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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

BETWEEN

JULIE MACRAE

Grievor

and

**TREASURY BOARD
(Department of Fisheries and Oceans)**

Employer

Indexed as

MacRae v. Treasury Board (Department of Fisheries and Oceans)

In the matter of an individual grievance referred to adjudication

Before: Christopher Rootham, a panel of the Federal Public Sector Labour
Relations and Employment Board

For the Grievor: Derek MacLeod, representative

For the Employer: Lauren Benoit, counsel

Decided on the basis of written submissions,
filed November 15 and December 6 and 13, 2024.

REASONS FOR DECISION

I. Overview

[1] This grievance is about whether Julie MacRae (“the grievor”) was entitled to an exemption from having to be vaccinated against COVID-19 for religious reasons. I have concluded that she was not, and I have denied her grievance as a result.

[2] The grievor provided a letter prepared by a paralegal to support her request for an exemption for religious reasons, and then later wrote her own explanation for her request. I have concluded that she sincerely believes the things that she expressed personally, but not the different things set out by her paralegal. I have reviewed her sincere beliefs carefully and concluded that the beliefs that she has expressed personally are secular or based on her conscience — they are not religious. Therefore, she was not entitled to a religious exemption from being vaccinated.

[3] My detailed reasons follow.

II. General background to the *Vaccine Policy* and this grievance

[4] This grievance involves the *Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police* (“the *Vaccine Policy*”). On October 6, 2021, the Treasury Board enacted the *Vaccine Policy*. It required all employees in the core public administration to be fully vaccinated against COVID-19.

[5] The *Vaccine Policy* defined an employee who was unable to be fully vaccinated as an employee who could not be fully vaccinated “... due to a certified medical contraindication, religion, or any other prohibited ground of discrimination as defined in the *Canadian Human Rights Act*.” Employees who were unable to be vaccinated were accommodated to the point of undue hardship by teleworking, being assigned alternative duties, mandatory testing for COVID-19, or a combination of those measures.

[6] Employees had until October 29, 2021, to either attest that they had been vaccinated or request accommodation. The *Vaccine Policy* says that employees were given a form to complete to indicate whether they were vaccinated or seeking accommodation. Those employees seeking accommodation on the basis of their religious belief were provided with a blank affidavit in which they could spell out why their religious belief prohibited them from receiving the COVID-19 vaccine.

Management was responsible for reviewing the accommodation requests and deciding whether to grant accommodation to applicants on religious grounds. Management could request more information from employees requesting accommodation before making their decisions.

[7] However, the grievor was on leave at the end of October 2021 until December 2. Her officer in charge sent her a letter on that date, informing her of the policy. The letter informed her that she had "... until December 16, 2021 (which is 2 weeks after your return from leave) to attest to your vaccination status against COVID-19 and/or ask for accommodation measures, if applicable." The letter went on to state that if she did not attest to her vaccination status or request accommodation measures by December 16, she would have a two-week grace period to attend training on COVID-19 and become vaccinated or be placed on administrative leave without pay, effective December 30. Her officer in charge did not ask her to use an affidavit to request accommodation measures.

[8] The *Vaccine Policy* provides that if management decided that an employee had not justified their request for accommodation, the employee was placed on an unpaid leave of absence if they persisted in not being vaccinated. Management in this case decided that the grievor had not justified her request for accommodation and placed her on unpaid leave on February 2, 2022.

[9] The employer suspended the *Vaccine Policy* on June 20, 2022.

III. Written process followed to decide this grievance

[10] The parties in this grievance followed the same process as in *Bedirian v. Treasury Board (Department of Foreign Affairs, Trade and Development)*, 2024 FPSLREB 58, which is described in detail at paragraphs 9 to 22 of that decision. Unlike in *Bedirian*, the Treasury Board ("the employer") filed an affidavit as evidence in this grievance, and the grievor cross-examined the employer's affiant in writing. The employer did not cross-examine the grievor on her affidavit.

[11] Further, the authorities that the parties relied upon are different from those listed at paragraphs 19 and 20 of *Bedirian*. Instead of listing them, I refer to the most important of them in the rest of this decision.

IV. Legal framework for religious exemptions from the *Vaccine Policy*

[12] This case comes down to two questions, one of fact (What does the grievor sincerely believe?) and one of mixed fact and law (Does that belief have a nexus with religion?). The parties do not dispute the basic legal principles that apply to this case, which were set out in paragraphs 25 to 32 of *Bedirian*. In short, the parties agree that I should apply the two-part legal test set out in paragraph 56 of *Syndicat Northcrest v. Amselem*, 2004 SCC 47. This test requires an individual show that they have a practice or belief with a nexus with religion and that they are sincere in their belief. The interference with the religious practice or belief must also be more than trivial or insubstantial (see *Amselem*, at para. 59).

V. Reasons for denying the grievance

[13] As I just said, this case comes down to two issues:

- What are the grievor's sincere beliefs?
- Do those beliefs have a nexus with religion?

[14] In many cases, identifying a claimant's sincere beliefs focuses solely on the sincerity of what the claimant has said. However, this case is not that straightforward. The alleged beliefs in this case are set out in a combination of statements made personally by the grievor and statements made on her behalf by a paralegal whom she retained to represent her before filing this grievance. There is a considerable amount of overlap between them but some important differences too.

[15] I have concluded that the grievor's sincere beliefs are those found in the statements that she prepared personally and not those made solely by her paralegal. Basically, I believe that the grievor is being sincere when she speaks with her own voice.

[16] I have also concluded that the grievor's sincere beliefs do not have a nexus with religion. The grievor sincerely believes that she should not be vaccinated. However, her belief is not based on religion.

[17] The easiest way to understand my conclusion is to begin by setting out the facts of this case chronologically. I will then use that chronology to explain how I have identified the grievor's sincere beliefs. The parties have identified and disputed some

facts that I have concluded are not relevant to my conclusion; I will explain at various points why those facts are not relevant in this case. After the chronology I will summarize the grievor's sincere beliefs, and then explain my conclusion that those beliefs do not have a nexus with religion.

A. Chronological statements of belief

1. The grievor's initial request for an exemption

[18] The grievor is employed by the Coast Guard in Sarnia, Ontario. The Coast Guard is part of the Department of Fisheries and Oceans (DFO). DFO established a panel called the "DFO Review Panel" to review accommodation requests made under the *Vaccine Policy*.

[19] As I said earlier, the grievor was on leave when the *Vaccine Policy* was introduced and was given until December 16, 2021, to attest to her vaccination status or request an accommodation.

[20] The grievor hired a paralegal to assist her in requesting an accommodation. That paralegal prepared a letter dated December 9, 2021, which the grievor sent to her officer in charge the next day.

[21] The paralegal's letter is 20 pages long. It shifts repeatedly between the first, second, and third person; sometimes, it says things like, "I am a Christian", sometimes it says that "our client" believes something, and sometimes it says that "we" or "this firm" believe or believes certain things. The letter contains some statements of Christian faith. It also makes a number of legal submissions about the Ontario *Human Rights Code* (R.S.O. 1990, c. H-19), the Ontario *Health Care Consent Act, 1996* (S.O. 1996, c. 2, Sched. A), and the Ontario *Personal Health Information Protection Act, 2004* (S.O. 2004, c. 3, Sched. A) — none of which apply to this case because the grievor is a federal public servant. The letter makes other legal submissions and then ends with a demand that the grievor be accommodated or paid in excess of \$1 000 000.00 in damages.

2. The grievor's email and letter of December 22, 2021

[22] The grievor's officer in charge sent the paralegal's letter to the DFO's Labour Relations section, which sent it to the DFO Review Panel. There is some confusion in the evidence about when this happened; the officer in charge prepared an affidavit

stating that she did so immediately, but there is an email exchange on December 21 and 22, 2021, in which the officer in charge tells the grievor that she has not received an attestation of vaccination status yet and in which the grievor responds by referring to her paralegal's letter. I do not need to resolve that issue because there is no dispute that the paralegal's letter was sent to and considered by the DFO Review Panel, and nothing turns on precisely when that happened.

[23] As part of the email exchange on December 21 and 22, 2021, the grievor attached a document to an email early in the morning of December 22. I have included a full copy of that attachment here, despite its length:

Request for Accommodation

I, Julie MacRae, respectfully request the following accommodations from the vaccination mandate and policy:

- 1. Be permitted to work at employment free from harassment, reprisal, or discrimination.*
- 2. Be permitted to follow all safety protocols engaged in by other staff with the exception of this one.*
- 3. Engage in testing for purposes of safety where the testing method does not otherwise violate law.*
- 4. Any other accommodation as may be negotiated that is acceptable to both parties, and that is not punitive or in any other way a violation of my rights.*

I am requesting this accommodation and I wish to make the following statement of creed to you regarding my personal creed-based belief.

I am deeply concerned, because my belief is, I meet the legal threshold and test for being exempt for the purposes of any vaccine mandate, on the grounds of creed. As such my concern is that I may potentially be discriminated against for that belief.

Statement of Creed

I have deeply held, sincere and personal beliefs, in the following non-exhaustive list of tenets. These beliefs form a core representation of me as a person, however, bear in mind this list is non-exhaustive:

#1. I am a Christian. The work of Christ as iterated in The Bible was to provide humanity with a choice. The entirety of His life's work, as recorded in history, was culminating in a decision He gave to us, that we were endowed with the right to choose our own ways or His. The absence of choice in favor of "mandates", force, coercive tactics, or flat out do what I tell you or else mentality runs counter to my sincerely held beliefs. As it would force me to

separate myself from my higher self in order to act like less like Christ so that I could become part of a system that is behaving counter to His teachings.

#2. MRNA. The instruction of my DNA, RNA, or molecular structure to operate in a way that is counter to the way I was created to operate is a violation of my faith, as that instruction runs counter to my God made design.

#3. The process whereby we end up with this vaccination was developed, studied, aided, or produced with the benefit of fetal stem cell lines. A fetal stem cell line is the product of abortion. Abortion is the taking away of life from a human. If I were to take or receive this vaccination, I would be to some extent being aided by the product or byproduct of murder. I cannot take this as I believe I would need to answer to God for doing so, and I have no answer for it as it is wrong.

Additionally, I hold dearly the following beliefs:

i) The right to bodily autonomy, being central and integral to the individual.

ii) As a Christian, the belief that God made us perfect. Not to alter one's body unnecessarily. In essence, if a person were to catch a virus and die because of refusal to vaccinate, that is between that person and God. This is no different than a person who refuses blood transfusions on the basis of their faith. Which is a well-established protection under the Healthcare Consent Act, 1996, S.O. 1996, c. 2, Sched. A. [footnote omitted]

iii) Furthermore, as a Christian, I can not take any medication that alters or instructs DNA, RNA, or molecular structure.

iv) Additionally, it is a deeply held, sincere and personal belief that an individual's private life, medication, treatments, and infections they may have, should be kept as private as possible. This right, is further enshrined under the Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched A. "PHIPA". [footnote omitted]

v) It is further, a deeply held sincere and personal belief, that as a Christian, faith can be flexible and is not strictly regulated or tenented. That is to say, that just because other Christian's may have a different interpretation of their Holy Book, The Bible, it does not invalidate my interpretation, nor would my interpretation invalidate another's.

Pursuant to the Ontario Human Rights Code, I am requesting, for a religious/creed-based reason, an exemption to the COVID-19 vaccination policy.

To begin, I am not against vaccination. I am opposed to this vaccination as it violates several tenents of my Christian faith

I am a Christian. Christianity is linked to my self-definition, my spiritual fulfillment, and is also part of a comprehensive recognition of my bodily autonomy. It governs my conduct.

That belief system answers my questions about human existence, life, purpose, death, and eternal purpose. That belief system is connected to others.

That belief system is NOT a singular belief or personal preference. It is a all-encompassing belief that permeates every component of my life as I strive to be a follower of Christ I am constantly learning how it permeates every aspect of my behavior.

My body and spirit were “fearfully and wonderfully made in the image of God”, by God, to include my unique DNA and RNA.

It is essential under my faith in God, as my Creator, to not change, reinstruct or alter His creation on a cellular level. It is my belief by accepting a vaccine, which contains mRNA technology, that I would be sinning against my God and Creator.

My belief is not that all vaccinations go against the will of God, however, my deeply held belief is that this one does.

It is not at all a singular belief against vaccinations. It is also not a singular belief under my theological perspective, as “Bodily Autonomy”, is also based and firmly rooted in Christian theology.

Additionally, it is my belief that “I am fearfully, and wonderfully made”, “in His own image”, and that because of that image being perfect, a vaccination, medical procedure, or other medical treatment that would instruct my DNA, RNA, or molecular structure to behave, or take instruction to behave itself, in a manner in which God did not design it to do, would be counter to my Code protected beliefs.

Some of my other formative Christian beliefs are.

I believe that I have a God-given conscience according to the Bible (Hebrews 9:14).

To commit actions against my conscience, against my faith, would be committing a sin against God (James 4:17, Romans 14:23).

I believe that my body is a temple where the Holy Spirit dwells (1 Corinthians 6:19-20).

That one day I will be accountable for my actions, on the day of judgement, for what I have done with and to my body.

I believe that I am made perfect in the image of God (Genesis 1:26-27).

My body was designed by my Creator in His image. This includes my DNA, RNA, and molecular structure.

The mRNA vaccine instructs my God-given RNA. It instructs it to perform an action that is in violation of the way it was programmed by my Creator to function.

Additionally; According to the Bible, I believe that human life starts with conception in the womb (Psalm 51:5).

I believe that abortion takes away the human life of the baby in the womb. I believe that it is against what the Bible teaches and therefore it is sin.

The research behind the mRNA vaccine, or any other vaccine, that is derived from aborted infants, specifically aborted fetal stem cell lines would go against my conscience to have the injected into my body. To follow through with this vaccination would stain my conscience.

Receiving the COVID-19 vaccination would go against my convictions and God-given morals to which I am bound to, and responsible for, to God, on the day of judgement.

These are my sincerely held beliefs which I hold true to. These beliefs effect every aspect of my life. In turn, I am requesting an accommodation.

[Sic throughout]

[Emphasis in the original]

[24] The grievor's officer in charge did not forward this letter to the DFO Review Panel. The DFO Review Panel decided not to grant the grievor accommodation based on her religion, after reviewing the paralegal's letter. The officer in charge was informed of the DFO Review Panel's decision roughly three hours after the grievor sent her that email and attachment.

[25] In cross-examination, the officer in charge characterized the letter as "not new" and as including "... exact portions of the letter she had previously provided ..." from her paralegal. She said that it was not provided to the DFO Review Panel because it was "not new."

[26] I have compared the paralegal's letter and this December 22, 2021, letter carefully. They are similar but not quite identical. The part of the letter before the heading "Statement of Creed" is not in the paralegal's letter, except for the paragraph beginning "I am deeply concerned", which is also in the paralegal's letter, except that the paralegal says that "[o]ur client" is deeply concerned instead. The list of beliefs in Roman numerals is also different. All those beliefs are in the paralegal's letter, but the paralegal's letter lists two other beliefs that the grievor's letter excludes, which are that "As a Christian, the belief that God will protect them, unless God wills otherwise, and to interfere in God's will, is the sincerest violation of faith that one can perform" and

that “As a Christian to undergo unnecessary medical tests that only arise as a result of one’s faith.”

[27] Otherwise, the December 22, 2021, email attachment is a cut-and-paste of the paralegal’s letter. Both even have the same typographical errors, misspelling “tenets” as “tenents”, inventing the word “tenented”, and misnaming the Ontario *Health Care Consent Act* as the “*Healthcare Consent Act*”.

3. The grievor’s Instagram post (December 22, 2021)

[28] On December 22, 2021, the same day that she was informed of the DFO Review Panel’s decision, the grievor decided to post her thoughts on Instagram. Her post reads as follows (excluding a winking emoticon in the opening line):

(Well...actually, I am just getting started.)

But I am done being quiet.

I am done playing by their rules.

Gloves are off.

Yesterday, I received my second notice, even after I sent a formal request for exemption and accommodation to my employer, from my lawyer, (which, by the way, they didn’t even bother to respond to) that I will be put on administrative leave without pay beginning December 30th.

So, they (the federal government of Canada) wants to take away my career and paycheque because I don’t feel that taking an experimental needle, that is still in clinical trials, is the right choice for my body?

Who is my employer to tell me what is right for MY body - or anyone else’s for that matter?

Sorry, that is not going to happen.

Not on my watch.

Do they forget, that they themselves have proven time and time again that EVERYONE can get and transmit this illness. V’d or not?

Also, I just literally had the illness.

So why would I take a needle for something I’ve now had and will have a natural immunity for.

(That’s how the human body works.)

And I get it.

You can hate what I’m writing, you can not like what I’m saying - you can unfollow me, or unfriend me because you don’t agree with

me or where I stand - That is your choice (and that's because you get a choice.)

Or, you can support me, stand beside me, and/or be a source of encouragement for me because I will be fighting this.

But what you cannot do is take away my beliefs, my heart, my passion or my unwavering desire to protect our rights.

The choice is yours.

What I am going to ask you to consider though: is the day is fastly approaching where soon you won't want to take another needle yourself -

So what's your limit? How many is enough?

And what happens when that time comes?

What then?

So ... bring it on.

Let this next chapter of my life begin.

Alone or surrounded -

I am ready.

[Sic throughout]

[29] The grievor argues that I should ignore this post because she was not given the opportunity to testify about it. Respectfully, I reject that argument because she never asked for such permission. If the post had been taken out of context, the grievor could have said so. She has not. She was given an opportunity to address this post in her written submissions. Other than stating that it is simply one post made on social media, and that there may or may not be other posts related to her religious beliefs, she has not explained why further testimony is required on this point.

4. The grievor's email of December 27, 2021

[30] On December 24, 2021, the grievor's officer in charge wrote to the grievor about her pending return to work. For context, and as hinted at in her Instagram post, the grievor contracted COVID-19 shortly after returning to work after her period of leave. She returned to work on January 3, 2021. Some public-facing Coast Guard employees such as the grievor had to take so-called rapid tests three times a week. The grievor disputed whether she had to take these rapid tests because she had recently contracted COVID-19.

[31] The parties argued about whether the grievor violated the rapid-test policy. That issue is not relevant to this case. I mention it only for context because the rapid-test

issue bleeds into some of the correspondence about the grievor's request for accommodation on religious grounds.

[32] In response to the December 24, 2021, email, the grievor sent another letter to her officer in charge, dated December 27, 2021. Her letter reads as follows:

...

I have some questions regarding my denied request for accommodation and the rapid antigen testing information you sent December 24, 2021.

1. Could you please tell me who makes up the panel that has determined that they have not been able to "assess the sincerity of MY beliefs?"

I have a right to know who is assessing my religious/spiritual beliefs, and who will be determining that my job and my paycheque should be withheld due to the "sincerity" of MY beliefs?

2. Will you tell me how you define "sincere"?

The dictionary's definition of "sincere" is open, genuine, not deceitful, saying what they genuinely feel or believe: also characterized by a firm and humorless belief in the validity of your opinions. Sincerity" means: a quality of naturalness and simplicity, the trait of being serious.

I believe "this" vaccine is made by corrupt people.

It has already caused harm to many people and is still in the experimental phase.

Attached below is a link to the Pfizer protocol which clearly identifies as a study: "A Phase 1/2/3 Study to Evaluate the Safety, Tolerability, Immunogenicity, and Efficacy of RNA Vaccine Candidates Against COVID-19 in Healthy Individuals."

https://cdn.pfizer.com/pfizercom/2020-11/C4591001_Clinical_Protocol_Nov2020.pdf?fbclid=IwAR2bRx601R3wWAR7A1fnbRh9pdgt7Y_evO_cl3VuYv0LmXG844U2L3Yb58

I have personally witnessed adverse vaccine reaction - in my own son in 2009.

I have read many of the reports on the VAERS website to do with this Covid-19 vaccine.

I am aware that this vaccine is not a traditional vaccine like we've had in the past.

I am aware that some people who claim to be vaccinated are not in fact vaccinated, and unless you specifically request to be unblinded from the study you will never know if you received the placebo or a vaccine.

Also,

I am a Christian. I was baptized May 2nd, 1976, at Canon Davis Church in Sarnia.

I have my original baptismal certificate in my possession.

I've already stated my religious views in our previous emails.

I believe in prayer.

I believe in meditation.

I believe in frequencies of energies.

I believe in the feelings you get when something feels good and when something feels bad.

I believe in trusting my gut.

I believe with all my being that this shot has sadness and sickness associated with it.

I also believe that policy and mandates are not laws.

I believe that I am a healthy person overall. I have always prioritized my physical, mental and spiritual health.

I do not believe that pharmaceuticals are our way out of this pandemic.

This is who I am.

This is what I believe.

I am beginning to feel like the Coast guard does not want Christians working for them, that this is now more about my religious and spiritual beliefs than it is about health and safety.

You have denied my request due to the "sincerity" of my beliefs or that you were not able to assess them.

The Canadian Coast guard and you are asking me to put aside everything that I believe in, in order to stay employed; to inject something into my body that I do not want inside my body, to forego who I am to satisfy the needs and wants of what other people think and feel is right for me- but have no proof that this is the right decision for me - and then offer no exception or accommodation.

You are saying "do this or else."

People who are vaccinated are still getting sick. The vaccine is not protecting against transmission or spread, and I have already had the virus that they are testing for. Our own medical health officer has stated publicly that "everyone" will get this virus, vaccinated or not. I now have natural immunity.

These are my sincere beliefs and there isn't a way for me to explain myself or live my life in any other way. This is who I am.

Creed has been defined as: a set of beliefs or aims which guide someone's actions.

Everything I've said in both my statement of creed and above - guide my actions, decisions I make in life, how I live my life and who I am to the core. These are my sincerely held beliefs.

I meet that criterion.

I would like to know:

3. How would each person on the panel defines religion and spiritual beliefs?

The dictionary defines religion as: a strong belief in a supernatural power or powers that control human destiny, also an institution to express belief in a divine power. It also, relates to or affects the human spirit or soul as opposed to material or physical things.

"Spiritual" is defined in the dictionary as: concerned with or affecting the spirit or soul.

4. How or who will determine what is going to satisfy the panel in assessing the sincerity of my beliefs.

5. What qualification must you have to assess my beliefs?

6. What is the scale or spectrum in determining sincerity? For example: What is sincere enough?

7. Is the only factor being considered regarding religious beliefs in this circumstance; that my belief doesn't allow me to get this specific vaccine?

I believe that this vaccine is a possible kill shot. I believe it has already harmed many people and I believe there will be many more to come.

Also,

8. How does leave without pay (that I do not agree to) affect my pension?

9. How does leave without pay (that I do not agree to) affect my benefits?

10. How long will leave without pay last? What is the longest period you hold my position for?

11. Could you please tell me the exact reason, clause, or grounds (please quote it) that you as my employer have that determines and allows, that I as a full-time employee can and will be put on leave without pay that I do not wish to be on OR agree to?

12. With regards to rapid testing, you have been provided a note. I have been exempted from testing by Lambton Public Health until February 22, 2022. If you need further information you can contact Lambton Public Health directly.

Even in the attestation information packet, you sent on December 24th it states:

• I agree to adhere to all recommended public health measures regardless of testing result.

I sent you a copy of what Lambton public health issued for me to follow. Those ARE their guidelines and the information you sent me says I need to follow that.

Next,

15. What happens if someone who's had covid tests positive again but has no symptoms? What does that mean for reporting to work?

16. Please read Bill S-201 regarding your request for a copy of my PCR test and the results of any rapid antigen testing, some specific sections are highlighted below:

genetic test means a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or prognosis.

Prohibitions

Genetic test

3 (1) It is prohibited for any person to require an individual to undergo a genetic test as a condition of

(a) providing goods or services to that individual;

(b) entering into or continuing a contract or agreement with that individual; or

(c) offering or continuing specific terms or conditions in a contract or agreement with that individual.

Refusal to undergo genetic test

(2) It is prohibited for any person to refuse to engage in an activity described in any of paragraphs (1)(a) to (c) in respect of an individual on the grounds that the individual has refused to undergo a genetic test.

Disclosure of results

4 (1) It is prohibited for any person to require an individual to disclose the results of a genetic test as a condition of engaging in an activity described in any of paragraphs 3(1)(a) to (c).

Refusal to disclose results

(2) It is prohibited for any person to refuse to engage in an activity described in any of paragraphs 3(1)(a) to (c) in respect of an individual on the grounds that the individual has refused to disclose the results of a genetic test.

Also, the section that relates to:

Offences and Punishment

Contravention of sections 3 to 5

7 Every person who contravenes any of sections 3 to 5 is guilty of an offence and is liable

(a) on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding five years, or to both; or

(b) on summary conviction, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding twelve months, or to both.

R.S., c. L-2

Canada Labour Code

I have started the process of filing a grievance and I will also be filing a formal complaint to the Canada Industrial Relations Board and the Canadian Human Rights Commission.

I would appreciate some transparency and a response to each of the above questions before my return date of January 3rd, 2022.

...

[Sic throughout]

[Emphasis in the original]

[33] The officer in charge responded to that letter on December 31, 2021. She identified the members of the DFO Review Panel and provided a link about leave without pay and an email address for pension and benefit questions.

[34] There were more email exchanges about rapid testing, in which the grievor repeated and expanded on her belief that rapid tests violated the *Genetic Non-Discrimination Act* (S.C. 2017, c. 3) (which the grievor refers to as “Bill S-201”).

5. The grievor is placed on leave without pay on February 1, 2022

[35] The grievor worked off and on during January 2022. She worked some shifts interspersed with leave. Finally, on February 1, 2022, she was placed on leave without pay.

6. The grievor’s evidence in this adjudication

[36] As part of the process for this adjudication, the grievor was given an opportunity to file an affidavit in support of her grievance. She did so. That affidavit contains an attachment that is, in her own words, a statement of her religious beliefs and creed. It reads as follows:

Statement of Religious Beliefs and Creed

I, Julie MacRae, respectfully submit this statement to affirm my sincere religious beliefs and explain my decision to decline

vaccination, particularly the COVID-19 vaccine, based on my deeply held faith and conscience.

From an early age, my life has been deeply rooted in Christian faith. I was baptized as an infant and actively participated in church activities throughout my upbringing. For many years, I served as a Sunday school teacher at Central Baptist church, was a member of the youth group for many years and attended church services regularly with my family until the age of 19. Even after moving away from home, I continued to attend church services whenever I returned, maintaining my strong connection to my faith community.

Upon returning permanently to Sarnia in 2008, I attended Central Baptist Church as often as my shift work schedule allowed. Recognizing the challenges of regular attendance due to work commitments and co-parenting my son, I also sought spiritual nourishment through other avenues, such as attending services at Forest City Church in London with friends and participating in private women's religious group meetings. These gatherings provided me with a supportive environment to continue practicing and deepening my faith despite the demands of my personal and professional life.

In 2009, my family's life was profoundly impacted when my son experienced a severe adverse reaction to the H1N1 vaccine, resulting in his hospitalization for several days. This traumatic event was emotionally overwhelming and led me to critically evaluate my understanding of vaccinations and their implications on health and well-being. This personal experience has significantly influenced my perspective on medical interventions and reinforced my commitment to making health decisions aligned with my conscience and religious convictions.

As a Christian, I believe that my body should be treated with utmost respect and care. Accepting a vaccine that conflicts with my conscience would constitute a defilement of this trust. My faith guides me to follow my conscience in all matters of moral decision-making.

Furthermore, the Congregation for the Doctrine of the Faith acknowledges that vaccination should not be considered a moral obligation and must remain a voluntary act: "At the same time, practical reason makes evident that vaccination is not, as a rule, a moral obligation and that, therefore, it must be voluntary" (CDF, "Note on the Morality of Using Some Anti-COVID-19 Vaccines," December 17, 2020, n.5). This perspective aligns with my belief that medical decisions should be made based on a balanced assessment of physical, mental, and spiritual considerations, and not solely on public health directives or external pressures.

Allowing others to dictate or coerce my decision to receive the COVID-19 vaccine would compromise my moral agency and violate the sanctity of my conscience. I believe that each individual must assess their circumstances and make informed choices that

honor their faith and personal convictions. For me, accepting this vaccine is incompatible with my beliefs and would constitute a breach of my spiritual and moral obligations.

*In conclusion, I respectfully assert that receiving the COVID-19 vaccine infringes upon my sincerely held religious beliefs and conscience. The current policy mandating vaccination without accommodation impedes my ability to freely practice my faith as protected under the Supreme Court of Canada decision in *Syndicat Northcrest v. Anselem* [sic] (2004). I earnestly request that you consider this statement and grant me the appropriate accommodation on religious grounds, thereby respecting and upholding my fundamental human rights.*

Thank you for your understanding and consideration.

...

[Emphasis in the original]

B. What the grievor sincerely believes

[37] As I stated earlier, the first thing that I have to decide in this case is what the grievor sincerely believes. Specifically, does the grievor sincerely believe everything set out in the paralegal's letter, which she also cut and pasted into her December 22, 2021, letter? I have concluded that the grievor has not shown that she does.

[38] I have concluded that the grievor sincerely believes the things that she has said in her own words. Her Instagram post of December 22, her email attachment of December 27, 2021, and her statement provided in this adjudication were all written in her own voice. They are also complementary and consistent with each other. They all have a common theme oriented around the grievor's sense of conscience as well as the impacts of the vaccine on her health and well-being.

[39] By contrast, the grievor has not shown that she believes everything set out in the paralegal's letter. The letter was written by her paralegal, not her. While it states that it is based on the grievor's belief, the grievor has not explicitly confirmed that all those beliefs are truly her own. The closest she came was in the December 27, 2021, email attachment when she stated this: "Everything I've said in both my statement of creed and above - guide my actions, decisions I make in life, how I live my life and who I am to the core. These are my sincerely held beliefs." The "statement of creed" refers to her cut-and-paste of the paralegal's letter. This line must be read in the context of the rest of that email attachment and the passage in which it is contained. It comes

after the grievor lists a whole series of beliefs, some of which are set out in the paralegal's letter, but many are not. There is no indication that the grievor turned her mind carefully to everything set out in the paralegal's letter when making that statement.

[40] The employer cited *Oulds v. Bluewater Health*, 2023 HRTO 1134, when discussing a legal point that I will return to later. However, I noticed that the grievor's paralegal also represented the applicant in that case. I was struck by the fact that parts of the applicant's beliefs in *Oulds* were worded identically to the grievor's purported beliefs in his letter. For example, the paralegal's letter in this case states that the grievor believes that she "... cannot take any medication that alters or instructs DNA, RNA, or molecular structure ..."; this is word for word how the Human Rights Tribunal of Ontario reported that the applicant in *Oulds* set out her belief (see paragraph 15 of *Oulds*). This is not determinative and could be a coincidence. However, it shows the difficulty of accepting that the grievor sincerely believes everything said by her paralegal and gives one more reason why I am not prepared to accept the paralegal's statements that go unconfirmed by the grievor in her own words.

[41] The grievor submits that any question about sincerity should be limited in scope "... so as not to become an 'inquisition'". I agree. That approach is consistent with the Supreme Court of Canada's articulation in *Amselem*, at para. 52, that "... inquiries into a claimant's sincerity must be as limited as possible" because "[o]therwise, nothing short of a religious inquisition would be required to decipher the innermost beliefs of human beings." However, I am proceeding in a way consistent with that limited inquiry. I believe that based on this limited inquiry, the grievor is sincere when she speaks for herself. I am just not convinced that her paralegal accurately described her beliefs.

[42] There are two beliefs set out in the paralegal's letter and cut and pasted by the grievor that she relies upon particularly in her written submissions, so I will address those two in more detail.

[43] The first is the use of fetal cell lines in the development of the vaccines. In many other cases, arbitrators have accepted that opposition to these vaccines on this basis has a nexus with religion; see *Canadian Union of Public Employees, Local 129 v. The City of Pickering*, dated June 6, 2023, at para. 49; *Public Health Sudbury & Districts v.*

Ontario Nurses' Association, 2022 CanLII 48440 (ON LA) at para. 48; *Island Health v. United Food & Commercial Workers Local 1518*, 2022 CanLII 127683 (BC LA) (“*Island Health #1*”) at para. 84; *Island Health v. United Food & Commercial Workers Local 1518*, 2023 CanLII 2827 (BC LA) at para. 84; *Wilfrid Laurier University v. United Food and Commercial Workers Union*, 2022 CanLII 120371 (ON LA) (“*Wilfred Laurier*”) at para. 82; *Canadian Union of Public Employees, Local 79 v. The City of Toronto*, dated April 11, 2023, at para. 64; and *Canadian Union of Public Employees, Local 129 v. The City of Pickering*, dated May 23, 2023 (“*Pickering/Flowers*”), at para. 49.

[44] That nexus is not automatic. The way that the grievor's belief is expressed in this case does not provide as direct a link between fetal cell lines and her religious beliefs as in some of those other cases.

[45] However, my more immediate concern is whether she sincerely objects to vaccination because of the use of fetal cell lines in their development. On this point, the sole basis for her submissions is the letter written by her paralegal. Nothing written in the grievor's own words confirms this belief or even hints at it. She also does not provide any information of anything else in her life that is linked to this belief. I am not prepared to conclude that the grievor has a sincere objection to COVID-19 vaccines on this basis, in light of the evidence in this adjudication.

[46] The employer also argues that Health Canada approved the Novavax vaccine on February 17, 2022, and that it did not have fetal cell lines used in its research and development. I have not considered that point in this case, and I leave for another case whether the Novavax vaccine has any relevance. Additionally, the *Vaccine Policy* lists the COVID-19 vaccines that are acceptable. Novavax is not listed, and I have no evidence about whether the *Vaccine Policy* was amended on or after February 17, 2022, to include Novavax.

[47] The second belief is that her “... body is a temple where the Holy Spirit dwells ...”. Similarly to the fetal-cell-line point, other arbitrators have accepted that a belief that a body is God's temple that cannot be polluted with medication has a nexus with religion; see *Pickering/Flowers*, at para. 50; *Wilfred Laurier*, at paras. 83 and 87; *Island Health #1*, at para. 87; and *Canadian National Railway v. Teamsters Canada Rail Conference Rail Traffic Controllers*, 2024 CanLII 87100 (CA LA) at para. 36.

[48] The grievor never refers to her body as a “temple” when using her own words. In addition, her own words contradict any belief that her body is a temple that cannot be polluted by medication. She says this in her December 27, 2021, email attachment: “I am aware that this vaccine is not a traditional vaccine like we’ve had in the past” — implying that she could take other, more traditional vaccines. She says that she has natural immunity at that time because she has already had COVID-19, indicating that being unvaccinated is a personal health choice. Even the paralegal’s letter states this: “... I am not against vaccination. I am opposed to **this** vaccination as it violates several tenents [sic] of my Christian faith” [emphasis added]. For this reason, I have concluded that the grievor does not sincerely believe that her body is God’s temple that cannot be polluted by medication. She sincerely believes that she should not take **this** vaccine.

[49] In her evidence at adjudication, the grievor states that she believes that her “... body should be treated with utmost respect and care.” However, that belief is connected to and immediately followed by her statement that “[a]ccepting a vaccine that conflicts with my conscience would constitute a defilement of this trust.” This is a conscientious belief that I will address in more detail later.

[50] In conclusion, the grievor sincerely believes the things that she said in her own words on Instagram, when she wrote to her officer in charge on December 27, 2021, and in the statement that she filed in this adjudication. The grievor has not demonstrated that she sincerely believes the extra or other things set out in the paralegal’s letter.

[51] Before leaving this point, I want to address one argument made by the employer.

[52] The employer points out that the grievor did not swear or affirm an affidavit when she applied for accommodation. The employer argues that the fact that the paralegal’s letter is not an affidavit detracts from its sincerity. In reply, the grievor points out that she was on leave when the *Vaccine Policy* was introduced, that she relied on the letter sent to her by her officer in charge on December 2, 2021, and that this letter did not mention anything about an affidavit — only an attestation. I agree with the grievor that given the facts of this case, the fact that her attestation (in the form of a paralegal’s letter) was unsworn or unaffirmed by oath is not relevant. She was never asked to provide an affidavit, either before or after sending her paralegal’s

letter. I decline to give any weight to her failure to do something that she was never asked to do.

C. The grievor's sincere beliefs do not have a nexus with religion

[53] Having decided that the grievor's sincere beliefs are those that she set out in her own words, the next step is to decide whether these beliefs have a nexus with religion.

[54] The collective agreement in this case prohibits discrimination on the basis of both religious affiliation and creed. Neither party suggested that anything turned on subtle differences between the terms "creed" and "religion."

[55] As I set out earlier, the leading authority setting out the principles for establishing a *prima facie* case of discrimination on the basis of religion remains *Amselem*. Those principles (and the paragraphs in *Amselem* in which they are found) are:

- It is only beliefs, convictions, and practices that are rooted in religion that are protected, not those that are secular, socially based, or conscientiously held (at paragraph 39).
- Religion is about "... deeply held personal convictions or beliefs connected to an individual's spiritual faith and integrally linked to one's self-definition and spiritual fulfilment, the practices of which allow individuals to foster a connection with the divine or with the subject or object of that spiritual faith" (at paragraph 39).
- The emphasis is on the personal choice of religious beliefs, which in turn means that freedom of religion does not protect only those aspects of religious belief that are objectively recognized by religious experts as being obligatory tenets or precepts of a particular religion (at paragraph 43).

[56] In her submissions, the grievor does not argue that most of what she said in her Instagram post or her December 27, 2021, email attachment has a nexus with religion. She was right to. Most of those statements are clearly secular and not religious. For example, her complaints that the vaccine was made by corrupt people, that it has harmed its recipients, that it is not traditional, that the shot has "sadness and sickness associated with it", that she prioritizes her health, that she does not believe pharmaceuticals are the way out of the pandemic, and that people can get sick after being vaccinated have no religious component.

[57] Instead, I will focus on the two beliefs that are closest to having a nexus with religion.

[58] The first is in her statement provided as part of this adjudication. I will repeat the most important part of that statement here:

...

As a Christian, I believe that my body should be treated with utmost respect and care. Accepting a vaccine that conflicts with my conscience would constitute a defilement of this trust. My faith guides me to follow my conscience in all matters of moral decision-making.

Furthermore, the Congregation for the Doctrine of the Faith acknowledges that vaccination should not be considered a moral obligation and must remain a voluntary act... This perspective aligns with my belief that medical decisions should be made based on a balanced assessment of physical, mental, and spiritual considerations, and not solely on public health directives or external pressures.

Allowing others to dictate or coerce my decision to receive the COVID-19 vaccine would compromise my moral agency and violate the sanctity of my conscience. I believe that each individual must assess their circumstances and make informed choices that honor their faith and personal convictions. For me, accepting this vaccine is incompatible with my beliefs and would constitute a breach of my spiritual and moral obligations.

...

[59] The grievor has not shown a nexus between this belief and her religion. She conscientiously objects to being vaccinated and says this about her faith: it “guides me [which I have read generously to mean “requires me”] to follow my conscience.” This is a conscientious objection, not a religious one.

[60] Arbitrators have rejected similar claims by other employees. The arbitrator in *Pickering/Flowers* found this:

...

14. ... [I]f the Grievor's conscience were accepted as a creed-based belief, it could result in a potential “religious” exemption request for anything the City requires of him as his employer without any real challenge for the City, except on undue hardship grounds. For example, if the Grievor claimed that his conscience would not allow him to work overtime, he could claim that a requirement to work overtime violates his creed and the Employer would be in a difficult position....

...

[61] The grievor in *Nova Scotia Union of Public & Private Employees, Local 13 v. Halifax Regional Municipality*, 2022 CanLII 129860 (NS LA), made a similar claim, using the phrase “peace of mind” instead of “conscience” and stating that once she made up her mind about something, she was religiously required to maintain that belief. The arbitrator rejected that argument and denied the grievance, finding that such a belief is “personal and based on secular factors” (at paragraph 187).

[62] In *Corporation of The City Of Vaughan v. Canadian Union of Public Employees, Locals 905-20 (Hourly), 905-21 (F/t) And Local 905-22 (P/t)*, 2024 CanLII 8991 (ON LA), the arbitrator rejected a similar claim as having no nexus with religion, stating this:

...

[27] ... The grievor's belief is essentially a belief that God supports whatever actions she considers important and warranted. If this were sufficient to justify an exemption claim, then a grievor would be entitled to an exemption based on creed for everything a grievor was opposed to doing, since her God would not want her to do anything she was opposed to doing, provided she sincerely believed in her actions. Such a belief alone is not sufficient to entitle the grievor to an exemption. There must also be a connection or nexus with an overarching set of beliefs. A mere belief that God supports one's actions is not sufficient.

...

[63] Finally, in *Bedirian*, I rejected a similar argument, stating this:

[76] I agree with those cases that this sort of circular argument is not sufficient. Mr. Bedirian's initial application does not demonstrate a nexus between his religion and the reason he did not want to take the vaccine. His application stated only that his conscience did not permit him to take the vaccine and that his religion told him to follow his conscience. That is not sufficient. Mr. Bedirian would have to demonstrate that his religious beliefs did not permit him to take the vaccine — not that his “conscience” told him not to.

[64] I have followed those decisions in this case.

[65] The second is her belief that revolves around COVID-19 vaccines and DNA and RNA. In the paralegal's letter, he wrote that the grievor believed that the mRNA vaccine instructs her God-given RNA. As I said earlier, I have accepted only that the grievor

sincerely believes the things that she wrote, not what her paralegal wrote for her. However, in her December 27, 2021, email attachment and in the several email exchanges that she had in early January 2022 about rapid testing, she continued to assert that rapid tests violate the *Genetic Non-Discrimination Act*. The grievor's statements could be read to confirm her statement that she believes that the mRNA vaccine instructs her DNA or RNA, contrary to what she says are her religious beliefs.

[66] I do not need to decide whether the grievor sincerely believes that, because the belief is secular.

[67] Three previous cases have characterized the belief that COVID-19 vaccines modify DNA as secular, not religious.

[68] In *Oulds*, an employee was terminated from her employment for refusing to comply with her employer's mandatory vaccine policy in part because she believed that taking the vaccine would alter or instruct her DNA, RNA, or molecular structure. The Human Rights Tribunal of Ontario concluded that this belief was not a "creed" (i.e., it was not religious) because it was not linked to any overarching system of belief.

[69] In *Oxford (County) v. Canadian Union of Public Employees, Local 1146*, 2024 CanLII 105213 (ON LA), an employee was terminated for refusing to take a rapid test. The employee, like the grievor in this case, argued that rapid testing could alter her DNA, thus altering what God had created. The arbitrator in that case agreed with the result in *Oulds* that this belief is not religious because it has no connection to a shared belief or a community or organization. The arbitrator went further and concluded that since there was no evidence that a rapid test would involve any substance that would result in a change to her DNA, there was no way to connect her religious beliefs with her refusal to take part in that testing.

[70] Finally, in *Canadian National Railway v. Teamsters Canada Rail Conference Rail Traffic Controllers*, 2024 CanLII 110252 (CA LA), the arbitrator concluded that the employer improperly refused a religious exemption to a vaccine policy because of the employee's religious belief related to the use of fetal cell lines in the research and development of vaccines. One of the employer's arguments was that the employee's belief was insincere because it was a pretext for a series of secular objections to the vaccine. At paragraph 87 of the decision, the arbitrator gave an example of "... extraneous [non-religious] concerns ... [that] the vaccines alter their DNA ...".

[71] I agree with the results in those cases.

[72] I also note that the grievor's beliefs around the mRNA vaccine cannot explain her refusal to be vaccinated, even if it were sincere and religious. The grievor's belief is that mRNA vaccines instruct her RNA and that she cannot take them as a result. However, the *Vaccine Policy* did not require her to take an mRNA vaccine. The *Vaccine Policy* listed four authorized vaccines: Pfizer-BioNTech Comirnaty COVID-19 vaccine, Moderna Spikevax COVID-19 vaccine, AstraZeneca Vaxzevria, and Janssen (Johnson & Johnson). The AstraZeneca Vaxzevria was not an mRNA vaccine, as it used viral vector technology as a delivery system instead; see *Nova Scotia Nurses' Union v. IWK Health Centre*, 2022 CanLII 57410 (NS LA) at para. 30; and *Rehibi v. Deputy Head (Department of Employment and Social Development)*, 2024 FPSLREB 47 at para. 110. The Janssen vaccine was also not an mRNA vaccine.

[73] Unlike what I said earlier about the Novavax vaccine, non-mRNA vaccines were clearly permitted under the *Vaccine Policy* at the time that the grievor refused to get vaccinated. Even if I were to accept that the grievor's belief about mRNA vaccines was sincere and religious, I would still deny the grievance, because the *Vaccine Policy* accommodates that sincere belief by permitting employees to take non-mRNA vaccines.

[74] In conclusion, the grievor's sincere beliefs are secular, not religious.

VI. Other arguments raised by the parties

[75] My conclusion that the grievor's sincere beliefs that she provided in her own words are not religious is sufficient to decide this grievance. Nevertheless, I want to address some of the arguments made by the parties.

[76] First, both parties made submissions about the meaning of the Ontario Human Rights Commission's policy on the meaning of "creed." The grievor cited that policy in support of her argument, and the employer responded by citing a large number of cases (including *Oulds*) for the proposition that that policy does not establish a binding legal test. As I have explained in *Frankovic v. Treasury Board (Department of Transport)*, 2025 FPSLREB 19, it is not my role to interpret or apply a policy adopted by a different level of government to assist in the interpretation of a statute in a different

jurisdiction. And, again, neither party suggested that anything in this case turned on the difference between the terms “creed” and “religion”.

[77] Second, the grievor criticized the employer for not seeking further clarification before denying her request for accommodation. I have set out earlier the grievor’s email attachment of December 27, 2021, asking a number of questions. She sent another email on January 4, 2022, which (among other things) asked this: “Can you please explain to me why I am not being considered for the Duty to Accommodate?” The grievor also criticized her officer in charge for not forwarding her December 27, 2021, email attachment to the DFO Review Panel.

[78] In this jurisdiction, there is no standalone or separate procedural duty to accommodate; see *Canada (Attorney General) v. Duval*, 2019 FCA 290 at para. 25; and *Canada (Human Rights Commission) v. Canada (Attorney General)*, 2014 FCA 131. I cannot find against the employer solely because of a procedural fault, such as failing to respond to the grievor’s questions, failing to ask for more information, or failing to process the information that it received.

[79] I was concerned to read that the officer in charge decided not to forward the December 27, 2021, email attachment to the DFO Review Panel. As I have explained already many times, I found that attachment sincere. It should have been considered. Had I found in favour of the grievor in this matter, I would have given the employer’s failure to consider that document some weight when deciding the appropriate remedy in this case. However, I cannot find in favour of the grievor because of this procedural oversight.

[80] On the other hand, I was not concerned about the employer’s failure to respond to all the grievor’s questions posed in her December 27, 2021, email attachment. Read in its full context, the grievor was not really looking for information by asking those questions; she was trying to engage in a debate about the employer’s decision. The officer in charge answered her questions that were sincere efforts to obtain information (such as the duration of administrative leave and how to get information about the pension consequences of that leave). Had I found for the grievor, I would not have considered the employer’s refusal to debate its decision with her as a factor when assessing the appropriate remedy.

[81] Third, the employer included some evidence about the grievor's paralegal, namely, one of his Facebook posts. I agree with the grievor that this evidence is irrelevant, and I did not consider it. The employer was not clear about its relevance. I can assume only that it intended to cast doubt on the grievor's sincerity by showing that her paralegal had strong views about the COVID-19 vaccine. A solicitor or paralegal's views are not necessarily those of their clients, and vice versa, so the paralegal's views are not relevant in this case.

[82] Fourth, the employer included a significant amount of evidence about the grievor's non-attendance at work after the *Vaccine Policy* ended on June 20, 2022. The employer did not explain why it thought that the events after June 20, 2022, were relevant at this stage of the case. I did not consider this evidence either because it is irrelevant to the question before me. Similarly, the parties spent time arguing whether the grievor was insubordinate by not providing a rapid-test result in early January 2022. That argument is not relevant to the issue that I have to decide.

[83] Finally, the employer filed the version of the *Vaccine Policy* for the National Research Council in its submissions in this case. That policy was evidence, not an authority, and should not have been filed as part of its submissions. In any event, the vaccine policy of a different employer is not relevant to this case, and I did not consider it.

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

(The Order appears on the next page)

VII. Order

[85] The grievance is denied.

April 3, 2025.

**Christopher Rootham,
a panel of the Federal Public Sector
Labour Relations and Employment Board**