bernard. Her spouse commented on the lack of leadership. He said that it was unacceptable to receive people from outside in that way. He said that the leadership was not strong. The grievor criticized Ms. Boire at that moment for not providing any options. Her spouse had made every effort to get there, but, due to bad weather, he had been unable to arrive on time. The grievor wanted to contact Mr. Prentice, to settle the whole thing.

[138] When they all arrived at block 1600, there were entrance doors at which Ms. Boire and Ms. Bernard had to stop, to open them. The grievor and her spouse followed them; they were already on the other side of the door. They let the door close on them. The grievor was frustrated that they had done that and thought once again that it was a lack of respect for her and her spouse. Once they reached the top of the stairs, the grievor asked Ms. Boire and Ms. Bernard why they could not speak to one another. Ms. Boire and Ms. Bernard turned toward them. Ms. Boire said that it was too late, and

added this: “[translation] I will make the decision based on the information that I have in front of me.” The grievor’s spouse said, “[translation] This is leadership at the School of Public Service? It’s not strong.” Everyone had raised their voices. Ms. Bernard raised her hand to the face of the grievor’s spouse. He was standing between her and Ms. Boire. He was about an arm’s length away from her, Ms. Boire was about two or three feet away, and Ms. Bernard was about five feet away. Ms. Bernard called Mr. Boisvert to be a witness.

[139] The grievor could not see Mr. Boisvert. She had to move to see whom Ms. Bernard spoke to and asked to be a witness. She said that Mr. Boisvert and Ms. Bernard exchanged words. The grievor asked why another person from Human Resources could not participate in the meeting. Ms. Bernard replied that there was no one else. The grievor told Ms. Boire that she would make a harassment complaint against her and that she would advise Mr. Prentice. Ms. Boire said that she should do what she had to do. Then, Ms. Bernard and Ms. Boire went to Ms. Boire’s office, and the grievor went to her office with her spouse. In total, the exchange took only a few minutes.

[140] According to the grievor, Ms. Boire and Ms. Bernard alleged that she pointed her finger. That was false. It was impossible because she had a pile of documents in her arms. She wanted to present the things that she had seen — the things that had caused her doubt. She held her documents against her chest with her arms crossed. She simply wanted to express her viewpoint, but it turned into a horror story. She just wanted to recover her management position. She was frustrated and found it childish that Ms. Boire refused to talk about it. Rather than impose disciplinary measures on her, she should have proposed another timeslot. The grievor said that her tone of voice was at about 5 out of 10.

[141] After the exchange, the grievor went to her office and drafted her email to Mr. Prentice about what had happened. She felt that the situation had gone too far. She needed his help. On Monday, she went back to the office and closed her door. She saw the email from the security officer, Mr. Clairmont, informing her not to speak to Ms. Boire or Ms. Bernard. Later, Mr. Prentice informed her that she had to leave the School because work-place-violence allegations had been made against her. The security officer escorted her out and told her not to approach Ms. Boire or Ms. Bernard.

[142] She found having to leave completely absurd. She did not consider what had happened as violent. She simply considered it a conflict between colleagues. She felt like a criminal during the escort. Even today, she feels the same. She felt destroyed and completely overwhelmed. She worked from home for about a month. Around January, she went back to work with her new team.

[143] In early December, she met with the investigator, Mr. Bissonnette. The meeting lasted about 30 minutes. Ultimately, she believed that the meeting would lead nowhere because there had been no work place violence, only a verbal dispute. She did not remember the preliminary report exactly, but it surprised her. The report was written as though a major war had erupted. She did not remember that at all. She was completely speechless. The investigator did not interview all her witnesses. He interviewed only the School's witnesses. She reported that to Mr. Prentice.

[144] She submitted her notes and feedback on the investigation report. She pointed out everything that was problematic. The report told only one part of the story. There should have been no comments like those in the findings. She had only four or five days to respond, and she met the deadline. Apart from her spouse, Mr. Beaumier had also been in the office next to where the discussion took place. Another co-worker, Ms. Prud'homme, also allegedly heard the conversation.

[145] The grievor wrote to Mr. Prentice to inform him that she was uncomfortable with Ms. Bernard participating in the pre-disciplinary meeting because she was not neutral. Ultimately, she respected his decision to allow Ms. Bernard to participate, although she was not comfortable with it. She did not think that it was a good idea but accepted his decision. She had a hard time believing that Ms. Boire could be neutral, as she had accused the grievor of work place violence. On January 14, 2015, the pre-disciplinary meeting was to take place. Ms. Bernard, Mr. Prentice, the grievor, and Mr. Coderre were present. The meeting lasted 30 minutes. They discussed the alleged facts, the hallway conversations with Ms. Melançon, and the email exchange about Mr. Roy's linguistic profile. The *Values and Ethics Code* was discussed.

[146] She did not remember everything, but she had several documents in her arms, including the deck presentation and all the documents that she obtained through access to information. She did not express remorse because she did not believe that she had caused harm. She simply shared her experience with the School's appointment

process. She should not have answered Ms. Melançon's question during the meeting. In any case, no one else in the room could have known what it was about. She never intended to harm anyone; she simply wanted to share her experience. At the time, she did not realize the scope of her comments. She did not think that her comments were that serious, and she did not know that they had affected Mr. Roy. That was not her intention. She did not recall if anyone told her that the emails had been shared with Mr. Roy.

[147] At the January 15, 2015, meeting, Ms. Rodrigue, Mr. Prentice, the grievor, and Mr. Coderre were present. The grievor expressed her frustration at not having a meeting after her spouse had driven for five hours. She remembered expressing frustration and described the sequence of events. She was accused of having an aggressive attitude and of committing work place violence. Those were the accusations, and she was asked to describe what had happened.

[148] As for the choice of investigator, the grievor did not accept the investigator, Mr. Bissonnette. After the report was complete, it was too late to challenge the choice of investigator. She admitted that she should have made her choice known early in the process. She remembered that she had never done so.

[149] In early January 2015, the grievor emailed Mr. Clairmont and copied Mr. Payette. In it, she said that she had made a workplace-harassment complaint but that no one followed up. She wanted to make sure that her complaint was taken seriously and that it was sent to the appropriate person. Ms. Rodrigue replied to her email, to inform her of the different options.

[150] On January 19, 2015, the grievor made a 13-page harassment complaint against Ms. Boire and Ms. Bernard in which she described the facts dating back to 2009. The heart of her complaint was that she no longer had the same tasks relating to her PE-05 position as a learning specialist team leader and that no one had explained to her so that she could understand why her position had been changed. In her complaint, she stated that the events at the heart of her complaint occurred between March 2014 and December 31, 2014.

[151] She explained that an external consultant had carried out an investigation, but she did not know who, exactly. The investigator noted what she had to say. Of the 11 allegations, 3 were upheld against Ms. Boire. The grievor did not know what the School

did with the file. Ms. May-Cuconato drafted a response to the report, which allowed the grievor to provide her opinion on her response. Ms. May-Cuconato considered that no harassment had occurred. The grievor met with her to discuss the substantiated allegations, but ultimately, the complaint was dismissed. The grievor did not challenge that decision.

[152] On April 2, 2015, the grievor was suspended for two days. The entire situation impacted her significantly. It all started in 2008, when the working conditions were hard for her; she was depressed, and she consumed a considerable amount of alcohol. In 2012, she began to get back on her feet when she stopped consuming alcohol excessively and regained a short-lived semblance of balance. Because of these problems, she fell into depression in 2015 and 2016. Again, she began consuming alcohol excessively. The entire situation, including the duration of the toxic work environment, destroyed her mental health, her physical health, her children's mental health, and her financial situation. But it did not destroy her family. She had an extraordinary spouse who supported her and her children, and her family helped. Her father also helped.

[153] The grievor was accused of work place violence, and so was her spouse, although she came from a family that was far from violent. Her spouse represented Canada elsewhere in the world, and he was accused of being violent even though he had made many sacrifices for his country, and he was accused of being violent in the workplace. In his opinion, it was outrageous. The report stated that he was violent, but no one ever asked him for his version of what had happened. The report was shared publicly in response to an access-to-information request.

[154] Mr. Lefebvre learned that the report was made public after the military police called him. He was investigated in response to the incident. Once again, the grievor felt that the School's strategy was to use him to get to her. She could not believe that an organization could do that to an employee.

[155] Still today, several years after the events that led her to grieve, it was hard on the grievor's health. She was still unsteady in the workplace and had a very hard time trusting management. She sought help from people whom she was told that she could trust. But they put her in a disastrous situation, and not only her but also her entire

family. She could not fathom that a group could do that. Ultimately, all she wanted was her position with tasks at her group and level.

[156] She did not understand what management had accused her of. She understood the word “slander”, but she did not know what Ms. Boire had referred to. The grievor supposed that Ms. Boire had referred to the meetings with senior managers and discussions about the appointment process for the PE-06 acting position. She understood that she should have used the formal challenge processes. In her opinion, the term “slander” means “intent to harm”. She had never intended to harm. She spoke of the fact that there was no documentation in the staffing file and said that the linguistic profile should have been documented from the outset, even before the person was appointed to the position. Based on the access-to-information file, she noted that the file was not put together well. According to her, it is possible that the School might possess other documents, but she was not sure. The only thing that bothered her was that they appointed someone who did not have the required linguistic profile. She obtained documentation indicating that the appointee had to undergo language testing. In her opinion, they appointed that person to disadvantage her personally. She did not make a staffing complaint against the acting appointment process in question.

[157] The relationship with Ms. Boire was strained because the grievor asked questions about her position as she occupied it in 2012. In April 2014, when she returned from her secondment and rejoined Ms. Boire’s team, she wanted a facilitated meeting with Ms. Boire to resolve the conflicts, but Ms. Boire refused every time. The grievor did not make a staffing complaint against Mr. Roy’s appointment to the PE-06 acting position. She did not remember discussing it with different colleagues. She always spoke with her door closed. She remembered speaking about the appointment process with Mr. Beaumier, but not about Mr. Roy’s lack of language skills. In her opinion, she was always portrayed negatively and was constantly accused of malicious intent as though she had no workplace rights. Before her secondment, she held a PE-05 position with supervisory duties. When she returned, she no longer had the position, and her tasks were well below her skills. If the position became surplus, she should have been informed, and she should have received priority status.

[158] Ms. Boire was very adamant. She wanted to offer a substantive position to Mr. Roy. It was her misperception that the grievor’s requests denigrated people and that

she spread rumors and made baseless accusations. Rather, the June 9, 2014, meeting with Ms. Boire and Ms. Bernard was about the tasks that were taken from her. The grievor received no documents to demonstrate what became of her tasks. She obtained no information and had no history of her position. Ms. Bernard informed her that she should consider herself lucky to have tasks. Ms. Boire told her to stop questioning what had happened to her position and to stop the slander.

[159] The grievor sought to recover her position. She did not dispute Mr. Roy's skills. She did not want to be placed in a conflict situation. She did not want to report to him directly because allegedly, she had no experience working with senior management. She did not understand why it was so difficult to inform her about her position. She had a work description with a position number.

[160] She was familiar with the School's code of conduct. She understood that if her conduct was inappropriate, consequences and disciplinary measures would ensue. The warnings were made purely to intimidate her. The context and the people she had to deal with clearly indicated that there was a problem. She was made to appear as the worst employee. It went both ways. She came across as a nuisance if she filed a grievance or made a complaint. She did not file a grievance about her position because the deadline passed.

[161] She spoke with Mr. Roy about the PE-06 appointment process. He was also unhappy with how it had been managed. They discussed the closing of linguistic services training, the environment of change, how people were worried, all the major cuts, and the layoffs of 150 School employees. He knew that she had made an access-to-information request and that she had had an informal discussion and that she considered inadequate the feedback that she had received. She remembered discussing the process only with Mr. Beaumier and his dissatisfaction with it.

[162] Her father-in-law accompanied the grievor to the meeting with the investigator. But for the pre-disciplinary meeting, she wanted her spouse to join her. That meeting was to begin at 3:00 p.m. She arrived at 2:20 p.m. She sat in the lobby to wait for her spouse. She read documents while waiting near the door. At 3:20 p.m., he called her to let her know that he would be late. She was not comfortable confronting Ms. Boire and Ms. Bernard in person. She wanted to write a note but did not think of it. If she could go back in time, she would. She believed that Ms. Boire was constantly looking for fault

in her. The meeting was a pre-disciplinary meeting. She wanted to avoid meeting with them alone at all costs.

[163] She did not remember commenting about Ms. Cantin. In cross-examination, she admitted that she should not have made the comments that she did to Ms. Melançon and that she had made a mistake. She disagreed that it was a form of gossip. She did not intend to harm. It was simply a discussion about the process and linguistic profile and was not against Mr. Roy personally. The language proficiency was not reassessed. No language assessment was made, which is what she complained about.

[164] The grievor's spouse testified that he remembered the reason for the pre-disciplinary meeting in November 2014. The grievor asked him to attend the meeting as a witness. The meeting was held to discuss slander. He found it bizarre to hold a pre-disciplinary meeting for slander. He agreed; she trusted him, and she knew that he would tell her if she were in the wrong. She did not want to involve other colleagues. The day of the meeting, a storm struck Borden, where he was located. He had to drive about five to six hours to the meeting. He remembered calling the grievor to inform her that he would be late. He arrived at 3:50 p.m. He did not have time to change his uniform. When he met his spouse at the building entrance, he saw Ms. Boire and Ms. Bernard in the hallway. The grievor informed them that he had arrived. They did not greet him or even say hello. They did not want to know anything. Ms. Boire said that it was too late. He said to the grievor, "[translation] Come on, we will call your boss." The welcome and the refusal to speak to him did not sit well.

[165] Mr. Lefebvre walked at his own pace behind the two women, but the grievor walked quickly. The two women went through the doors and did not hold them open for him and the grievor. When they arrived at the bottom of the stairs, Ms. Bernard and Ms. Boire were already at the top. Once at the top of the stairs, Ms. Bernard and the grievor were somewhat close to each other, and he and Ms. Boire were slightly closer. He was unimpressed by their interaction. The grievor said, "[translation] Carole, we must talk." Ms. Boire refused. He said to Ms. Boire, "[translation] Leaders take care of their people", and added, "[translation] The leadership here is not strong." Ms. Boire did not react. He did not know if she had heard him. According to him, on a scale of 10, the tone was about at 5. They did not speak more loudly than did the others.



[166] The grievor spoke and said, “[translation] He has just driven six hours; the drive was hard, and you did not even say hello to him.” He expected some politeness and to finish the initial meeting. When he said that he had driven a long way, Ms. Bernard put her hand in his face. He could not see whom she spoke to when she asked Mr. Boisvert to witness their discussion. He did not understand why she asked Mr. Boisvert to observe. He is not someone who speaks loudly. In his left arm, he had his jacket, and in his other hand, his beret. No one pointed a finger. When Ms. Bernard called out to Mr. Boisvert, Mr. Lefebvre said to the grievor, “[translation] We will go to your office and do what we came to do.” The grievor said that she would make a harassment complaint against Ms. Boire. They stayed in the office for about 20 minutes.

[167] Mr. Lefebvre began to write his email to Mr. Prentice before going to bed that evening. He wanted Mr. Prentice to know that he was angry. He admitted that he had commented negatively on Ms. Boire’s leadership and that he should not have said those things. He wanted Mr. Prentice to understand that it was unacceptable to receive people from outside in that way. When he saw Ms. Bernard ask Mr. Boisvert to witness the conversation, he said to himself that it was a setup. The truth was somewhere between the two versions. He believed that Mr. Prentice would be neutral. That was wrong, as Mr. Prentice quickly used Mr. Lefebvre’s email against him.

[168] A confrontation took place, but it was not stronger on one side than the other. There was no discussion. Ms. Boire simply said that she would decide based on the information that she had on hand. He lost patience somewhat because he had just driven six hours in a storm only to be told that the meeting would not happen. He also felt that how he was received had been extremely impolite. In the email, he apologized for losing his cool. He did not usually lose patience. He spent the weekend at home and returned to Borden on Monday. When the grievor returned to the office on Monday morning, she was escorted from the building. He did not understand why an investigation was held.

[169] Investigator Bissonnette never contacted Mr. Lefebvre for his version of the facts. When he read the draft investigation report, he could not believe it. The allegations surprised him, and the report appeared biased. He did not appreciate that Ms. Bernard and Ms. Boire accused him of having been aggressive and having used intimidation tactics. Those were very serious accusations. He shared his concerns with his boss. He wanted his boss to know that something had happened and that he would

challenge the report. In his opinion, the report defamed him. He had 32 years of military service. He could become a general one day, and he knew that those accusations could affect his security clearance.

[170] In September 2015, he was informed that the military police would conduct a military investigation into what had happened at the School. The military police closed the file, and no disciplinary measures were imposed on him. He learned through access to information that the School gave the investigation report to the military police. The School called the military police and the army ethics office. The file was sent to Mr. Lefebvre's boss so that he could assess the situation and take action against him. His boss took no measures against him. In the file, no one obtained his version.

[171] He emailed Mr. Prentice to apologize for being angry. He denied raising his voice or walking quickly behind Ms. Boire and Ms. Bernard. The police report contained Mr. Bissonnette's report and was sent by the School. Ultimately, his career was not affected.

[172] The grievor called Mr. Beaumier. He testified about the workforce adjustment in 2014 and about losing his position. He succeeded in an appointment process for the same type of position that he held before the adjustment. He supervised two to four people. His team was responsible for designing content and publishing online work products. Ms. Boire was his immediate supervisor. He has known the grievor since 2006.

[173] He and the grievor were co-workers; they never had a reporting relationship, and they did not work on the same projects. In 2014, the work environment was difficult. In 2006, the federal government decided to transfer language training to the private sector. He knew that language training would leave the School. In 2012 and 2014, he knew many colleagues who lost their positions. It was a shock. The School went from 100 to 25 people. He knew that other adjustments would be made, but he did not know which ones. He expected that other positions would be cut. In 2014, everyone was fearful, and no one felt secure.

[174] According to Mr. Beaumier, management did not prepare them for what was to come. There was a large amount work and not many people to accomplish it. It created tension. Staff management was poor. Sometimes, the work was heavy and difficult. People management was lacking. When things happened or were going to happen, no

manager took the time to take care of the employees. Many managers left, and no one took care of the employees. Ms. Boire was the acting director. The environment was unstable. There was no support, and no meetings were held to speak to them and let them know what was going on.

[175] He had no conflict with the grievor. They were always on good terms. She was a good colleague; she was very humane, easy to communicate with, and ambitious, and she had character. They always got along well, and their relationship was strictly professional.

[176] He did not directly witness the incident between the grievor and Ms. Boire. However, he remembered a meeting about a deck that the grievor had worked on. He recalled an exchange with Ms. Boire during a meeting with several people. The grievor's work was done, but it just sat there. Ms. Boire did not take it into account; the deck had been ready for three weeks. She could not explain why she did not take it into account. The grievor got up and left the meeting.

[177] He never saw a direct altercation. He had difficulty with Ms. Boire. In his opinion, she is very insecure. When he joined the team, she was insecure from the start. She wanted him to develop products. She made him redo the same thing several times. He always had to start over. She could not communicate what she wanted. He expressed to her that she should tell him what she wanted. He said what he thought. Ultimately, his previous manager Nancy Gauthier came for him, to bring him back to her team.

[178] Ms. Boire had him work on a special project for a year. When Ms. Gauthier left, Ms. Cantin became the acting director, and he was told that he would work with Ms. Boire. According to Mr. Beaumier, Ms. Boire constantly tried to make friends with one and all, and when that did not work, she went elsewhere. It was not his style to sit in an office for two hours chatting about this and that. She had a hard time recognizing others' successes, and when something went wrong, it was her employees' fault.

[179] Ms. Boire entrusted him with a project, on top of his other projects. He worked with a programmer to develop a product and present it to a group. They did not like the colours, but the content was correct. The colours were not important because they could be changed later. When they left the meeting room, the programmer was unhappy. Ms. Boire spoke to the others. She had entrusted him with the project, and

she had talked behind his back. As his manager, she should have spoken to him directly. However, she decided to speak with others about it in the hallway. He knew that she had met with others about the project behind his back without telling him.

[180] He told her to give the project to other people, as the matter of colours was finished. It was often like that. Meetings had no agendas. They would not know what they were about. She would instruct them to see her, but they would not know why. Working with her was very difficult and frustrating.

[181] In a meeting about a course that he developed, Ms. Boire had the opinion that he had shouted. He recalled expressing things clearly, without shouting. He confirmed to her that the project would not be ready before February. Around mid-February, he met with Ms. Cantin, Ms. Boire, and others. Ms. Boire told him that he had confirmed that the project would be ready by late February. That was not at all what he said. He said that the project would not be ready before the end of February. Ms. Boire had committed to having the project ready before the end February. Twice, she threatened to take measures against him. She repeatedly said that he had shouted at her. Not long after that, he stopped speaking directly to her, for close to a year. She was still the director, and she went through Mr. Roy to communicate to him what she required.

[182] He was Mr. Roy's colleague. He had a PE-05 position, and they did not work on the same projects. The grievor never had an altercation with Mr. Roy. Ultimately, he obtained the PE-06 acting position. The grievor questioned why he obtained the position because she said that he had less experience than she did. Certainly, it was normal to be frustrated; a person always thinks that they are the best person for the job.

[183] On November 28, 2014, Mr. Beaumier was alone in his office. He was working on one of the projects and had a question for Ms. Boire. He saw her in the hallway, coming from the stairs. She informed him that it was not a good time, as she did not have time. He turned to go back to his office. He saw a soldier behind the grievor. Near the washroom, he saw them ascend. When he saw the soldier, he thought that there was a project with Defence because the soldier was in his military uniform. The grievor climbed the stairs. He heard the soldier say, "[translation] It is not strong." He thought that the comment was about a project. The grievor was ahead of him. On the way into his office, he closed the door. However, he did not know if the door closed. About 15

or 20 minutes later, Ms. Boire came to see him to ask if he had heard noise or anything else. Certainly, the hallway had somewhat of an echo, but conversation sounds were difficult to distinguish. He had a hard time distinguishing what was said, and he did not know what it was about.

[184] Ms. Boire came to ask him if he had heard anything. On the Friday and the following Monday, he met with the grievor in the cafeteria. He asked her if there was a project with Defence. That was when he learned that a discussion to facilitate the resolution of a conflict was supposed to have been held. He found out that the soldier was the grievor's spouse. Ms. Cantin called him to find out what had happened. It was clear that time that something had happened because the investigator called him later that day. When Ms. Boire had knocked on his office door, he had found her insistent. In his opinion, she tried to get him to say something that he did not think was right.

[185] In cross-examination, Mr. Beaumier explained that two incidents occurred with Ms. Boire. She did not speak to him for more than a year. He began working with her in 2008. The problem with her was that she made him work for nothing. From 2012 to 2013, he did not speak to her. He had a good working relationship with the grievor. They did not really work on the same projects. They saw each other regularly. Like normal colleagues, they chatted. On November 28, 2014, when he heard the soldier say, "[translation] It is not strong", the soldier was at the top of the stairs. Mr. Beaumier continued toward his office; the soldier followed the grievor, and he went back to his office. He saw the grievor walk toward her office, and, from what he recalled, she turned right.

[186] The grievor called Mr. Clairmont, who is currently the national health and safety manager at Indigenous Affairs. He had over 10 years of health and safety experience at the School. He remembered several restructurings at the School. He took care of health and safety accommodations. He was the health and safety manager. According to him, health and safety are two different things.

[187] The occupational health and safety branch was mandated to ensure that Part 2 of the *Canada Labour Code* (R.S.C., 1985, c. L-2) was respected, including everything involving education and awareness in the workplace. Each worksite had a committee composed of employees and Human Resources officials. Volunteers inspected the building. He was responsible for providing training and taking part in investigations.

[188] As a manager, he had to set up the health and safety program at the Asticou Centre and the Sussex office. He knew the grievor. She worked with the director, Mr. Payette, for six months or a year on different projects. His mandate was to draft the *Policy*. Part 2 of the *Canada Labour Code* states that an attempt should always be made to find an amicable solution, which means attempting to find an informal way to manage the conflict.

[189] If a complaint was to be made, it was made to the immediate supervisor. Unfortunately, people instinctively went to the health and safety specialists. What people failed to understand was that he did not represent the School. He considered himself a neutral party. If the School or employees asked questions, he replied on how to proceed and explained the procedure based on *Canada Labour Code* requirements.

[190] If a decision was made to investigate, he would provide the necessary information per the *Canada Labour Code*. A neutral investigator would be appointed as mutually agreed to by the parties. The concept of work place violence was new. The investigator's role was to draw conclusions based on the work-place-violence definition. The investigators' résumés were given to the parties, who had to choose one. The parties could not challenge the choice of investigator without good reason.

[191] The choice of investigator was communicated through the immediate supervisor. The investigator's role was to conduct a neutral, unbiased investigation and to determine whether the events fit the legal definition of "work place violence". The investigator had to determine whether work place violence had occurred; the objective was not punitive. The goal was to identify the cause of the event and what could have been done to prevent the situation and not have it happen again, policy or training, etc. The objective was not to punish. If the School wanted to undertake a disciplinary process for work place violence, at that time, the harassment complaint would go to Human Resources, which had a very different objective.

[192] Mr. Clairmont recalled that on November 28, 2014, he received a call at home from the grievor. She was very emotional. She had had a meeting with Ms. Boire and Ms. Bernard. Her high-ranking military spouse had received special permission to come to the region. He came in the door, and both women headed to the second floor. The grievor wanted to return to her office and followed the two women, with her spouse.

She said that under the circumstances, the conversation at the top of the stairs was strained.

[193] Ms. Bernard could not continue the conversation because of her family obligations. The grievor was frustrated because her military spouse had driven several hours to attend the meeting.

[194] In the past, she had already confided in him, and so, he told her to be honest about what had happened and to write down everything that had happened. He spoke to her about the two harassment processes and the work-place-violence process. She chose to go through the harassment process. He informed her that he could not help her. The only thing that he could do was read over her complaint. After speaking to the grievor, he spoke to Mr. Payette, who had received the same call from Ms. Boire. The versions were almost the same. Still, he went to see Ms. Boire to obtain her version. From what he recalled, both versions were similar, with a few exceptions. He reported everything to his manager, Mr. Payette.

[195] In his opinion, it was strange for the complaint to be made to the assistant deputy minister, Ms. May-Cuconato. Typically, complaints were made to the immediate supervisor. Far more serious situations occur, and she never became involved in day-to-day work conflicts.

[196] Mr. Prentice, Ms. Bernard, and Ms. Boire were supposed to meet, to impose a disciplinary measure. Because he was in charge of safety, it was thought that he was a security guard, which was not at all his role. Mr. Clairmont arrived, and he was given very clear instructions to escort the grievor out of the building and to collect her card. He apologized to her, and he did not personally think it necessary to expel her from the building. His director gave him the order.

[197] All the parties' well-being was the most important thing. It is important to find a reasonable way to separate the parties and to minimize the overall impact on the workplace. Typically, people did not work on the same floor. He had never seen someone sent home. She would not have had contact with those people in any way. She would have moved after that difficult conversation. Voices might have been raised, but because of the allegations on both sides, it was necessary to separate them. Nothing serious happened.

[198] He did not understand why Ms. May-Cuconato was involved in the file. It was strange that the file was given to Ms. Cantin. It was an investigation into a work-place-violence complaint; Human Resources should not have been directly involved in the file.

[199] There was a perceived conflict of interest with the grievor. Both Ms. Cantin and Ms. Bernard were among those who had a conflict with the grievor. He was a manager, and little bosses did not impress him. He had to say something. The investigation was becoming out of hand, and he felt the need to protect himself. The deputy minister was a difficult woman to work with. She was a career woman, and anyone who did not toe her line was doomed.

[200] He was the person to see. All the parties came to see him. He asked them not to involve him. Ms. Leigh was Ms. May-Cuconato's right hand. His role was not to support management. He was there to do his work. They accused him of defaming Ms. Cantin, when he said that she did not have the expertise to take on a work-place-violence complaint file. In his opinion, there was a perceived conflict of interest. He did not agree with how management had handled the process. He made himself available to talk about it if the need arose.

[201] He disagreed with the approach. An examination of how things were done would reveal that it went against the *Canada Labour Code*. The procedure set out in s. 20 of the *Canada Labour Code* was not followed. In his opinion, the issue in general and the perception of neutrality were not followed. An employee was taken and removed from the building. Ms. Cantin, who had connections to the parties, handled the file.

[202] Section 20 of the *Regulations* is not intended to punish. The goal is to find out why and to identify the tool or solutions to resolve the situation so that it does not happen again. He took courses with Mr. Bissonnette. In the past, he was an investigator with the Royal Canadian Mounted Police. He conducted criminal investigations. He did not like how things played out.

[203] Later, Mr. Lefebvre met with him. He was part of the investigation because of the call with the grievor immediately after the event. Mr. Lefebvre informed Mr. Bissonnette to be careful and to question everyone, without exception. The facts that Ms. May-Cuconato was involved and that Ms. Cantin was tasked with managing the file



were problematic. The most important thing under the *Canada Labour Code* is attempting to resolve the conflict amicably, which was not done in the circumstances. The parties confused harassment and disciplinary measures. Mr. Clairmont believed that there was something unhealthy in how the process was handled.

[204] It was very clear to Mr. Bissonnette that the grievor had difficulties at work. She was psychologically distressed and very fragile. Looking at the events and how things happened, her spouse, a soldier, came to accompany her. He had to obtain special permission. After a five- or six-hour drive, he arrived at the School and was informed that the meeting would not take place, as it was too late. It made sense that the conversation was difficult according to the versions of Ms. Boire, Ms. Bernard, and the grievor. That is what Mr. Clairmont said to Mr. Bissonnette.

[205] He could say that he had worked with the grievor. She was fragile and had difficulties at work. An unfortunate event took place that involved several people and that could have been handled differently. Based on his experience and expertise, at the management level, when conflicts arise, formal investigations are not the best course of action.

[206] As for the *Policy*, it had been in place for about a year-and-a-half or two years. It was beginning to gain momentum. In terms of available resources, the School was behind schedule at the program level. The grievor worked on the *Policy*, and then the director, Mr. Payette, approved it. As of the events that gave rise to the conflict, in early November 2014, the *Policy* had been in force for about a year-and-a-half.

[207] The work had begun at that time. Employees confused the concepts of work place violence, harassment, and labour relations. However, in his opinion, managing harassment was always clear. Section 20 of the *Canada Labour Code* was very clear on how to manage work-place-violence situations. There was no ambiguity. He and Mr. Payette were there to help, should any ambiguity concerning the *Policy* have arisen. Had Ms. Boire and Ms. Bernard taken the time to inform themselves from the experts, the outcome might have been different.

[208] In the call with the grievor, he told her to send her version of the facts to the assistant deputy minister, Ms. May-Cuconato. In his opinion, the deputy minister was not always easy, but in this case, he was satisfied that she would have integrity and make the necessary decisions. Given that the assistant deputy minister did not usually

intervene personally, he had no reason to believe that she would become involved. He thought that an amicable solution could be reached, as that was her approach in all the other files in which she had been involved previously.

[209] He was both the security and the occupational-health-and-safety manager. Ms. May-Cuconato was the acting assistant deputy minister. He dealt with her regularly on far more sensitive files, and she had never intervened at that level. She never became involved personally. He recalled a file in which he had had to suspend an employee's security clearance, due to sexual assault. She never became involved in that case; she let them do their job, and she followed their recommendations.

[210] During a conversation between Mr. Payette and Mr. Prentice, the decision was made to escort the grievor. He did not know the details of the conversation, but he was ordered to escort her.

[211] He knew the grievor's history with Ms. Cantin. When the grievor came to work with him, she was going through a difficult time. She was fragile and spoke to him about her past, which involved Ms. Cantin. The grievor was always clear with her and everyone. He can distinguish between things. He never spoke to Ms. Cantin. He worked with her in the past. He had much respect for Ms. Cantin, but, in his opinion, there was an apparent conflict of interest in managing the grievor's file because of their history.

[212] The health-and-safety director knew that the grievor had difficulties at work. Management did not appear to be handling the problem. He and the director tried to help the grievor as best they could. Other than that, he did not know if she spoke to anyone else about it. As a manager, he was responsible for seeing to the well-being of the employees who reported to him.

[213] He recalled that on November 28, 2014, the grievor shared her version of the facts. She asked him for advice because it all related to her harassment complaint. Officially, his role was neutral and impartial. When someone asked him a question, he was obligated to reply. He responded the same way to Ms. Boire, Ms. Bernard, and the grievor.

[214] He was familiar with Mr. Bissonnette's report. He did not witness the event, but he recalled that the grievor was very agitated. He did not believe that she and her

spouse followed Ms. Boire and Ms. Bernard, to harass them. The grievor spoke to him about the finger-pointing accusation, but he knew no more about it.

[215] He did not believe that pointing a finger amounted to work place violence. There was no serious act, but there was a difficult conversation. It got out of hand on both sides. Typically, investigators gather the facts from everyone involved. By examining the facts, they can determine whether it is possible to note that work place violence occurred. They must consider the bigger picture to understand what happened and what to do to prevent a recurrence. Those are the factors described in the *Canada Labour Code*, which is the procedure to follow.

[216] The School recalled Ms. Boire to rebut Mr. Beaumier's testimony. Her testimony was limited to her management style. She explained that she managed about 30 to 40 people. Her door was always open, and she was always prepared to listen. The only complaint against her was the grievor's harassment complaint. The only 2 employees who had given her trouble were Mr. Beaumier and the grievor. Often, she consulted Human Resources to support her decisions. When she held a position at the PE-06 group and level, she completed leadership training adapted to PE-06s that included human resources management, budget management, conflict management, organizational changes and the inner workings of the public service, facilitating contract discussions, and drafting contracts that she had to make outside and within the public service.

[217] While Mr. Beaumier reported to her, senior management made multiple, frequent requests. She reported to Ms. Cantin. There were many product requests. Sometimes, it was about packages, and sometimes, it was about pricing requests. It was not easy because senior management requests always came at the last minute. One day, senior management wanted information about online products, and other days, the products varied. It was an intense period of requests from senior management, and they had to adapt quickly to the requests. Mr. Beaumier was responsible.

[218] Mr. Beaumier allegedly said that Ms. Boire got together with others for hours in her office. She had an employee who had to speak with her about their projects' progress and quality management, so she spent much time with that person. She had employees who were going through tough times in their personal lives. As a result, the employee in question had suicidal tendencies in 2012, and Ms. Boire had to speak to

her boss, Ms. Cantin. It was an intense period. Ms. Boire's door was always open, and she had to meet with people regularly. Another employee had supervisory issues with an employee, which was why she closed her door.

[219] Mr. Beaumier went to her office to talk about personal matters in his life. Given the cuts, he benefitted from her attentiveness as a manager. He informed her that he was eager to retire.

[220] She disagreed with the testimony of the accusation that she had a hard time giving others credit and recognizing their good work. She delivered certificates by hand to recognize accomplishments, which people appreciated. Her team celebrated Christmas and organized social activities, such as bowling. When employees produced online products, she organized occasions with other School business lines to demonstrate what the employees had done and to congratulate them in front of the other business lines.

[221] During a meeting about a particular project with Mr. Beaumier, she recalled that things got out of hand because of product colours. The product was the Cénarimage ESD2. Another person developed the online product with a programmer, Mr. Beaumier worked on the French-as-a-second-language terminology, and she supervised. Mr. Beaumier was the point person with the programmer.

[222] When the time came to present the product, she thanked Mr. Beaumier and the programmer. However, she and the developer felt that the colours were grey. It was slightly too black. The product was well programmed, but she and the developer pointed out that the colours were too dark. Although the criticism was constructive, Mr. Beaumier did not take it well. He was shocked. If anyone spoke out against him, he was shocked. She asked if a different colour was possible within the School's code. He returned with a new colour, and everyone was happy. Mr. Beaumier was shocked and angry because the colours had been criticized, and he wanted to remove himself from the project. She informed him that he had to stay and that the colours had to be improved. The project was a success. She recognized Mr. Beaumier's work in front of the other business lines and the entire team.

[223] She disagreed with Mr. Beaumier that staff meetings never had an agenda. When she was a PE-06, she met with employees working in product development. A round-table discussion was always held to talk about the progress on developing products.

Product development could have had issues. When she was an EX-01, there was always an agenda, which her assistant prepared. The agenda was almost always the same; it included the vice president's new decisions, and the deputy minister passed on information to them from senior management about the School's trajectory. Round-table discussions were held.

[224] She admitted that she and several other people in language training nicknamed Mr. Beaumier "[translation] Mr. Integrated Learning Management System (ILMS)". He was the ILMS contact and was their language training administrator. As the administrator, he attended meetings with IBM. She hoped that sending her message to other employees would motivate them. In meetings, people asked many questions about the system. He no longer wished to be called Mr. ILMS. However, he was the administrator, and they addressed themselves to him. Personally, she stopped calling him Mr. ILMS as soon as he asked.

[225] She recalled the incident that occurred in 2013, specifically in late July 2013. Ms. Cantin asked her for quick data on the ILMS, so she went to see Mr. Beaumier to request the data as they were part of the paid or unpaid language training packages. Mr. Beaumier exploded and shouted this: "[translation] Enough! You always come to me at the last minute." Ms. Boire explained to him that the information had to be given to senior management so that it could change direction. Ms. Boire left his office to return to her own, and he continued to shout and explode.

[226] She called Human Resources to make a complaint against Mr. Beaumier. Human Resources suggested a facilitated discussion with him to improve their relationship. Facilitated discussions took place in 2013 and 2014. They began their facilitated discussion, and in late October, she became the acting EX-01. He reported to Mr. Roy because she changed positions. Mr. Roy and Mr. Beaumier were in charge of changing their program titles. Mr. Roy was Mr. Beaumier's immediate supervisor, so she did not have to speak to him often.

[227] Early in the facilitated discussions, things were very difficult. Ms. Boire could not look at Mr. Beaumier. However, his manager helped facilitate the discussion. He admitted that he had raised his voice. He explained that he was stressed by the changes at the School.

### III. Reasons, and summary of the arguments

[228] An adjudicator seized of a discipline case must assess whether the conduct that led to disciplinary measure took place and whether the penalty imposed was appropriate and, if it was not, determine the appropriate penalty (see *Basra v. Canada (Attorney General)*, 2010 FCA 24 at paras. 24 to 26; and *Wm. Scott & Company Ltd. v. Canadian Food and Allied Workers Union, Local P-162* (1976), [1977] 1 Can. L.R.B.R. 1 at paras. 13 and 14 (“*Wm. Scott*”)).

[229] The School had the onus of proving the underlying facts that were invoked in the disciplinary letter to justify imposing the discipline as well as its appropriateness (see Palmer & Snyder, *Collective Agreement Arbitration in Canada*, 4th ed., at paragraph 10.67). The standard of proof is the civil standard of the balance of probabilities.

[230] Once the misconduct was proven, the School had the onus of demonstrating that the suspensions were proportional to the degree of misconduct. Specifically, the School had to demonstrate that the grievor’s alleged misconduct was serious enough to justify the two suspension days.

[231] On April 2, 2015, the School imposed a two-day unpaid suspension for insubordination and for violating the *Policy*. Mr. Prentice testified that the School imposed one day of suspension for the gossip and slander, and one day of suspension for violating the *Policy*. The School had to prove the allegations set out in the suspension letter that in its opinion justified imposing the two days of suspension for the listed incidents.

[232] Specifically, it had to establish on a balance of probabilities that Ms. Boire warned the grievor to stop spreading rumours and gossip about her colleagues and that despite those warnings, she continued. The School also had to establish that the grievor displayed violent behaviours in the workplace as defined in the *Policy*.

[233] When determining proportionality, the Board must determine whether the disciplinary measure imposed was excessive. The inquiry into the appropriate penalty requires reviewing all the relevant surrounding circumstances, including mitigating factors, such as the employee’s state of mind, which has a direct bearing on culpability, her clean discipline record, and her years of service, as well as aggravating factors such

as her behaviour during the investigation process, and any previous training that she would have completed (see for example, *Wm. Scott*, at para. 14; *Samuel-Acme Strapping Systems v. U.S.W.A.*, *Local 6572* (2001), 65 C.L.A.S. 157 at para. 210; *Georgian Bay General Hospital v. OPSEU*, *Local 367* (2014), 243 L.A.C. (4th) 112 at paras. 58, 65, 66, and 68; *Fundy Gypsum Co. v. U.S.W.A.*, *Local 9209* (2003), 117 L.A.C. (4th) 58 at paras. 40 and 45; and, more generally, Brown and Beatty, *Canadian Labour Arbitration*, 5th ed., at 7:4424).

[234] If the disciplinary measure was excessive, the appropriate penalty must be determined. If it was not excessive, then it remains valid (see *McKinley v. BC Tel*, 2001 SCC 38 at paras. 29, 48, and 57; and *Basra v. Deputy Head (Correctional Service of Canada)*, 2014 PSLRB 28 at para. 29).

[235] It is not necessary to review facts stated previously. In addition to the overwhelming evidence presented, the parties spent considerable time on the factual background as they claimed to have heard it. I read and carefully considered all their written arguments and the case law to which they referred. Although I read them carefully, their respective versions of the facts as they saw them were not always consistent with the evidence heard and noted. The following is a summary of the arguments relevant to the issues.

[236] Overall, the testimonies relevant to the issues were not contradictory. For the relevant discrepancies, I will highlight and resolve them according to what I believe is most likely, if necessary (the discrepancies do not always impact the final conclusions).

**A. Did the grievor spread rumours and gossip about her colleagues despite the School's warnings to stop doing so?**

[237] The grievor submitted that the School invoked insubordination to justify the disciplinary measure because of her clean disciplinary record and the absence of progressive discipline related to the alleged slander.

[238] According to the grievor, for insubordination to be found, a clear directive must have been given. She argued that management made no clear directive. She did not know what Ms. Boire was talking about when she told her to stop spreading slander and rumours. In addition, according to the definition of the word "slander", the grievor argued that it implies malicious intent toward the person against whom the words are spoken and that she had no such intent. To support her allegations, she referred to

*Nanaimo Collating Inc. v. Graphic Communications International Union, Local 525-M* (1998), 74 L.A.C. (4th) 251 at para. 36; and *Pugh v. Deputy Head (Department of National Defence)*, 2013 PSLRB 123 at para. 141.

[239] The grievor submitted that she simply answered a question from her colleague, who then spread the information about Mr. Roy, and that the colleague initiated the first email exchanges that followed. At no time did the emails contain any trace of defamation against her colleague. There was only a challenge against the selection process and an allusion to the documents that she allegedly obtained through access to information that she had to prove it. In the end, the documents were never shared. In her opinion, such behaviour does not constitute slander.

[240] For the reasons that follow, I disagree with the grievor. The testimonial and documentary evidence demonstrated that she committed the acts as alleged in the disciplinary letter. According to the evidence, it is more than likely that she spread rumours and gossip about Mr. Roy's language skills, despite Ms. Boire asking her several times to stop it. At the June 9, 2014, meeting, which Ms. Bernard attended, Ms. Boire verbally informed the grievor to stop speaking negatively about her colleagues. On October 3, 2014, Ms. Boire also emailed a written warning to the grievor. In November 2014, in her email exchange with Ms. Melançon, as well as during a discussion in the hallway, the grievor continued to speak negatively about her colleague. I do not find the grievor credible when she stated that she did not know what Ms. Boire meant when she spoke about slander and rumours.

[241] Ms. Boire, Ms. Bernard, Ms. Melançon, and Mr. Roy all testified that the grievor accused Mr. Roy of not having the language skills required for the PE-06 acting position to which he was appointed. The grievor claimed that there were serious anomalies in the appointment process. However, she provided no explanation as to why she did not avail herself of her right to make a staffing complaint against his appointment.

[242] Ms. Bernard, Ms. Melançon, Mr. Boisvert, and Mr. Beaumier all testified about their personal experiences with the grievor questioning Mr. Roy's language skills and his appointment to the PE-06 acting position. Mr. Beaumier testified that the grievor expressed frustration about his appointment and that she claimed to be better qualified.



[243] Both Ms. Boire and Ms. Bernard testified that the grievor's behaviour never changed. She constantly repeated the same insults, and her behaviour contributed to an environment that was already negative because of the cuts and workforce adjustment. They both testified that her behaviour was evident at the June 2014 meeting, in October 2014, and in November 2014.

[244] Ms. Boire's email dated October 3, 2014, clearly warned the grievor to stop her behaviour. Furthermore, Ms. Boire and Ms. Bernard testified that at their meeting in June 2014, the grievor was warned verbally to stop the behaviour. Despite the warnings, she continued to spread rumours and gossip.

[245] The email chain between Ms. Melançon and the grievor dated November 14 and 18, 2014, established the alleged misconduct. Ms. Melançon testified that the grievor tried to strike up a conversation with her in the hallway about Mr. Roy not having the required language skills. At that moment, she told the grievor to stop gossiping as it was false information that was harmful to the grievor and Mr. Roy.

[246] The grievor even admitted that fact at the hearing, but she claimed not to have had malicious intent. Nevertheless, she should have known that that type of behaviour against a colleague was inappropriate and could harm not only the work environment but also him personally. That type of rumour could have undermined his authority as someone in a manager position.

[247] She claimed that she complained about how her return to the School played out. Maybe she complained about it, but it did not stop her from continuing to gossip and spread rumours against a colleague after she was warned to stop. In my opinion, regardless of her alleged intent, the behaviour amounted to slander, as the disciplinary letter indicated. Therefore, the School established the facts underlying the alleged misconduct. Now, I must determine whether the disciplinary measure was proportional to the misconduct.

**B. Was one day of suspension proportional to the seriousness of the alleged acts?**

[248] As previously stated, the Board must determine whether the disciplinary measure imposed was excessive. The Board will not intervene if it was reasonable. The inquiry into the appropriate measure requires reviewing all the relevant surrounding circumstances, including mitigating factors, such as the employee's state of mind,

which has a direct bearing on culpability, her clean discipline record, and her years of service as well as aggravating factors, such as any previous training that she would have completed (see, for example, *Wm. Scott*, at para. 14; *Samuel-Acme Strapping Systems*, at para. 210; *Georgian Bay General Hospital*, at paras. 58, 65, 66, and 68; *Fundy Gypsum Co.*, at paras. 40 and 45; and, more generally, *Brown and Beatty*, at 7:4424).

[249] When he determined the appropriate disciplinary measure, Mr. Prentice said that he considered her clean disciplinary record, the fact that she knew what was expected of her, the fact that she showed no remorse and took no responsibility for her actions, the fact that she gave no reasons for her conduct, and the fact that she showed no intention to change her behaviour.

[250] As a major aggravating factor, the School considered that on November 20, 2014, the grievor took a course entitled, “[translation] Workplace gossip”. Despite that training and Ms. Boire’s warnings at meetings and pre-disciplinary hearings, the testimonial evidence demonstrated that the grievor continued to make negative and disparaging comments about certain people. In addition, on June 9, 2014, the grievor was warned verbally, and in October 2014, she received a written emailed warning from Ms. Boire to stop spreading false information.

[251] According to the grievor, in addition, the School should have taken into account her intent, which was not malicious, and the fact that she had never received a disciplinary measure on that subject. She submitted that she admitted at the hearing that in hindsight, if she were to do it over, she would handle it differently. She would mind her own business and not respond to Ms. Melançon. The grievor said that she was upset to learn that Mr. Roy was affected by the situation and that before the hearing began, she was not even aware that the emails had been sent to him.

[252] The grievor submitted that the School could not accuse her of lacking remorse at the pre-disciplinary hearing on January 14, 2015, considering that it accused her instead of refusing to obey Ms. Boire’s orders and of committing slander by trying to denigrate someone. In her opinion, one day of suspension was highly exaggerated. A written reprimand would have sufficed for her to change her behaviour in the future.

[253] I accept as true that the grievor felt insulted by the work that she was assigned in June 2014. I also accept that she was frustrated by the lack of information about her

position, whether she was an affected employee, and whether her position was adjusted because of budget cuts. I have no doubt that she had workplace difficulties in her relationship with Ms. Boire and the School's management in general that impacted her not only professionally but also personally. She felt that a major portion of her tasks were taken away. However, I did not find her credible when she stated that she did not understand what Ms. Boire meant when she told the grievor to stop spreading slander and rumours against her colleagues. Although she felt harassed by that, I am satisfied that she understood quite well what Ms. Boire referred to.

[254] According to the extensive evidence that was presented, the grievor committed the acts as alleged in the disciplinary letter. Considering the work environment context and the mitigating and aggravating factors noted earlier, one day of suspension was not excessive in the circumstances. The disciplinary measure was proportional to the grievor's actions. Management had to intervene multiple times to instruct her to stop. She was warned verbally. I heard no evidence that would justify imposing a lesser disciplinary measure.

**C. Did the grievor display work-place-violence behaviours as defined in the *Policy*?**

[255] The facts related by the grievor, Mr. Lefebvre, Ms. Boire, and Ms. Bernard about the events of November 28, 2014, were similar, with minor variations. They all testified that a meeting was scheduled that day from 3:00 to 4:00 p.m. Mr. Lefebvre arrived late, just as Ms. Boire and Ms. Bernard left the room. Everyone, including the grievor, testified that she allegedly said something like, "[translation] Carole, he has arrived; go back to the room." The versions differ with respect to her alleged tone and the allegation that she pointed a finger at her manager.

[256] Mr. Lefebvre and the grievor denied that her tone was aggressive and that she pointed a finger. They denied raising their voices. They alleged that Ms. Bernard put her hand in Mr. Lefebvre's face. Ms. Boire and Ms. Bernard stated that the grievor's tone was aggressive. Considerable documentary and oral evidence was adduced to establish each individual's position at the moment of the incident that the School considered was work place violence. I do not find this information particularly relevant, except to establish the distance between the grievor and Ms. Boire and what Mr. Boisvert and Mr. Beaumier allegedly saw and heard.

[257] The grievor and Mr. Lefebvre denied the allegation that she pointed her finger in Ms. Boire's face. Ms. Boire and Ms. Bernard said otherwise. According to the grievor, she had documents in her arms and could not have pointed a finger. Mr. Boisvert testified that he saw the grievor point a finger at Ms. Boire's face, at two or three inches from her face. The grievor and Mr. Lefebvre admitted that they raised their voices some but no more than did Ms. Boire and Ms. Bernard. Mr. Boisvert confirmed that version. In an email to Mr. Prentice, Mr. Lefebvre apologized for losing patience.

[258] I accept the version of Ms. Boire and Ms. Bernard that the grievor's tone was aggressive. While testifying, the grievor was still visibly frustrated that the meeting did not happen. Even at the hearing, I observed that her tone was stiff as she recounted the facts as she remembered them. She admitted that she told Ms. Bernard to find a babysitter so that meetings could be held after 4:00 p.m. I note that the grievor expressed regret for saying that.

[259] At the hearing, the School submitted that the grievor's behaviour constituted misconduct and that there was no valid reason for her to raise her voice, speak aggressively, and point a finger at her manager, even though she felt frustrated in the moment. According to Mr. Prentice, in a workplace, all employees may experience a variety of frustrations, but that does not justify them acting inappropriately toward their manager or co-workers. I agree.

[260] Although the grievor committed misconduct in her interactions with Ms. Boire and Ms. Bernard, this was not the allegation against the grievor in the disciplinary letter. It stated that she displayed behaviour consistent with work place violence as defined in the *Policy*.

[261] The *Policy* defines the term "work place violence" under s. 20.2 of the *Regulations* as follows:

*20.2 ... any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee.*

[262] I am not of the opinion that the grievor's behaviour amounted to work place violence as defined in the *Policy*. I agree with the position advanced by her representative in the written arguments at the hearing that alleged work place violence must be established objectively, after analyzing the viewpoint of a reasonable person

who would objectively conclude that “[translation] the actions, conduct, threats, or gestures complained of can reasonably be expected to cause harm, injury, or illness to an employee” and that the School cannot impose disciplinary measures based on “[translation] a rumour, an insinuation, a perception, or a misperception”. To support its argument, the School’s representative cited *VIA Rail Canada Inc. v. Cecile Mulhern*, 2014 OHSTC 3 at paras. 124 and 130; and *Mangatal v. Deputy Head (Department of Natural Resources)*, 2016 PSLREB 43 at para. 353.

[263] I accept the grievor’s position that Mr. Beaumier was very close to the area where the incident in question occurred and that he heard nothing unusual. I note Mr. Boisvert’s testimony that he would have intervened had he seen or heard something. I believe Ms. Boire and Ms. Bernard that the interaction with the grievor and Mr. Lefebvre caused them stress, but based on the facts, I am not of the opinion that it amounted to work place violence as defined in the *Policy*. Rather, I am of the opinion that Ms. Boire was affected by the grievor informing her that the grievor would make a harassment complaint against her. I believe that Ms. Boire was unable to manage the grievor and that for several months, it caused her stress with no support from her director, Mr. Prentice. That said, the interaction as described in all the parties’ testimonies did not amount to work place violence. I agree with the grievor’s representative that the situation was more akin to a workplace conflict.

[264] In her interactions with Ms. Boire and Ms. Bernard, the grievor committed misconduct in how she interacted with them by raising her voice and acting aggressively toward her manager by pointing her finger and threatening to make a harassment complaint. However, I acknowledge that she was frustrated by Ms. Boire’s and Ms. Bernard’s rigidity and unreasonable response, just as I acknowledge Mr. Lefebvre’s frustration at driving a long way in dangerous conditions and not even having the time to change out of his uniform.

[265] At the very least, Ms. Boire and Ms. Bernard could have tried to understand why the grievor’s representative was late and could have tried to find a solution to allow holding the meeting. They made no effort to defuse the situation and avoid a conflict. The grievor should have advised them that her spouse was delayed. In my opinion, the situation was a complete labour relations breakdown on the School’s part. I note Ms. Bernard’s testimony that she could have arranged to have someone else take care of

her personal situation to start the meeting at 3:30 p.m. so that Mr. Lefebvre could have made it from Borden.

[266] The School did not discharge its burden of demonstrating that the grievor committed work place violence. Although speaking aggressively, raising her voice, and pointing a finger at her manager while threatening to make a harassment complaint were unacceptable as conduct and constituted disrespectful behaviours, they did not amount to behaviour that could reasonably have been expected to cause harm, injury, or illness as defined in the *Policy*. As the School did not discharge its burden, there is no need to examine whether the disciplinary measure was proportional to the alleged misconduct.

**D. Did the grievor suffer damages from the School's conduct of imposing two days of suspension?**

[267] The School argued that the grievor did not prove that damages arose from the disciplinary measure. She testified that it was not the suspension that caused her harm but rather her work environment before then, which lasted several years, specifically having tasks taken away and the lack of information about her position. The School submitted that she should have availed herself of the different remedies available at the appropriate time when she felt that her work environment was unhealthy for her. It also submitted that this grievance was not the appropriate recourse to obtain redress for her allegations, which in any case were not proven.

[268] The grievor submitted that the Board has jurisdiction to award damages under ss. 209(1)(b) and 228(2) of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2). She accused the School of breaching the principles of natural justice and procedural fairness and stated that this case involved a disproportionate and harmful response. The School had her escorted from her work and recovered her card, even though she had changed teams and even though the head of security, Mr. Payette, considered that Ms. Boire and Ms. Bernard were not in danger under the *Policy*. The grievor was forced to work from home until the investigation ended. The School used a procedure from the *Canada Labour Code*, Part XX of the *Regulations*, for disciplinary purposes. But such an investigation is meant to be restorative. The School ignored the health-and-safety managers' advice about the procedure for work-place-violence investigations, although they were responsible for applying the *Policy*. The School did not ask the grievor if she agreed with the choice of investigator before launching the

investigation, as the legislator required. The School asked the investigator to make disciplinary recommendations, although by his own admission, he was not qualified to. The School put itself in a conflict of interest when it allowed Ms. Bernard, who claimed that the grievor was violent toward her, to attend a pre-disciplinary meeting for the grievor, just a few weeks after the supposed violent incident took place. Ms. Bernard admitted that she analyzed the grievor's file and that she made disciplinary recommendations for the slander, and Mr. Prentice admitted that when he made the decision, he considered an analysis report that Ms. Bernard had written. Neither the investigator nor the School thought it worthwhile to question the grievor's other witnesses, which shows that some witnesses were favoured, to others' detriment. The School shared the investigation report with the Department of National Defence, Mr. Lefebvre's employer, when the grievor began the contestation process by grieving the disciplinary suspension.

[269] According to the grievor, the School managed the file as though she had committed a major crime and did not take into account all the stigma associated with violence accusations against someone. It should have been much more careful and respectful, especially as it no longer appeared to be talking about work place violence but, rather, general misconduct. She testified that being escorted like a criminal humiliated her. She said that her reputation was damaged. She testified that the allegations impacted her professional life and caused her stress and anxiety because the report was shared. She had to take time away from work for illness because of the situation. The entire affair significantly impacted her family life. Even her children had to seek help because of their mother's state. The School's exaggeration had financial consequences for her and her family. The fact that the School shared the report to involve her spouse completely upset her.

[270] She referred me to *Canada (Attorney General) v. Robitaille*, 2011 FC 1218 at para. 38, in which the Federal Court stated that medical proof is not required to prove a grievor's distress. She considered that her distress, the School's poor conduct, and the causality between the two were amply proven.

[271] Although I accept that the events that led to the filing of the grievor's grievance caused her distress, there is no evidence before me to warrant paying \$5000 or \$30 000. She provided no proof of medical expenses or consultation services for her children, herself, or her spouse. She provided no proof that the School's conduct

damaged her reputation. On the contrary, she found a position elsewhere in the public service, and her spouse testified that he suffered no harm after the report was shared with the Department of Defence. Since she did not prove a specific amount in damages, I am unable to award an amount of money.

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

*(The Order appears on the next page)*



#### **IV. Order**

[273] The grievance is allowed in part.

[274] The one-day suspension imposed as a disciplinary measure for insubordination, gossip, and slander is upheld.

[275] The one-day suspension imposed as a disciplinary measure for violating the *Policy* and for displaying behaviour consistent with the definition of work place violence is annulled. The deputy head of the Canada School of Public Service must reimburse the grievor one day's salary.

[276] The claim of \$30 000 in damages is denied.

[277] The file is closed.

May 26, 2023.

FPSLREB Translation

**Chantal Homier-Nehmé,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**