

Date: 20231116

Files: 561-02-43197 and 44316

Citation: 2023 FPSLREB 106

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



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

BETWEEN

ROBERT BEAULIEU

Complainant

and

NATIONAL POLICE FEDERATION

Respondent

Indexed as

Beaulieu v. National Police Federation

In the matter of complaints made under section 190 of the *Federal Public Sector Labour Relations Act*

Before: Pierre Marc Champagne, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Complainant: Himself

For the Respondent: Denise Deschênes, counsel

[FPSLREB Translation]

REASONS FOR DECISION**FPSLREB TRANSLATION**

Complaints before the Board

[1] Robert Beaulieu (“the complainant”) is an employee of the Royal Canadian Mounted Police (“the employer”). The National Police Federation (“the bargaining agent” or “the respondent”) is the union that represents employees at the complainant’s group and level. In 2021 and 2022 respectively, the Federal Public Sector Labour Relations and Employment Board (“the Board”) received two complaints that the complainant made against the bargaining agent under s. 190 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”).

[2] I was appointed as a panel of the Board to hear these two complaints. Section 22 of the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365) enables the Board to decide any matter before it without holding an oral hearing. For the following reasons, I have decided to render such a decision, as I am satisfied that the complainant’s complaints must be considered abandoned.

Background summary

[3] On June 29, 2021, the complainant made an initial complaint with the Board, alleging that the bargaining agent breached its duty of fair representation under s. 187 of the *Act*. Following the usual practice, the bargaining agent was invited to present a response to the complaint made against it, which it did on July 22, 2021. In its response, the bargaining agent denied any breach of its duty of fair representation and invited the Board to proceed on the basis of written arguments because, in its view, the complaint was related solely to questions of law that could be resolved without additional evidence.

[4] The complainant did not respond to the respondent but instead, on August 3, 2021, sent the Board a copy of a lengthy email addressed to the employer’s senior command and detailing several labour relations issues. As the parties had expressed their openness to mediation, the file was referred to the Board’s Mediation and Dispute Resolution Services (MDRS) in July 2021. Ultimately, it was returned to the Board’s registry in July 2022 because the complainant failed to follow up on his file.

[5] In February 2022, the Board received a second complaint from the complainant against the respondent, which was also related to allegations that the respondent

breached its duty of fair representation. Although at first glance, both complaints appear interrelated, they are the subjects of two separate Board files. In March 2022, the respondent sent the Board its response to the complainant's new complaint, in which it denied the complaint's merits and found that several of its parts were barred.

[6] In April 2022, the second complaint was also sent to the Board's MDRS so that it and the first one could be dealt with at the same time, since the first one had already been sent to MDRS. In July 2022, the second complaint was also returned to the Board's registry when the complainant failed to adequately follow up on the mediation process.

[7] The file for the second complaint was set on the Board's hearing schedule and was to be heard from September 26 to 28, 2023, and the parties were notified of that by email on March 30, 2023. On April 4, 2023, after receiving the hearing notice, the complainant contacted the Board's registry for the last time. That email reads as follows:

[Translation]

Wait!

You are going too quickly.

On March 31, 2023, my employer informed me that it would pursue its allegations (unhealthy and malicious) that date from March 31, 2021.

It suspended me from my duties, with pay.

It reclaimed everything from me! Uniform, badge, access card, etc... (Humiliating)

I was ordered to go to the divisional HQ to sign an attendance sheet on weekdays.

Other abusive and humiliating restrictions are in place.

The employer wants to dismiss me.

I had 14 days (now 10 days) to appeal the matter.

I want to appeal this matter.

BUT my designated bargaining agent (NPF) is the subject of a slew of my complaints for refusing its service, for diverse reasons. The one that hurts me the most is the president's, Mr. Sauvé's, failure to respect the Official Languages Act.

There are other illicit motivations that lead it to refuse me its advice and office assistance along with legal representation.

That same day, I asked a third party/entity with whom I have a contractual relationship to help me (advice, office, and representation), to force the NPF to help me.

I gave it a 10-day deadline to respond to me as to whether he or she would take on my many files against the NPF and, by extension, the RCMP.

I will get back to you with an update in approximately 14 days, on April 16, 2023.

It is now extremely stressful.

I have not slept at all the last three nights.

Very respectfully,

Constable Beaulieu

[8] The Board did not receive anything from the complainant on April 16, 2023, or at any time since then. In the meantime, the file for his first complaint was also set on the Board's hearing schedule to be heard from July 5 to 7, 2023, and the parties were notified on April 17, 2023, in another email from the Board's registry. That email also asked the parties to indicate their availabilities for a case management conference for the complainant's two files. The respondent responded to the Board on April 18, 2023, but the complainant never followed up.

[9] On May 1, 2023, a reminder email was sent to the complainant, asking again that he provide his availability for the case management conference. On May 5, 2023, the Board's registry officer assigned to this case ("the officer") tried to contact him by phone at the number listed in the file to reach him. That call was unsuccessful, and the officer was unable to leave a message.

[10] On May 9, 2023, the Board sent a new notice to the complainant by email and by registered mail to his last known address. That notice read as follows:

[Translation]

Mr. Beaulieu:

Currently, you have two files scheduled for a Board hearing, specifically file 561-02-43197, scheduled for July 5 to 7, 2023, and file 561-02-44316, scheduled for September 26 to 28, 2023. After

the Board sent the notice of hearing for file 561-02-43197 on March 20, 2023, you emailed us on April 3, indicating the particular circumstances that you had to deal with, and you proposed to provide the Board with an update by no later than April 16, 2023. Having received nothing from you, the Board sent you a request on April 17 to determine your availability for a case management conference to discuss the next steps in your two files. You have still not responded to that request despite two reminders from the Board, on April 24 and May 1.

*The panel of the Board assigned to hear your files is prepared to discuss the planning for your two files and the related hearings. But to do that, you must follow up on our requests. So, the purpose of this letter is to again ask that you confirm your availability for a case management conference, which could be held the week of May 23, the week of May 29, or the week of June 12, 2023. You are also asked to inform us how you wish the Board to contact you in the future and to provide the information needed to allow us to do that effectively. Your response is expected **no later than May 19, 2023**. For the moment, to optimize the chances of reaching you, this request is being sent to you by email, for which we ask that you acknowledge receipt, and a copy is also being sent by registered mail to your last known address in our records.*

Sincerely,

...

[Emphasis in the original]

[11] The registered letter was not claimed and was returned to the Board on May 31, 2023. On the same day, the officer again tried to call the complainant but was unsuccessful.

[12] With no response from the complainant about a month before the hearing for his first file, I decided to cancel the hearing scheduled for July 5 to 7, 2023, in the interests of fairness to the respondent and to avoid it having to presumably unnecessary prepare at that point. However, I ordered the two files joined and advised the parties that the two files would be heard together on the dates already scheduled for the second file, September 26 to 28, 2023.

[13] A notice to that effect was sent to the parties on June 1, 2023. It also included a warning to the complainant that if he continued to not respond to the Board's instructions, it could ultimately be deemed an abandonment of his complaints. Although the parties were asked to confirm their receipt of the hearing's cancellation notice, the complainant never responded.

[14] Still with no form of communication from the complainant, I also decided to cancel the hearing scheduled for September 26 to 28, 2023. The parties were emailed a notice on July 21, 2023, advising them that the hearing was cancelled and that the Board would contact them later about the next steps. The same day, the Board received a notice from a computer server that the complainant's email address had been deactivated.

[15] On July 28, 2023, the officer again tried to contact the complainant by telephone, again without success. On July 31, 2023, a copy of the hearing cancellation notice was then sent to the complainant by regular mail and by registered mail. The registered letter was never claimed and was returned to the Board on August 23, 2023. During that time, the officer had again tried unsuccessfully to reach the complainant by telephone.

[16] On October 4, 2023, at my request, the officer sent a final notice to the complaint, which read as follows:

[Translation]

...

In June 2021 and February 2022, the complainant, Robert Beaulieu, made two complaints against the respondent under section 190(1)(g) of the Federal Public Sector Labour Relations Act. Last spring, those two files were set on the Board's hearing schedule, one to proceed in July, and the other in late September. The last communication received from the complainant was on April 4, 2023, and indicated difficulties he faced in anticipation of certain selected hearing dates. He mentioned that he would provide further details in mid-April. Having received nothing, the Board made repeated attempts to contact the complainant by email, telephone, and registered mail. All those attempts were unsuccessful. Therefore, the scheduled hearings were cancelled, and in its July 21, 2023, correspondence, the Board advised the parties that the complainant's failure to respond could be deemed an abandonment of his complaints.

*Therefore, this is a **final notice** to the complainant. He is asked to contact the Board **before October 30, 2023**, to advise it of his intentions with respect to the two complaints mentioned above. Be advised that if necessary, the Board will consider a failure by the complainant to respond within the required time to be an **abandonment of his complaints**. A decision will then be rendered to that effect, and **the files will be closed**.*

...

[Emphasis in the original]

[17] After sending that notice by registered mail, the Board received an envelope from the complainant. Inside was the Board's original envelope used to send him the final notice. He had not opened the Board's envelope and had instead chosen to return it. He wrote the following on it by hand:

[Translation]

I will contact you when I retire. I need professional help, which is seriously lacking.

Your letters cause me anxiety. So, wait.

Robert Beaulieu

[18] Finally, an Internet search of the domain name in the complainant's email address led to a website for a company for which he seems to be the principal officer. So, the officer tried to reach him at the listed telephone number but received no response and was unable to leave a message at that number.

[19] Having had no further contact with the complainant by the deadline indicated in the final notice, I decided to render this decision on his two Board files.

Reasons

[20] The Board has noted a few times in the past that it is aware and mindful of the public interest in the efficient administration of justice. Today, more than ever, such an approach should be aimed at minimizing undue delays, to allow people to find a timely way to resolve their differences (see *Howitt v. Canadian Food Inspection Agency*, 2013 PSLRB 51 at para. 16; *Cooper v. Deputy Head (Correctional Service Canada)*, 2013 PSLRB 119 at para. 15; and *Brennan v. Deputy Head (Statistics Canada)*, 2016 PSLREB 104 at para. 28). The parties must show a minimum amount of respect for the institutions that try their best to provide an effective means for those who feel aggrieved to be heard and for the parties facing allegations to defend themselves.

[21] To follow up on these principles, at times, the Board has applied the concept of abandonment of recourse, which has been applied to grievances most often but has also been applied to a complaint like the ones before me (see *Marshall v. Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN*, 2016 PSLREB 81).

[22] The vast majority of Board decisions about the concept of abandonment ultimately involve one party's failure to appear at a hearing scheduled in advance. That is not so in this case. Nevertheless, in some circumstances, I find it unreasonable to require the Board to schedule a costly hearing, the only useful purpose of which would be to note the failure of the party in question. This is in keeping with the logic of maximizing the use of the Board's material, human, and financial resources, which is in line with the same philosophy that applies to the efficient administration of justice.

[23] The parties to a case are responsible for exercising due diligence to ensure that their case proceeds smoothly. One of the minimum obligations is to respond to the Board's requests and to keep it informed of their current contact information, to ensure a means of communicating by email, telephone, or mail. The header on the Board's Form 16, which the complainant used to make his complaints, specifically notes that the complainant is responsible for informing the Board of any change to his or her mailing and electronic addresses and telephone numbers. If a party fails to consistently meet that basic obligation, it shows at best negligence and at worst a complete lack of interest in their file (see *McKinnon v. Deputy Head (Department of National Defence)*, 2016 PSLREB 32, at paras. 77 and 78; and *Cooper*, at para. 15).

[24] The documents in these files, combined with the Board's numerous unsuccessful attempts to contact the complainant, lead me to conclude that he is simply no longer interested in pursuing his interests in this matter. He replied to the Board only once, in which he suggested simply that it no longer bother him, and he let it know that he would contact it when he sees fit.

[25] That response from the complainant shows not only his ability to receive and respond to Board notices but also his deliberate choice to ignore them or not to follow up on them. He could not simply disappear from the Board's radar for no reason for over six months and hope that his files would be waiting when he returned.

[26] The complainant may be faced with constraints that prevent him from effectively communicating with the Board. However, whatever those constraints, psychological, medical, financial or other, I have no information that would allow me to find that they exist, whatever they may be (see *McKinnon*, at para. 80; and *Howitt*, at para. 15).

[27] Throughout that time, the Board was prepared to receive such information, but it never came. It would have been very easy for the complainant to call the Board or send it an email or letter, but he never did.

[28] For those reasons, I find that the complainant has clearly abandoned the pursuit of these complaints, and therefore, they must be dismissed.

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

(The Order appears on the next page)

Order

[30] The complaints are dismissed, and the files are closed.

November 16, 2023.

FPSLREB Translation

**Pierre Marc Champagne,
a panel of the Federal Public Sector
Labour Relations and Employment Board**