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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

**MATTHIEU HARRISON, CAROLE JOANISSE, CHANTAL PRÉVOST, ALEXANDRU  
STEFANESCU AND RICHARD STEWART**

Grievors

and

**NATIONAL RESEARCH COUNCIL OF CANADA**

Employer

Indexed as

*Harrison and others v. National Research Council of Canada*

In the matter of individual grievances referred to adjudication

**Before:** Patricia H. Harewood, a panel of the Federal Public Sector Labour  
Relations and Employment Board

**For the Grievors:** Malini Vijaykumar and Melanie Sutton, counsel

**For the Employer:** Larissa Volinets Schieven, counsel

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Decided on the basis of written submissions,  
filed August 2, 9, 23, 29, and 30,  
September 6 and 26, and October 4, 2024.

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## REASONS FOR DECISION

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### I. Individual grievances referred to adjudication

[1] Assessing whether a religious belief is sincerely held is central to determining these grievances. While in *Syndicat Northcrest v. Amselem*, 2004 SCC 47, the Supreme Court of Canada affirmed that courts, and by extension, tribunals, must not be arbiters of religious dogma or teachings, the majority of the Court also concluded that tribunals are well placed to assess whether a religious belief is sincere.

[2] This decision addresses five individual grievances that the Research Council Employees' Association filed against the National Research Council of Canada's ("the employer") mandatory COVID-19 vaccination policy (the *Policy on COVID-19 Vaccination for the National Research Council*; "the policy"). The employer's Policy was in effect during the COVID-19 pandemic ("the pandemic") from November 2020 to June 2021. The employer is not part of the core public administration. However, it replicated the federal government's mandatory vaccination policy, which applied to federal public service workers in the core public administration.

[3] Each grievor requested an exemption from the policy on religious grounds and filed an individual grievance against the employer under s. 209(1)(a) of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2) when it denied each request and then placed each grievor on leave without pay. The parties agreed that one concurrent decision be issued for the five individual grievances., I analyzed each one independently, specifically to the facts and the parties' submissions for each one.

[4] The grievors, Matthieu Harrison, Carole Joannis, Chantal Prévost, Alexandru Stefanescu and Richard Stewart, argue that the employer's failures to grant them religion exemptions to the policy constituted *prima facie* cases of discrimination on the ground of religion, under the applicable collective agreements, s. 7 of the *Canadian Human Rights Act* (R.S.C., 1985, c. H-6), and s. 2(a) of the *Canadian Charter of Rights and Freedoms* (Part I of the *Constitution Act, 1982*, enacted as Schedule B to the *Canada Act 1982*, 1982, c. 11 (UK); "the *Charter*"). As a remedy, they request a declaration that each grievor made out a *prima facie* case of discrimination on the basis of religion.

[5] The employer argues that each grievance should be dismissed because none of the grievors made out a *prima facie* case of discrimination.

[6] Under s. 22 of the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365), the Board can dispose of any matter without holding a hearing. The parties requested that these matters be dealt with together by way of written submissions, and the Board agreed.

[7] As the Board noted in *Bedirian v. Treasury Board (Department of Foreign Affairs, Trade, and Development)*, 2024 FPSLRB 58, it has carriage of over 350 cases like these ones. A fair, efficient, and effective method to address them is thus in the best interests of the parties and the Board. These five individual grievances involve the same employer, the application of the same policy, and factual matrices that are similar, even though they are individual grievances.

[8] After a case management conference was held, the Board agreed to a schedule for written submissions and for filing affidavits and making cross-examinations on them. The parties also filed a joint book of documents that included individual affidavits that were filed when the exemption requests were made. The parties also agreed to provide a supplementary book of documents, if required, but never did. They were provided with the opportunity to file additional affidavits in Ms. Prévost's grievance and to cross-examine on any affidavit. Both the grievors and the employer filed those additional affidavits, but neither availed itself of its right to cross-examine on the other party's affidavit.

[9] For the reasons explained below in detail, I find that Richard Stewart and Chantal Prévost have made out a *prima facie* case of discrimination on the basis of religion. Mr. Stefanescu, Mr. Harrison and Ms. Joanisse have not met this threshold. The individual decisions below include the contextual background for all grievances, the issue I need to determine and a review of the applicable case law. After that, the facts and analyses related to each individual grievance are set out. Below I provide a condensed table of contents of the individual decisions for ease of reference.

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## **II. Background to the grievances**

[10] The parties did not file an agreed statement of facts, but the material contextual facts on the policy's implementation are not in dispute.

[11] On October 6, 2020, the Government of Canada provided details of its mandatory vaccination policy, which applied to public servants within the core public administration.

[12] On the same day, the employer announced its intention to replicate the federal government's policy.

[13] The employer's policy came into effect on November 8, 2021. Under it, employees were required to attest to their vaccination status by November 30, 2021, which required entering data into the employer's "Vaccine Attestation Tracking System".

[14] Employees desiring an accommodation on a human rights ground could also make their requests via the employer's Vaccine Attestation Tracking System. They were required to fill out a form, answer a number of questions, and then proceed to a follow-up meeting with their line manager.

[15] Any employees who did not attest to their vaccination status were to be placed on administrative leave without pay as of December 15, 2021.

[16] All the grievors made an exemption request, on religious grounds. All were denied an exemption and placed on leave without pay. Their individual circumstances will be described later in this decision.

[17] The employer suspended the mandatory policy on June 20, 2022.

### III. Questions at issue

[18] The Board agreed to bifurcate the question of remedy from the merits of the grievances. Therefore, based on the grievances' wording, the only issue in each one is whether the employer's denial of each grievor's accommodation request on religious grounds constituted *prima facie* discrimination, in violation of the applicable collective agreement and s. 7 of the *Canadian Human Rights Act* and a breach of s. 2(a) of the *Charter*.

[19] I will first briefly summarize the case law on when freedom of religion is triggered — when a *prima facie* case of discrimination is established — and will then apply the law to the particular facts of each case. Although I have closely read all the submissions and reviewed all the documents that were filed, I will not repeat the parties' arguments verbatim but will respond to them in my analysis on the merits.

### IV. The applicable case law - *Amselem* and *Bedirian*

[20] The grievors claimed discrimination on the basis of religious beliefs that breached the collective agreement and s. 7 of the *Canadian Human Rights Act* and 2(a) of the *Charter*.

[21] Proving a case of *prima facie* discrimination requires a grievor to establish that they have a characteristic protected from discrimination under a collective agreement and the *Canadian Human Rights Act*, that they faced an adverse impact, and that the protected characteristic was a factor in the adverse impact (see *Moore v. British Columbia (Education)*, 2012 SCC 61 at para. 33). The protected characteristic need only be a factor and not the sole factor in the adverse impact that was experienced. Further, whether there was an intention to discriminate is immaterial. What matters is the effect of the respondent's actions on the grievor. (See *Peel Law Association v. Pieters*, 2013 ONCA 396 at paras. 111 and 112.)

[22] Both parties cite *Amselem* as the seminal case that sets out the test to establish a *prima facie* case of discrimination on the basis of religion. They also cite *Bedirian* extensively, which was the Board's first case to apply the *Amselem* framework to a case involving a grievor who contested the employer's decision to deny his request for a religious exemption from the Treasury Board's COVID-19 vaccination policy. I will use the same *Amselem* framework as applied in *Bedirian*, and I will also frequently refer to

the approach in *Bedirian* when assessing the evidence in these cases, since I think that it is an important guidepost in the Board's development of its case law in this area.

[23] The majority of the Supreme Court of Canada laid out the two-stage test as follows:

...  
56 ... *an individual advancing an issue premised upon a freedom of religion claim must show the court that (1) he or she has a practice or belief, having a nexus with religion, which calls for a particular line of conduct, either by being objectively or subjectively obligatory or customary, or by, in general, subjectively engendering a personal connection with the divine or with the subject or object of an individual's spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials; and (2) he or she is sincere in his or her belief...*  
...

[24] In *Bedirian*, at para. 28, the Board succinctly laid out the key principles from *Amselem*, which must guide any decision maker tasked with determining whether there is a *prima facie* case of discrimination on religious grounds, as follows:

- ... • *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).*
- *Freedom of religion requires a "nexus" between the belief or practice and the person's religion (at paragraph 46).*

[25] As for assessing sincerity, I reproduce as follows the guidance from paragraphs 51 to 53 of the Supreme Court of Canada's majority decision:

51 ... It is important to emphasize, however, that sincerity of belief simply implies an honesty of belief: see *Thomas v. Review Board of the Indiana Employment Security Division*, supra.

52 ... the court's role in assessing sincerity is intended only to ensure that a presently asserted religious belief is in good faith, neither fictitious nor capricious, and that it is not an artifice. Otherwise, nothing short of a religious inquisition would be required to decipher the innermost beliefs of human beings.

53 Assessment of sincerity is a question of fact that can be based on several non-exhaustive criteria, including the credibility of a claimant's testimony (see *Woehrling*, supra, at p. 394), as well as an analysis of whether the alleged belief is consistent with his or her other current religious practices....

[26] Once a religious belief and its sincerity are established, freedom of religion is triggered.

[27] The last step in the analysis is that the individual must then prove that the impugned rule interfered with their religious belief in a manner that was more than trivial or insubstantial. In other words, there must be a significant interference in the individual's religious belief or practice such that they are either altogether prevented from carrying it out or are effectively denied its substance.

[28] In *Amselem*, the Supreme Court of Canada determined that a condominium rule that prevented Orthodox Jewish complainants in a luxury apartment building from constructing temporary dwellings on their balconies during a religious holiday breached the Quebec *Charter of Human Rights and Freedoms* ("Quebec Charter") and s. 2(a) of the *Charter*. Discussing the condominium rule's impact, the Court noted that since the complainants subjectively believed that their Jewish faith required them to build succahs on their personal balconies, the rule that prevented them from doing so was an infringement of their freedom of religion in a way that was more than trivial. On the issue of interference with freedom of religion, at paragraph 74, the majority of the Court opined as follows as to how Mr. Amselem's freedom of religion had been infringed:

74 According to the governing principles, however, in order for a triggered right of religious freedom to have been infringed, the interference with the right needs to be more than trivial or insubstantial: see *Jones*, supra. It is evident that in respect of Mr. Amselem the impugned clauses of the declaration of co-ownership interfere with his right in a substantial way. For if, as Rochon J. himself found, Mr. Amselem sincerely believes that he is obligated

*by the Jewish religion to set up and dwell in his own succah, then a prohibition against setting up his own succah obliterates the substance of his right, let alone interferes with it in a non-trivial fashion. A communal succah is simply not an option. Thus, his right is definitely infringed.*

[29] Once it is established that the right was infringed, a *prima facie* case of discrimination is made out.

[30] In *Bedirian*, the Board determined that the *Amselem* framework, which applies in the context of the *Quebec Charter* and the *Charter*, is applicable to the human rights context, including human rights provisions prohibiting religious discrimination in a collective agreement or in the *Canadian Human Rights Act*. For the purpose of these individual grievances, this is where the analysis ends, since the grievors ask for a declaration that a *prima facie* case of discrimination has been made out under the collective agreement, the *Canadian Human Rights Act*, and s. 2(a) of the *Charter*. Therefore, if *prima facie* discrimination is found with respect to any individual grievance, I will not proceed with respect to any analysis under s. 2(a) to determine whether the exercise of the right infringes on others.

[31] However, to establish an actual breach of s. 2(a) of the *Charter*, I will describe the additional step outlined in *Amselem* that comes into play once an individual establishes a *prima facie* case of discrimination on the basis of religion by demonstrating that the sincerely held religious belief was infringed.

[32] Under the *Charter*, freedom of religion, like any other freedom, is not absolute. Individuals are still required to contemplate how the exercise of their right infringes on others. The Supreme Court of Canada explains it as follows at paragraphs 62 and 63 of *Amselem*:

*62 Freedom of religion, as outlined above, quite appropriately reflects a broad and expansive approach to religious freedom under both the Quebec Charter and the Canadian Charter and should not be prematurely narrowly construed. However, our jurisprudence does not allow individuals to do absolutely anything in the name of that freedom. Even if individuals demonstrate that they sincerely believe in the religious essence of an action, for example, that a particular practice will subjectively engender a genuine connection with the divine or with the subject or object of their faith, and even if they successfully demonstrate non-trivial or non-insubstantial interference with that practice, they will still have to consider how the exercise of their right impacts upon the*



*rights of others in the context of the competing rights of private individuals. Conduct which would potentially cause harm to or interference with the rights of others would not automatically be protected. The ultimate protection of any particular Charter right must be measured in relation to other rights and with a view to the underlying context in which the apparent conflict arises.*

*63 Indeed, freedom of religion, like all other rights, applicable either as against the State or, under the Quebec Charter, in its private dimension as against another individual, may be made subject to overriding societal concerns. As with other rights, not every interference with religious freedom would be actionable, in accordance with the limitations on the exercise of fundamental rights recognized by the Quebec Charter.*

[33] Both parties cited several examples of applying the *Amselem* framework in the context of grievors alleging discrimination on the basis of religion where the employer denied an exemption from a mandatory COVID-19 vaccination policy. While I have read all the decisions that were provided, I will only refer to those I deem most relevant to the issues at hand, either because they are factually similar or due to the need to distinguish them from the individual grievance at hand.

[34] I will now outline the facts of each individual grievance and then apply the law to the facts in my analysis of whether each grievor made out a *prima facie* case of discrimination on the basis of religion, in violation of the collective agreement, s. 7 of the *Canadian Human Rights Act*, and s. 2(a) of the *Charter*.

## **V. Facts and analysis**

### **A. For Richard Stewart**

#### **1. Facts**

[35] Mr. Stewart worked as a business intelligence analyst in the employer's Knowledge, Information and Technology Division when he requested an exemption from the policy, on religious grounds. He identifies as a Christian and as a follower of Jesus Christ.

[36] On November 26, 2021, Mr. Stewart applied for an exemption from the policy. He swore an affidavit in support. The employer did not cross-examine Mr. Stewart on his affidavit, and I have reproduced excerpts from it, as follows:

...

*In response the Covid 19 vaccine mandate I am requesting an accommodation based on creed/religion as receiving a vaccine would violate my sincerely held beliefs.*

*As a Christian I believe that the Bible is God's way of speaking to his people.*

**Romans 4:12** says "For the word of God is alive and powerful. It is sharper than the sharpest two-edged sword, cutting between soul and spirit, between joint and marrow. It exposes our innermost thoughts and desires."

*I am a follower of Jesus Christ. He is the head of the church. I do not follow the edicts of some priest/pastor or the guidelines of a certain Christian denomination. I do regularly attend Christ Church Ottawa <https://www.christchurchottawa.com/> which is a Foursquare Gospel Church. But my true faith comes from reading His word (the Bible), prayer and God gives me guidance through the Holy Spirit.*

...

*I have not taken any vaccines since becoming a Christian over 20 years ago. I trust God to protect me.*

*I believe that he created me and my immune system.*

...

*God created me with an immune system. His works are perfect. I trust my body to do what He created it to do. I had the Covid virus already (April 2020) and was quite sick and lost my taste and smell which are the unique symptoms of covid. My immune system did what it was designed to do and fought the virus. The immune system He created in me is better than anything man can make. Which isn't just biblical there have been over 100 scientific studies done in the last year showing that natural immunity is better than the immunity acquired from the vaccine. I'll include some of those studies at the end of this letter.*

...

*My final reason for rejecting vaccines is my firm belief in the value of life from conception to natural death. This is clearly shown throughout scripture.*

...

*Vaccines have been developed and tested using fetal cell lines. Abortion kills babies and using their tissue for medical research, no matter how far removed violates God's command against killing.*

**Deut 5:17** "You shall not murder"

...

*As someone who has had covid I believe it would be immoral for me to take a vaccine when most of the world population does not have access. While I have faith that God can protect me, many*

*people do not. The continent of Africa as a whole has only approx 3% of its population vaccinated (this may be higher now). Even those most at risk have not had an opportunity. The Canadian government is participating in systemic discrimination by insisting that the entire population receive vaccines (and now the boosters) ahead of poor countries who cannot afford to pay for the vaccine. Loving my neighbour includes the entire world, not just those who live close by.*

...

[Sic throughout]

[37] Mr. Stewart also submitted a letter from his pastor, Reverend John Counsell, dated November 24, 2021. Mr. Counsell is the lead pastor of Christ Church Ottawa, in Ottawa, Ontario, of which Mr. Stewart is a member. I have reproduced the relevant excerpts of his personalized letter as follows:

...

*I have pastored full time for over 40 years, Rich and his wife [redacted] are some of the most devoted, caring, self sacrificing people I have ever worked with. They, like us believe that real faith has to be a choice otherwise it is forced and repressive. "Forced conversions" are obscene to us. We believe no one has the right to preach the gospel of Christ without "earning the right to be heard." ....*

...

*Rich and [his wife] [redacted] are fueled by the "real deal". They are truly people of monumental devotion and faith, and like our rejection of "forced conversions" our attitude towards forced anything seems cruel, and bullying. It is in direct contrast to following Christ, who before He instructed us to live ... he died a torturous horrible death to pay the price for our sin, thus earning the right to be heard. We follow this philosophy as well as we can.*

*We believe our bodies, being the "Temple of the Holy Spirit" according to scripture are sacred. We are very careful how we treat them, what we put into them. They are not ours, they belong to our Lord. Rich and [his wife] [redacted] Stewart demonstrate this belief as well as any one of the thousands of people I have pastored. I would NEVER question their sincerity and devotion to our belief system, because I have witnessed the reality of it, every week, privileged to see Christ literally, love, serve, and work through them.*

...

[Sic throughout]

[38] On February 1, 2022, the Deputy Chief Information Officer replied to Mr. Stewart's accommodation request. The employer determined that his objection to being vaccinated was based on personal, not religious reasons. Therefore, his request was denied.

[39] Mr. Stewart was placed on leave without pay, effective March 1, 2022.

[40] He filed his grievance on or around February 9, 2022.

## 2. Analysis

[41] Mr. Stewart argues that he made out a *prima facie* case of discrimination on religious grounds because the employer did not grant his exemption request. He argues a violation of section 51.1 of his collective agreement, the *Canadian Human Rights Act* and the *Charter*.

[42] He argues that his beliefs prevent him from receiving the COVID-19 vaccine and have a nexus with religion. I characterize his beliefs as follows:

- 1) his God created his immune system, and His works are perfect;
- 2) it would have been immoral for him to receive the vaccine, given that many people living in poverty on the African continent did not have access to it; and
- 3) the vaccine was developed and tested using fetal cell lines; receiving it would violate his God's command against committing murder.

[43] I will address each argument in turn.

### a. The immune-system argument has no nexus with religion

[44] Other arbitrators have accepted the immune-system argument as having a nexus with religion (see *Wilfrid Laurier University v. United Food and Commercial Workers Union*, 2022 CanLII 120371 (ON LA); and *Canadian Union of Public Employees, Local 129 v. The City of Pickering (Hepp)* (unreported, May 23, 2023; "*Pickering/Hepp*").

However, I find that Mr. Stewart does not characterize his subjective belief as one that would prevent him from receiving the COVID-19 vaccine or defiling his covenant with his God. His argument is a mixture of secular beliefs in allegedly scientific studies that set out that natural immune responses are effective. He attempts to support this belief by quoting significant passages of scripture on how his God has created a perfect immune system for humans. He also speaks about his experience of contracting COVID-19 in April 2020 and how it provided him with natural immunity.

[45] Nothing in his affidavit points to this immune-system belief being rooted in religion. The mere reference to biblical scripture does not make the belief religious, since he does not articulate any subjective belief that prohibits him from receiving the COVID-19 vaccine due to his immune system. Therefore, I find that this belief is rooted in his secular belief about the effectiveness of the natural immune system. It has no nexus with religion.

**b. The morality argument has no nexus with religion**

[46] I find his belief as to the immorality of receiving the COVID-19 vaccine certainly has no nexus with religion. In his affidavit, Mr. Stewart characterizes it as a moral belief and makes pronouncements about what he perceives as Canada's systemic racism in prioritizing its need for the vaccine over other countries, specifically those on the African continent. Similarly, I find that this is not a belief with a nexus with religion. Instead, it is a belief grounded in a secular critique of Canada's domestic policy on the purchase and distribution of COVID-19 vaccines and its global impact.

**c. The fetal-cell-line argument has a nexus with religion**

[47] Nonetheless, Mr. Stewart does have one belief with a nexus with religion. He states in his affidavit that he believes that vaccines have been produced using fetal cell lines and that receiving the COVID-19 vaccine would be violating his God's commandment of "you shall not kill".

[48] As the Supreme Court of Canada has noted, whether a belief is true, and whether it is supported by religious leaders, religious dogma, or other religious tenets, is not part of a court's or tribunal's inquiry. This is not a religious inquisition. Rather, I must assess whether the belief has a nexus or connection with an overarching system that is linked to "the divine" or one's sense of spiritual fulfillment and practices that support a connection with the divine. (See *Amselem* at para. 46.)

[49] Arbitrators have found that beliefs that grievors cannot receive the COVID-19 vaccine because it was tested and developed using fetal cell lines and would therefore be against their God's commandment against killing is a belief with a nexus with religion (*Public Health Sudbury & Districts v Ontario Nurses' Association*, 2022 CanLII 48440 (ON LA) at para. 59-60 ("*Sudbury Health District*"); *Island Health v. UFCW Local 1518*, 2022 CanLII 127683 (BC LA), at para. 84 and 87 to 89; *Canadian Union of Public Employees, Local 79 v. The City of Toronto, (de Castro)* (unreported, April 11, 2023) at

para. 74-78. In Mr. Stewart's case, I am of the view that much as in those cases, there is a clear nexus with his belief as a Christian that receiving the vaccine would violate his God's commandment.

**d. Mr. Stewart's beliefs are sincerely held**

[50] The second step of the analysis requires determining whether the beliefs are sincerely held. There is no defined checklist, but the assessment is based on a number of non-exhaustive criteria (see *Amselem* and *Bedirian*). I have listed as follows some of the criteria that may be examined when assessing sincerity:

- the credibility of the grievor's testimony and other evidence;
- when the belief arose (i.e., before or after the exemption was denied);
- the belief's degree of consistency during the relevant period;
- whether the belief is consistent with other current religious practices; and
- whether the grievor's actions reflect their belief that is subjectively or objectively obligatory (i.e., in these cases, whether the grievor gets vaccinated).

[51] Since there is only one belief with a nexus with religion, my analysis focuses on determining whether Mr. Stewart's religious belief is sincerely held.

[52] I find that it is.

[53] While the employer claims that Mr. Stewart has provided no evidence that his belief has a nexus with other religious beliefs or practices, I must disagree.

[54] In his affidavit, Mr. Stewart states that he is a Christian and that he has not received any vaccines in 20 years.

[55] He states that since Christians are supposed to help people who are less fortunate, he and his wife provided street outreach to people during the pandemic, some of whom struggled with malnourishment, addiction, and mental-health issues.

[56] His pastor affirmed in a letter dated November 25, 2021 — which was two days before Mr. Stewart submitted his exemption request — that Mr. Stewart is a devoted Christian. The pastor noted that the main focus of Christ Church is "... ministering to the poor of downtown Ottawa, through material, emotional and spiritual support." He wrote that he had pastored for over 40 years and that Mr. Stewart and his wife are "... some of the most devoted, caring, self-sacrificing people [he has] ever worked with ...". The pastor noted that Mr. Stewart is fueled by the "real deal" and that he is a

person of “monumental devotion and faith”. The pastor stated that the church believes that the body is the temple of the Holy Spirit and thus is sacred, and noted as follows:

...

*... They are not ours, they belong to our Lord. Rich and [redacted] Stewart demonstrate this belief as well as any one of the thousands of people I have pastored. I would NEVER question their sincerity and devotion to our belief system, because I have witnessed the reality of it, every week, [sic] privileged to see Christ literally, love, serve, and work through them.*

...

[57] Evidence from religious leaders or experts is not necessary to determine the sincerity of a belief. Once, again, I refer to the words of the Supreme Court of Canada in *Amselem* at paragraph 54 on assessing the sincerity of belief:

*... An “expert” or an authority on religious law is not the surrogate for an individual’s affirmation of what his or her religious beliefs are. Religious belief is intensely personal and can easily vary from one individual to another. Requiring proof of the established practices of a religion to gauge the sincerity of belief diminishes the very freedom we seek to protect.*

[58] Nevertheless, although the letter from Mr. Stewart’s pastor is not necessary to establish the sincerity of his belief, in this case, it is relevant. I find it helpful. It is personalized and intimate. There is no doubt that Mr. Stewart is no stranger to the pastor, as a devoted member of his flock. I attribute some weight to it when assessing the sincerity of Mr. Stewart’s belief. At a minimum, it establishes that his sincerely held religious belief is consistent with other religious practices — how he lives his life with religion, including ministering to people experiencing poverty, attending church regularly, and treating his body as a sacred temple.

[59] That is very different from *Bedirian*, in which the Board determined that most importantly, there was no evidence of how religion was part of the life of the grievor in how religion influenced other decisions he had made, or how his relationship with God manifested in his day-to-day life (see paragraph 97). Further, there was no evidence that he attended the church from which he obtained the pastor’s letter or that he attended church at all, even though that is not a requirement to establish the sincerity of belief. There was no personalized letter, like the one Mr. Stewart submitted.

[60] In fact, in direct contrast to the case before me, in *Bedirian*, there was no evidence that Mr. Bedirian was a practicing Catholic. Since the inquiry is into the sincerity of the belief at the point the alleged interference took place, the evidentiary gap in *Bedirian* as to that grievor's current religious activities was stark. It stands in sharp contrast to Mr. Stewart's case, in which there is evidence of his current religious activities.

[61] The majority of the Supreme Court of Canada has said that an inquiry into the sincerity of a belief must be minimal. In *Amselem*, it insisted that a court's inquiry must be limited to assessing whether the religious belief is sincerely held and not delve into the interpretation of religious precepts. I find that there is sufficient evidence on a balance of probabilities to establish that Mr. Stewart meets the low threshold of establishing that his religious belief is sincerely held.

[62] For most people, their jobs are their main revenue source. Being placed on leave without pay because of a sincerely held religious belief interferes with the freedom of religion in a way that is more than trivial or insubstantial. Like the arbitrators found in *Sudbury Health District*; and *Pickering/Hepp*, I find that it is a significant interference.

[63] In this case, Mr. Stewart was left with the choice of following his sincerely held religious belief or going without his salary for an indefinite period. Therefore, I find that he established a *prima facie* case of discrimination, contrary to the collective agreement, s. 7 of the *Canadian Human Rights Act*, and s. 2(a) of the *Charter*.

[64] Since the parties agreed to bifurcate the remedy, and Mr. Stewart requested only that the Board issue a declaration of *prima facie* discrimination on religious grounds, I so declare.

[65] The grievor has established a *prima facie* case of discrimination. The parties are required to inform the Board within 90 days as to whether they have reached an agreement on remedy. If no agreement has been reached by then, a hearing will be scheduled in due course, to determine the remedy.

## **B. For Alexandru Stefanescu**

### **1. Facts**

[66] At the relevant time, Mr. Stefanescu worked as a team lead, also in the Knowledge, Information and Technology Division.



[67] He identifies as an Orthodox Christian and as a member of the Orthodox Romanian Church.

[68] On December 2, 2021, he swore a handwritten affidavit to support his accommodation request on the ground of religious belief. I have reproduced some of it, as follows:

*I am a faithful Orthodox Christian and an active member of the Romanian Orthodox church and community. I am requesting accommodation based on my deeply held religious beliefs.*

*I am not opposed to vaccines that have been developed and manufactured ethically; I am however opposed to the Covid vaccine as I sincerely believe this vaccine represents the prophesied Mark of the Beast and the coming of the Antichrist, as was revealed in John the Apostle in the Book of Revelations. In Revelation 13:16; it is said:*

*“Also, it causes all, both small and great, both rich and poor, both free and slave, to be marked ... so that no one can buy or sell unless he has the mark, that is, the name of the beast or the number of its name ... That number is 666”. In Revelation, 14, it is said that anyone who receives the make of the beast will suffer the wrath of God and will be tormented for eternity. It is my sincere belief that by taking a Covid vaccine, I would be violating my covenant with God, and I cannot in good conscience do that.*

*My beliefs are supported by holy Elders of the Orthodox Church, whose teachings and practices I follow faithfully ...*

*As a faithful believer in the teachings of the Church, I have been instructed by the Church Fathers to forever cherish and protect my covenant with God. As such, I am unable to take the Covid-19 vaccine as doing so would violate the sanctity of my conscience and my deeply held religious beliefs.*

...

[Sic throughout]

[69] On February 14, 2022, the employer advised Mr. Stefanescu that his request was denied because his objection to the COVID-19 vaccine was established as based on personal choice, not a religious imperative.

[70] The employer placed Mr. Stefanescu on administrative leave without pay, effective March 15, 2022.

[71] Mr. Stefanescu filed a grievance on or around February 16, 2022.

## 2. Analysis

[72] Mr. Stefanescu argues that the employer's decision to deny his accommodation request was *prima facie* discrimination on the basis of religion and a violation of article 51.1 of the collective agreement, s. 7 of the *Canadian Human Rights Act*, and s. 2(a) of the *Charter*.

[73] The employer argues that Mr. Stefanescu failed to demonstrate that his beliefs have any nexus with religion or that they are sincerely held.

[74] As adjudicators have previously noted, a grievor must have at least one belief with a nexus with religion (see *Nova Scotia Nurses' Union v. IWK Health Centre*, 2022 CanLII 57410 (NS LA) ("*IWK*"); *Wilfrid Laurier University*).

[75] I find that Mr. Stefanescu had two reasons for not wishing to receive the COVID-19 vaccine, 1) because it is unethical, and 2) because it is the "Mark of the Beast" and receiving it would violate his covenant with God.

### **a. Alexandru Stefanescu's belief that the COVID-19 vaccine is unethical does not have a nexus with religion**

[76] In his affidavit, he states up front that he is not opposed to vaccines that have been ethically manufactured and developed and implies that the COVID-19 vaccine is not among them. That is one reason that he appears not to want to receive the vaccine. He provides no explanation as to why he believes that the vaccine was unethically developed; nor does he provide examples of vaccines that have been ethically developed.

[77] Furthermore, he provides no explanation as to what he means by "ethically manufactured or developed". For animal-rights activists, this could mean a vaccine developed without animal testing. For humanitarians, this could mean a vaccine developed without the use of child labour or other forms of human exploitation. There is simply nothing in the affidavit that provides an explanation.

[78] Nonetheless, based on the little information provided, I find that this first reason for not wishing to receive the COVID-19 vaccine is grounded in a singular conscientious objection to vaccines that are not ethically manufactured or developed. It is not rooted in religion. At no point does Mr. Stefanescu link that belief to a

comprehensive system of beliefs with a connection to the divine or his spiritual fulfillment.

**b. Alexandru Stefanescu's belief that the COVID-19 vaccine is the Mark of the Beast has a nexus with religion**

[79] On the other hand, Mr. Stefanescu's second reason for not wishing to receive the COVID-19 vaccine does have a nexus with religion.

[80] In his affidavit, Mr. Stefanescu states that the COVID-19 vaccine represents the Mark of the Beast. He explains that according to his spiritual faith, the Mark of the Beast represents the coming of the Antichrist, as described at 13:16 Revelations — one of the seminal books of the Bible for Christians. That verse can be summarized as one will suffer and be tormented by God if one has the Mark of the Beast. He explains that receiving the vaccine would violate his covenant with God.

[81] He also explains that several religious leaders also share his beliefs, although he does not specify whether he is referring to the belief that the COVID-19 vaccine is unethical or is the Mark of the Beast, or both.

[82] As the Supreme Court of Canada stated in *Amselem*, whether religious officials or dogma support the belief is immaterial to the inquiry. Further, it does not matter whether the belief is objectively true. At the heart of the first step of the analysis is whether the belief has a nexus or a connection with religion.

[83] In some cases, arbitrators have concluded that beliefs that the COVID-19 vaccine represents the Mark of the Beast, as set out in the Christian Bible, have a nexus with religion (See *IWK* at para. 62).

[84] Based on the facts before me, I find that Mr. Stefanescu's belief that the COVID-19 vaccine represents the Mark of the Beast and that receiving it would violate his covenant with God is a belief with a nexus with religion, notably his Orthodox Christianity.

**c. Mr. Stefanescu's belief is not sincere**

[85] However, I do not find that Mr. Stefanescu's religious belief is sincere.

[86] I agree with the employer that apart from stating that he is an Orthodox Christian and an active member of the Romanian Orthodox Church, Mr. Stefanescu

provides no evidence that his religious belief is consistent with any of his other religious practices. In fact, his affidavit is devoid of any information about any other religious practices that form part of a comprehensive system of beliefs.

[87] Since whether a belief is sincerely held is a question of fact, it was incumbent upon Mr. Stefanescu to make his case. Although the threshold is low for establishing the sincerity of a belief, making one's case requires more than a declarative statement in an affidavit that one's religious belief is sincere and references to passages of biblical scripture.

[88] Mr. Stefanescu is silent about what it means to be an active member of the Romanian Orthodox Church. While there is no approved list of activities to prove that one's religious belief is sincerely held, even the minimal inquiry that the Supreme Court of Canada demands requires assessing whether there is consistency with other religious practices. As a member of the Romanian Orthodox Church, Mr. Stefanescu may very well engage in other religious practices. He may very well hold other beliefs that are consistent with his belief that the COVID-19 vaccine represents the Mark of the Beast. He simply fails to do the minimum required to prove it.

[89] He provides no information about how he lives his life in a way that is consistent with his religious belief that the COVID-19 vaccine is a Mark of the Beast and that therefore, he is prohibited from receiving it.

[90] His case can be distinguished from *IWK* and *Sudbury Health District*.

[91] In *IWK*, Arbitrator Hollett considered that the grievor, a registered nurse, did not look into any other vaccines once the vaccination mandates were announced as evidence that her belief that the COVID-19 vaccine represented the Mark of the Beast was sincerely held. The arbitrator also had evidence of the grievor's religious beliefs on sexual relations outside marriage and the sanctity of her body as a spiritual temple made in God's image.

[92] That is quite different from this case, in which the only evidence is a declarative statement in the affidavit about Mr. Stefanescu being an Orthodox Christian and an active member of the Romanian Orthodox church, without any additional references to religious practices and beliefs consistent with the belief about the significance of the Mark of the Beast.

[93] In addition, the facts in this case are very different from those in *Sudbury Health District*. In that case, the arbitrator concluded that the grievor's religious belief that prevented her from receiving the COVID-19 vaccine because of its perceived connection to fetal cell lines was sincere. The arbitrator relied heavily on evidence about how the grievor lived her life according to her understanding of the doctrine of the Latin Mass Community (see paragraph 57). In spite of some inconsistencies in how the grievor explained how receiving the vaccine would be contrary to her faith but that taking other medications was not, the arbitrator still concluded that her religious belief that she could not receive the vaccine because it used fetal cell lines was sincerely held.

[94] The case before me can be distinguished from *Sudbury Health District* due to the sheer paucity of evidence before me on how Mr. Stefanescu lives his life according to his Orthodox Christian faith and as a member of the Romanian Orthodox church. I simply have no evidence that he lives his life in a manner consistent with his religious beliefs.

[95] Therefore, Mr. Stefanescu's grievance is denied.

### **C. For Carole Joannis**

#### **1. Facts**

[96] Ms. Joannis worked as a compensation advisor in the employer's Human Resources Branch at the relevant time. At the time that she filed her affidavit, she had 19 years of experience with the federal government.

[97] From the beginning of the pandemic, Ms. Joannis worked exclusively from home.

[98] On October 8, 2021, she emailed the employer a request for a medical exemption from receiving the COVID-19 vaccine, which the parties included in the joint book of documents. It reads as follows:

*Good morning,*

*I am contacting you today regarding the "mandate" for the covid vaccine.*

*I have a severe allergy to penicillin and derivatives, my reaction to this is anaphylactic shock. If any trace of it or any derivatives are in any of the vaccines this could be fatal for me.*

*The list ingredients are not completely known and these vaccines are only approved for emergency use, which I have to say, doesn't make me feel very good about it.*

*As I am being forced to receive the vaccine, if I were to have adverse effects from it, who will be held responsible for any health issues arising from the vaccine afterward?*

*As I have been working from home and have been since March 2020, I don't see the logic in my being vaccinated since I don't go to an office space that other people are in. I sit at home alone.*

*There could be options instead of a vaccine, antibodies test for example or other options that could be offered to employees.*

*At this time, I would like to request a medical exemption.*

*Thank you,*

*Carole Joanisse*

*[Sic throughout]*

[99] On January 30, 2022, Ms. Joanisse swore an affidavit and requested a religious exemption from the policy, stating as follows:

...

*Based on my deeply held religious convictions, under the guidance of Holy Scriptures, and the auspices of my religious advisement counselors mentioned in this letter, as well as my understanding of Canada Human Rights Act, and the Canadian Charter of Rights and Freedoms, choose to request a religious exemption to the Covid-19 vaccination mandate. The Holy Scriptures, I believe instruct me to stand against any non-biblical system that strips me of the freedom to determine what is done to my body, to include the preservation of my own life, if I have reason to believe that someone or something could cause undue harm. The Book of Genesis states that God created man in His image (Gen 1:27), which is why we as believers are deeply convinced that by taking the Covid-19 vaccine, we would be permanently altering and scarring our bodies in clear violation to our own holy mandates. These biological alterations to our bodies, specifically without knowledge of the long term effects of such a vaccine, puts us in direct conflict with biblical mandates to preserve one's own life (Deut. 30:11-14). As followers of the biblical God, we accept the biblical mandate to reject attempts made by legislators to coerce us through fear and intimidation rather than transparency and reason (Proverbs 29:25), and personally feel that because of the stigmatization of time proven medicines such as Hydroxychloroquine and zinc, as well as Ivermectin, the government has become complacent in the deaths of countless victims of the Covid-19 virus, and thus feel commanded by God (Exodus 23:2) to not follow the majority in continuing these acts of evil. Above is an explanation of my sincerely held personal religious*

*beliefs. I hope I have described them sufficiently. I ask this religious exemption be approved.*

...

[Sic throughout]

[100] On February 2, 2022, the employer wrote to Ms. Joannis, to advise her that her decision to not get vaccinated was a matter of personal choice and not a religious imperative.

[101] It placed her on leave without pay, effective March 2, 2022.

[102] She filed her grievance on March 3, 2022.

## **2. Analysis**

### **a. Ms. Joannis's beliefs have no nexus with religion**

[103] For the following reasons, I find that Ms. Joannis has not established that her beliefs are sincere, and her grievance is denied.

[104] As with the other grievors, Ms. Joannis argues that the employer violated the collective agreement, the *Canadian Human Rights Act* and the *Charter*.

[105] On October 8, 2021, Ms. Joannis initially stated that she was requesting a medical exemption from the COVID-19 vaccine due to her anaphylactic allergy to penicillin and her concern that the vaccine might cause her body to react negatively. She did not submit any medical evidence, at that time, to support her request. She also stated that it was not logical for her to become vaccinated since she had been working from home since March 2020.

[106] Neither of the reasons provided on October 8, 2021, has a nexus with religion. Rather, I find that they are secular objections related to her unfounded belief that the COVID-19 vaccine might cause an allergic reaction and on what she deems logical for a remote workplace.

[107] In her affidavit, she provided two additional reasons that she cannot get vaccinated, which I summarize as follows:

- 1) receiving the COVID-19 vaccine would permanently alter and scar her body, in violation of holy mandates;

- 2) receiving the vaccine would coerce her and act against her freedom, which is against biblical mandates; and
- 3) receiving the vaccine would be akin to acting in complicity with the federal government, which refuses to use trusted medications, like ivermectin; that would be against the biblical mandate to not follow a crowd that is doing wrong.

[108] Ms. Joannis argues that her belief that receiving the COVID-19 vaccine would alter her body and violate holy mandates has a nexus with religion. She relies on *Wilfrid Laurier University* to support her position that arbitrators have decided that that kind of belief has a nexus with religion.

[109] The employer argues that she provided no evidence that her belief is connected to a comprehensive system of beliefs or faith or that it is sincerely held.

[110] I agree.

[111] When assessing whether a grievor has a sincere religious belief that prevents them from receiving the COVID-19 vaccine, as the Supreme Court of Canada has noted, the focus must be on the period in which the religious belief was allegedly violated. My focus is on the period from October 8, 2021, to when the employer decided to put Ms. Joannis on leave without pay.

[112] While Ms. Joannis mentions in her affidavit that biblical mandates prevent her from altering her body, acting against her freedom, or following a crowd in doing evil, she does not link those beliefs to a comprehensive system of beliefs or faith; nor does she claim that violating those beliefs would breach her covenant with God.

[113] Ms. Joannis appears to expect the employer to assume that she is a Christian, but nowhere in her affidavit does she state her religion, her religious community, and the comprehensive system of beliefs or faith that she adheres to. She merely states that she is a follower of a biblical God and cites several chapters of the Christian Bible (Deuteronomy, Exodus, Proverbs, and Psalms) that appear to her to support the argument she wishes to make against receiving the COVID-19 vaccine.

[114] Therefore, I do not find that Ms. Joannis established that her beliefs have a nexus with religion, which is a comprehensive system of beliefs or faith.



**b. Ms. Joannis's beliefs are not sincere**

[115] If I am wrong on the first part of the test, I find that there is insufficient evidence to establish that Ms. Joannis's religious beliefs are sincerely held.

[116] Sincerity is a question of fact. One must examine whether the alleged religious belief is consistent with other religious practices. Further, whether the grievor is consistent in their belief during the relevant time, the strength or conviction of that belief, and whether the belief is adhered to are all factors to consider. (See *Amselem* at para. 53.)

[117] Initially, Ms. Joannis stated that she could not receive the COVID-19 vaccine for medical reasons because she has an anaphylactic allergy to penicillin and was not sure what might happen if she received it. She provided no medical evidence that she was allergic to any of its ingredients. In addition, she stated that it was not logical for her to be forced to receive the vaccine since she was working from home. Only on January 30, 2022, did she state for the first time that she was barred from receiving the vaccine due to her religious beliefs.

**c. Ms. Joannis's religious beliefs are not consistent**

[118] While the majority of the Supreme Court of Canada noted in *Amselem* that religious beliefs may change over time and that their sincerity must be evaluated at the moment of the alleged infringement, I have placed some weight on the fact that Ms. Joannis was not consistent in her religious beliefs.

[119] Initially in October 2021, Ms. Joannis offered a strong medical objection to receiving the COVID-19 vaccine, not a religious one. After she received the employer's letter on January 17, 2022, requiring her to submit a vaccine attestation or an accommodation request, she filed an affidavit claiming an objection to the vaccine on religious grounds.

[120] While an individual may have both secular and non-secular objections to the COVID-19 vaccine, I find that her strong initial objection to vaccination on purely secular grounds as well as the delayed timing of her objection important factors when assessing the sincerity of her belief. In this case, those factors operate against her sincerity.

**d. No evidence of other religious practices**

[121] Further, when she did eventually apply for a religious exemption, I find that she continued to provide little to no evidence to support the sincerity of her belief.

[122] This case is similar to *International Brotherhood of Electrical Workers (System Council No. 11) v. Canadian National Railway Company*, 2023 CanLII 44118 (CA LA) (“*CN Rail*”) (see paras. 110 to 112), in which the arbitrator concluded that assessing the sincerity of the grievor’s belief was difficult because the grievor provided no evidence of other religious practices. Ultimately, the grievance was denied.

[123] Similarly, in this case, Ms. Joannis provided no evidence of any of her other religious practices. Nothing in the initial letter to the employer on October 8, 2021, or her January 30, 2022, affidavit provides any information about her other religious practices. The affidavit is scant. Instead, she focuses on citing references to biblical scriptures that she agrees with rather than describing how she lives her life in a way consistent with her religious beliefs.

[124] In *Bedirian*, at paras. 97 and 98, the Board found that one of the beliefs of the grievor in that case had a nexus with religion (the fetal-cell-lines belief). However, the Board did not find that he was sincere in his belief because he did not provide evidence about how religion had been a part of his life, including any details as to when his religious beliefs started and how consistently he followed them. When it weighed several factors to assess his sincerity, the Board determined that the absence of how religion was part of his life tipped the scale. It stated as follows:

*[97] First and most importantly, Mr. Bedirian has provided no evidence about how religion has been a part of his life aside from not wanting to be vaccinated. There is no evidence that he has attended church since he was a child aside from special occasions. He has provided no evidence of any other decision he has made in his life that was influenced by religion. He stated in his November 12, 2021, email that his “relation to God has been strengthened” over time but provides no evidence or even a hint about how or in what way that relationship with God has manifested itself in the way he has lived his life.*

*[98] I appreciate that, as the arbitrator pointed out in Pickering/Posteraro, at paragraph. 55:*

55. Implicit in the Supreme Court’s determination is the idea that proving sincerity of religious belief should be a relatively straight forward [sic] matter and challenging

sincerity will usually be difficult. This is because religious beliefs are intensely personal. The complainant must simply describe their beliefs in an honest manner, **preferably with details about when the belief started and how consistent it has been followed**. And, as the Court stated, relying on the American jurisprudence, **any inquiry into the sincerity of belief should be “minimal”** and not based on past beliefs....

*[Emphasis added]*

[125] In this case, I find a similar dearth of evidence of how religion has been part of Ms. Joannis's life. She provided no information about how her religious belief is consistent with other religious practices. She is silent on how religion or her relationship with God guides her decision making in other areas of her life. Apart from quoting biblical passages that she claims to adhere to, she provides no description of how any deeply personal religious beliefs are followed in her everyday life.

[126] Therefore, considering all the factors that I mentioned, I find that Ms. Joannis has not established that on a balance of probabilities, she is sincere in her belief that receiving the COVID-19 vaccine is against any religious belief that she may have.

**e. Ms. Joannis's attempt to introduce new evidence was unsuccessful**

[127] Further, Ms. Joannis attempted to enter evidence through her written submissions that was not in her affidavit or in the joint book of documents that the parties had mutually agreed to. As the Board noted in *Bedirian* at para. 88, it was unfair to the other party to introduce documents into evidence by means of written submissions because the employer would not have had an opportunity to cross-examine on the documents, which would have been contrary to procedural fairness. If Ms. Joannis wanted to introduce the documents into evidence, she should have included them in the joint book of documents or by means of an affidavit.

[128] As a result, I cannot rely on Ms. Joannis's assertion that she did not have the benefit of counsel or advice from her union when she swore her affidavit and that she was not aware that her sincerity would be called into question. She could have introduced the evidence through an affidavit but chose not to.

[129] However, with respect to the first-level grievance reply, like the grievance, those initiating documents form part of what was referred to the Board. The first-level

grievance reply is not new evidence. It is documentation that the employer must submit according to the regulations to establish the legality of the referral.

#### **D. For Matthieu Harrison**

##### **1. Facts**

[130] Mr. Harrison is an employee with over 23 years of experience in the federal public service. During the material times, he was an aerospace technical officer with the employer.

[131] Mr. Harrison submitted his accommodation request with an affidavit dated November 11, 2021, in which he identified himself as a baptized Catholic who goes to church weekly. He cited certain teachings of the Catholic Church that led him to refuse to receive the COVID-19 vaccine.

[132] On December 16, 2021, his director met with him to better understand the reasons behind the accommodation request.

[133] On February 1, 2022, the employer wrote to Mr. Harrison, denying his accommodation request because his objection to vaccination was found to be a personal choice and not a religious belief.

[134] Mr. Harrison filed his grievance on February 4, 2022, challenging the employer's decision to deny his accommodation request.

[135] He also submitted a letter from Father Erik Deprey, a priest at St. Clement Parish in Ottawa, dated March 19, 2022.

[136] On June 13, 2024, he submitted a second affidavit with a copy of his notes of the December 16 meeting with his director.

##### **2. Analysis**

[137] Mr. Harrison contends that by refusing to grant his accommodation request, the employer demonstrated *prima facie* discrimination on the basis of religion, in violation of article 51.1 of the collective agreement, s. 7 of the *Canadian Human Rights Act*, and s. 2(a) of the *Charter*.

[138] The employer notes that Mr. Harrison did not meet his burden of establishing *prima facie* evidence of discrimination and that his objection to vaccination was based on his conscience rather than his religion.

[139] When assessing Mr. Harrison's grievance, the key period is between November 11, 2021, when he submitted his exemption request, and February 1, 2022, when the employer refused to grant it.

[140] The employer attempted to introduce documents into evidence, including a template letter and medical certificates, by means of written submissions.

[141] As in *Bedirian* at para. 88, it was unfair to the other party to attempt to introduce documents into evidence by means of written submissions because Mr. Harrison would not have had the opportunity to cross-examine on the documents, which would have been contrary to procedural fairness. If the employer wanted to introduce the documents into evidence, it should have included them in the joint book of documents or by means of an affidavit.

[142] For those reasons, I did not accept them, and my decision does not consider them. They are not part of the Board's file. Instead, I have relied on the joint book of documents.

**a. Mr. Harrison's beliefs have no nexus with religion**

[143] In his affidavit dated November 11, 2021, Mr. Harrison generally cites what may lead a Catholic to refuse certain vaccines. I have provided a summary of those Catholic teachings that appear in the affidavit, as follows:

[Translation]

...

*... a person may be led to refuse a medical intervention, including a vaccination, if **their informed conscience comes to that sound judgment** ....*

...

*- There is a **general moral duty** to refuse the use of medical products, including certain vaccines, that are produced from human cell lines derived from direct abortions ....*

*- A person is morally required to obey their sound conscience.*

*... a Catholic may refuse a vaccine based on the Church's teachings about therapeutic proportionality ....*

...  
*... vaccination is not a universal obligation, and **a person must obey the certain judgment of their conscience** ....*  
...

[Emphasis added]

[144] However, by citing the reasons that a Catholic may object to vaccines generally, nowhere in his affidavit submitted with his exemption request or in the notes of his December 16, 2021, meeting with his manager does he state that his subjective belief forbids him from becoming vaccinated and that it has a nexus with his religion.

[145] On the contrary, he states in his affidavit that “[translation] ... the Catholic Church does not prohibit the use of any vaccine and generally encourages the use of safe and effective vaccines as a means of protecting personal and public health ...”.

[146] He also refers to a document of the Congregation for the Doctrine of the Faith of the Roman Catholic Church in his affidavit to the effect that “[translation] it is morally acceptable to use anti-COVID-19 vaccines that have used cell lines from aborted fetuses in their research and production processes” when other types of vaccines are not available.

[147] Instead, his affidavit states that a person must follow their conscience. It is silent everywhere about how his personal objection to receiving the COVID-19 vaccine has a nexus with religion.

[148] Therefore, I agree with the employer’s position at paragraphs 20 to 22 of its submissions, as follows:

[Translation]

*20. In Bedirian, the Board made it clear that an objection based on a person’s conscience has no nexus with religion. The Board pointed out that that argument boils down to saying, “I conscientiously object to the vaccine (for reasons that I do not explain), and Catholics have to follow their consciences; therefore, my objection is religious”.*

*21. There is an arbitral consensus that such an objection cannot be accepted. Doing so would mean that any workplace rule could be challenged with a conscientious objection and that any employee’s decision would be protected by freedom of religion. In addition, following one’s conscience applies to everyone, not just to Catholics or the religious.*

22. *In that respect, the grievor's situation is almost identical to that of the grievor in Bedirian. First, the grievor does not explain in his affidavit the reasons that led him to personally conclude that his conscience prevents him from receiving the vaccine. In his affidavit, he does not explain that he is against abortion or how receiving a vaccine produced from human cell lines is incompatible with his conscience. He also does not explain how receiving the vaccine would be incompatible with the principle of therapeutic proportionality or his reasoning with respect to the consideration of the good of others and the common good. As in Bedirian, his statement is instead limited to generally claiming that "a Catholic" may refuse the vaccine for those reasons.*

[149] To qualify for an accommodation on religious grounds, it is insufficient to state that one consciously objects to the COVID-19 vaccine because fetal cell lines are used and because it is a disproportionate medical therapy. Mr. Harrison has to explain the basis of his personal objection to the vaccine and its nexus with his religion, which he does not do.

[150] Instead, Mr. Harrison is content to refer to several notes and reflections of congregations on the Catholic Church's doctrine and morality, which have important nuances and do not prohibit vaccination. Therefore, it is impossible to determine how his personal beliefs have a nexus with a comprehensive faith system because he does not elaborate on his subjective religious beliefs that prohibit the use of a vaccine against COVID-19 and their nexus with religion. There is simply no articulation of the grievor's deeply held personal beliefs and their nexus with religion. That is not unlike *Oulds v. Bluewater Health*, 2023 HRTO 1134, in which the Human Rights Tribunal of Ontario found that the complainant's objection to receiving the COVID-19 vaccine had no nexus to a particular overall belief system.

[151] In addition, I find that the pastor's letter, provided after Mr. Harrison's accommodation request was denied but before he went on sick leave, does not help him establish the nexus. Instead, I see that it confirms that his objections are rooted in his conscience and that they have no nexus with religion.

[152] Evidently, the majority of the Supreme Court of Canada in *Amselem* insisted on the fact that belief need not be a religious dogma or an objective imperative. In other words, freedom of religion is not limited to protecting beliefs objectively recognized by experts or religious leaders, such as the pastor. However, it must at least be established that a personal belief is rooted in religion, which Mr. Harrison failed to do.

**b. Mr. Harrison's beliefs are not sincere**

[153] There is no need to delay the second stage of the test for very long. If I am wrong about the first stage, for the following reasons, I find that his beliefs are not sincere.

[154] First, Mr. Harrison failed to convince me that his beliefs are consistent and coherent with his other religious practices. In fact, he does not mention any other religious practice, except to state briefly in his affidavit that he goes to church weekly and that he is still trying to develop in his faith. He provides no details or explanations about his church or religious community or his relationship with the divine, how he is evolving in his faith, or any other current religious practice in which he engages that has a nexus with his religious belief that receiving a COVID-19 vaccine is prohibited because of the use of fetal cell lines.

[155] Second, when assessing the sincerity of his belief, I place no probative value on the letter from Father Deprey of St. Clement Parish, Saint Anne Church. I agree with the employer's findings that the fact that the letter was submitted on March 19, 2022, after his accommodation request was denied, is an important factor that weighs against its probative value.

[156] In addition, as in *Bedirian*, at para. 38, the priest does not mention that Mr. Harrison is a practising Catholic of his parish. He provides no details about his relationship with Mr. Harrison — whether he knows Mr. Harrison personally and for how long or if Mr. Harrison approached him only to write the letter. I do not agree with Mr. Harrison's submissions in rebuttal that it is clear from the letter that Father Deprey seems to know him well. Nothing in the letter or the 2022 affidavit establishes that Mr. Harrison knows the priest. The letter merely states that the priest supports him in his efforts to obtain an exemption from the COVID-19 vaccine.

[157] Therefore, the letter has no probative value to assessing the sincerity of Mr. Harrison's belief. Such a letter, which lacks basic information, does not help adjudicators or arbitrators assess the sincerity of a religious belief (see *CN Rail* at para. 118).

[158] With respect to Mr. Harrison's affidavit, it is the same type of template letter that was submitted in *Bedirian* (see paragraph 38) and is available on the website of



the National Catholic Bioethics Center. In the affidavit, Mr. Harrison cites several Catholic Church teachings that appear in the template letter. He offers no explanation for his personal beliefs with respect to its teachings. Although at the meeting with his manager, he stated that it is not because the pope states that something is good, like ice cream, that it is good for him, he provides no details about his religious beliefs and his nexus or connection with a coherent faith system.

[159] Third, there is a lack of consistency between his belief in not using fetal cell lines in vaccines and medications and his use of other drugs during the relevant period.

[160] At the meeting with his manager, Mr. Harrison confirmed that he was taking other medications for his heart and that he never questioned himself about the use of fetal cell lines but that he would start doing so.

[161] I conclude that this factor is at odds with the sincerity of his religious belief that he could not receive the COVID-19 vaccine. I reach this conclusion by taking into account the fact that in his exemption request, Mr. Harrison relied on assumptions that affirmed that he has a general moral duty to refuse to use medications, including vaccines, which use fetal cell lines. The fact that he did not question the use of fetal cell lines in the other medications that he was taking at the relevant time contradicts the sincerity of his belief that he cannot receive the COVID-19 vaccine because of his religion. He suggests that his is a particular and specific objection to the COVID-19 vaccine instead of a belief with a nexus with his religion.

[162] Taking all those factors into account, I find that Mr. Harrison's beliefs are not sincere, and I deny his grievance.

## **E. For Chantal Prévost**

### **1. Facts**

[163] Ms. Prévost is an employee of the employer and identifies as Catholic. At the relevant time, she was working in its Meteorology Division.

[164] On October 8, 2021, Ms. Prévost submitted an affidavit to support her request for an accommodation on religious grounds from the policy.

[165] Ms. Prévost provided the employer with a copy of a certificate of membership in the Confraternity of Our Lady of Fatima signed by Bishop Athanasius Schneider.

[166] She also sent several emails to her director during the relevant time. She met with him on December 14, 2021, to discuss her accommodation request. At that meeting, she informed him that she had been a member of the Confraternity but that she had recently re-registered.

[167] After the meeting, Ms. Prévost emailed Mr. Thomson several more times and voiced her objection to receiving the COVID-19 vaccine.

[168] On February 1, 2022, the employer emailed Ms. Prévost, advising her that the request had been denied because her objection was established as a matter of personal choice, not a religious imperative.

[169] On February 3, 2022, Ms. Prévost submitted a second request for an accommodation on the basis of religion.

[170] On February 11, 2022, Ms. Prévost grieved the employer's decision to deny her accommodation request.

[171] On February 28, 2022, the employer wrote to Ms. Prévost, to advise her that since she had not been vaccinated, she would be put on administrative leave.

[172] On March 1, 2022, the employer placed Ms. Prévost on administrative leave without pay.

## **2. Analysis**

[173] Ms. Prévost argues that she made out a case of *prima facie* discrimination on the basis of her religion because her accommodation request was denied. She states that that violated article 51.1 of the collective agreement, s. 7 of the *Canadian Human Rights Act*, and s. 2(a) of the *Charter*.

[174] The employer argues that Ms. Prévost failed to meet the two-stage test set out in *Amselem*. It submits that her beliefs are based on secular beliefs, not on any religion, and that they are not sincerely held.

**a. At least one of Ms. Prévost's objections to receiving the COVID-19 vaccine has a nexus with religion**

[175] I begin by noting that from the outset, Ms. Prévost voiced two main objections to the COVID-19 vaccine, one on the basis that it is derived from fetal cell lines, and the other on the basis of her belief in her freedom to choose. In her affidavit, dated October 8, 2021, she begins with this declaration:

...

*I, Chantal Prévost am seeking a religious exemption from the COVID-19 vaccination policy for Federal public servants.*

*The reasons for my request are as follows:*

*1. My personal religious beliefs prevent me from being able to take the COVID-19 vaccines because, in one way or another, they all employ cell lines derived from aborted children, and my personal religious conviction compels me to abstain from any cooperation, direct or indirect, in abortion, which I view as the killing of innocents.*

*2. My religion is Catholic. The Catholic church teaches that "vaccination is not, as a rule, a moral obligation, and that therefore, it must be voluntary." Thus, the Catholic Church teaches that I must not be forced to take a COVID-19 vaccine.*

...

[176] In her meeting with her director on December 14, 2021, she noted that her main objection to the COVID-19 vaccine was that all available vaccines employ fetal cell lines. She also objected to the vaccine because she doubted its safety and purpose.

[177] Later in the copious communications that she emailed to her director, she noted her belief in several controversial views at the time that remain unsubstantiated, including that Bill Gates used the COVID-19 vaccine as a means of population control, that there were vaccines in India that were more effective, and that there was governmental corruption in Health Canada that forced officials to cave into supporting the vaccine.

[178] While Ms. Prévost's emails from October 8, 2021, to February 1, 2022, are voluminous and read, at times, like untrammelled streams of consciousness, with hyperlinks to several websites that support her views, I am solely concerned with whether she raised an objection that has a nexus with religion.

[179] I find that she did.

[180] Notably, I find that her objection to receiving the COVID-19 vaccine on the basis that it was developed using fetal cell lines is rooted in religion. This belief has a nexus with religion because Ms. Prévost clearly states in her affidavit that she is a Catholic and that her religious conviction prohibits her from "... any cooperation, direct or indirect, in abortion ...", which she views as the "killing of innocents."

[181] She defined it as her "main objection" when she met with her director. Further, the objection continued when her request was denied and she applied a second time for an accommodation on February 3, 2022, until she was placed on leave without pay on March 1, 2022.

[182] In her meeting with her manager, she noted that she grieved because the pope of the Roman Catholic Church supported receiving the vaccine but she did not; nor did her bishop. She stated that she would rather die than receive it. She noted that it uses fetal cell lines and that it would be a sin and a betrayal of her God to receive it.

[183] While I agree with the employer that from October 2021 to February 2022, when her first accommodation request was denied, Ms. Prévost also voiced many secular objections to the COVID-19 vaccine, it does not negate the fact that at least one of her objections during the relevant time had a nexus with religion.

[184] This differs from *Nova Scotia Union of Public & Private Employees, Local 13 v. Halifax Regional Municipality*, 2022 CanLII 129860 (NS LA), in which the arbitrator did not find that any of the grievor's beliefs had a nexus with religion. Instead, the arbitrator concluded that the grievor's concerns that the COVID-19 vaccine was experimental, unsafe, and unnecessary were personal, based on secular factors. There was no objection made to the vaccine because receiving it would amount to condoning abortion.

[185] In fact, at paragraph 186, Arbitrator Poirier clearly distinguished the case on the facts before her from *IWK* and *Sudbury Health District*, in which the grievors' objections to receiving the COVID-19 vaccine were found to be based on protected religious beliefs (i.e., a belief in the Mark of the Beast, and the argument about fetal cell lines).

[186] Similarly, I find that in the case before me, there are objections to the COVID-19 vaccine grounded in secular beliefs, but that as in *IWK* and *Sudbury Health District*,

there is also an objection to the vaccine based on a protected religious belief that prevents Ms. Prévost from receiving it. She states that the use of fetal cell lines in the vaccine prevents her from receiving it because it amounts to supporting abortion, which in her view would be a betrayal of her God.

[187] My finding that Ms. Prévost's belief has a nexus with religion is supported by several other arbitral cases in which it was found that a subjective objection to the use of fetal cell lines in the COVID-19 vaccine's development had a nexus with religion (see *Sudbury Health District; Island Health v. UFCW Local 1518*, 2023 CanLII 2827 (BC LA); *Canadian Union of Public Employees, Local 79 v. The City of Toronto (De Castro)* (unreported, April 11, 2023); *Pickering/Hepp*; and *Canadian Union of Public Employees, Local 129 v. The City of Pickering (Flowers)* (unreported, May 23, 2023)).

[188] The employer argues that Ms. Prévost's affirmation that she would be opposed to the COVID-19 vaccine even if she were an atheist is evidence that her belief as to fetal cell lines is rooted in a secular objection, not in religion.

[189] I disagree.

[190] First, I find that Ms. Prévost's statement is hypothetical at best because she has sworn via affidavit that she is a Catholic, not an atheist, which stands uncontested. If anything, the statement merely confirms my finding that she has several bases on which she opposes the COVID-19 vaccine, not all of which are rooted in religion. It is common knowledge that a person who is religious can have both secular and religious beliefs. Human beings are multi-dimensional. Where religion is present, it is just one aspect of a person's identity.

[191] A nuclear physicist may be religious, but does this mean that every belief they have is rooted in religion? No. Some beliefs may be rooted in personal, cultural, and sociopolitical factors or in the wide diversity of worldviews that exist.

[192] Similarly, I find that Ms. Prévost is a religious person with religious beliefs but that clearly, she also has secular ones. In this case, I find that she established that at least one of her objections to the COVID-19 vaccine had a nexus with religion.

**b. Ms. Prévost's belief is sincerely held**

[193] The employer argues that Ms. Prévost failed to establish that any of her beliefs are sincerely held. It argues that she failed to elaborate on any of her beliefs in her affidavit or to provide any information or evidence on her current religious practice.

[194] The employer also submits that the certificate that Ms. Prévost produced from the Confraternity of Our Lady of Fatima points to the lack of sincerity of her belief since it is a template certificate with no information about her current religious beliefs.

[195] I agree with the employer that the certificate provides no details of the Confraternity of Our Lady of Fatima's teachings. However, Ms. Prévost does characterize herself as a devout Catholic, which is uncontested.

[196] Ms. Prévost also provides information about her other religious practices. She states that she carries a rosary and a bronze scapular, tries to attend mass daily, and tries to live to the teachings of Our Lady of Fatima. She states that she tries to follow the teachings of Bishop Schneider and that she prays.

[197] She also notes that she is ex-military and that she once received vaccines but that she no longer does; nor does she take antibiotics due to her understanding that they use human embryonic kidney cells. She also noted that she would not receive any blood transfusions and that she would rather die than have fetal cell lines in her body, since abortion is a sin, and that putting anything with fetal cell lines in her body would betray her relationship with God.

[198] Therefore, I disagree with the employer. Ms. Prévost provided information as to how her religious belief is consistent with other religious practices. While it might have been useful for her to provide more information on the teachings of Our Lady of Fatima, she provided enough information about how she lives her life as a Catholic, without antibiotics, without blood transfusions, without vaccines, with prayer and consultation with her Bishop, and with certain religious symbols that outwardly manifest her Catholic faith. I find that when considered together, they are sufficient to meet the minimum threshold of the sincerity of her belief.

**c. The certificate is not helpful for establishing sincerity**

[199] Further, I do not find that the certificate from the Confraternity of Our Lady of Fatima helpful or necessary to assisting Ms. Prévost in establishing the sincerity of

belief. The certificate is not dated. It is signed by Bishop Schneider, and whether Ms. Prévost attends his church virtually or in person is unclear, since the Confraternity is located in Ohio, in the United States, and she is in Ottawa.

[200] It states that Ms. Prévost is a perpetual member of the Confraternity of Our Lady of Fatima in good standing and that she holds “the deeply held religious belief” that abortion is a crime and that a Catholic cannot accept the vaccine, under any circumstances. It is signed by Bishop Schneider, who provides no information about how long she has been a member of the confraternity, how she is involved in it, and any information about how she lives her life. At the least, it is self-serving evidence. I placed no weight on it when I made my determination that her belief is sincere.

[201] While some grievors may feel that it will only bolster their case to have a letter or certificate of membership from a religious leader, one is unnecessary given that the majority of the Supreme Court of Canada instructs in *Amselem* that religious beliefs are deeply personal and subjective with a nexus with religion that may not even be supported or endorsed by the religious leadership or community that the person belongs to. But they may still be sincere. Notably, Ms. Prévost noted in her meeting with her manager that the pope supported vaccines, but she did not. In other words, one can be an outlier from the majority religious community to which one belongs and still have deeply held personal beliefs that have a connection with religion.

[202] Instead, I rely on the early timing of Ms. Prévost’s objection to the COVID-19 vaccine on the fetal-cell-lines grounds, the consistency with which she expressed that belief, and the fact that she made other fundamental decisions about her health that were consistent with that religious objection as sufficient evidence of the sincerity of her belief.

[203] While providing more information about the teachings of her church community and specifically about how she lives its teachings could only have helped her case, I find that she met the minimal threshold of demonstrating that her belief is sincere.

[204] I find that the facts in this case are very different from those in *Bedirian*. In that matter, the grievor provided a template certificate but also provided no information about his other religious practices and how he lived his life in a way that was consistent with them. He also ended up getting vaccinated.

[205] In this matter, I have uncontested evidence that Ms. Prévost has made several decisions about her health that also have a nexus with her religious beliefs — she does not take antibiotics, would not receive a blood transfusion, and has not received any vaccines since she left the military. In addition, there is uncontested evidence that she never received the COVID-19 vaccine. In Ms. Prévost’s case, from the time she voiced her initial objection to the vaccine, there was consistency with how she lives her life aligned with her religious beliefs.

**d. Additional evidence via written submissions was not considered**

[206] Moreover, I have not considered the additional information that the employer attempted to enter via written submissions, notably, a template of the Confraternity of Our Lady of Fatima. Procedural fairness applies to all parties. Had it wished to enter that evidence, it could have done so by way of the joint book of documents or provided it in Mr. Thomson’s affidavit, which would have given Ms. Prévost an opportunity to cross-examine on the evidence. I agree with the adjudicator’s comments at paragraph 88 of *Bedirian* that it would be unfair to admit such evidence. Therefore, I did not consider those documents when I made my determination.

[207] The Supreme Court of Canada has noted that there is no need for an objective confirmation of the sincerity of a religious belief. In other words, it is not necessary that religious leaders or that the majority religious community give their blessing that an individual’s belief is sincere, for a decision maker to find sincerity; nor is confirmation of membership in a religious institution necessary. One does not need to be a card-carrying member of a religious community to have deeply held personal beliefs with a nexus to religion. All that is required of the Board is to ensure that the belief is in good faith, not fictitious or capricious, and not an artifice (see *Amselem*, at para. 52). I am convinced that I have done the minimal inquiry required, and I find Ms. Prévost’s belief to be sincerely held.

[208] Since I found that Ms. Prévost met the two-stage *Amselem* test, I must now determine whether the employer’s decision to place her on leave without pay interfered with her freedom of religion in a way that was more than insignificant or trivial. I find that it did.



[209] When she was placed on leave without pay, Ms. Prévost lost her salary because she chose to abide by what she considered a religious imperative rather than receive the COVID-19 vaccine.

[210] I find that it amounts to more than an insignificant or a trivial interference with her freedom of religion.

[211] I find that Ms. Prévost established a *prima facie* case of discrimination on the basis of her religion contrary to the collective agreement, section 2(a) of the *Charter* and section 7 of the *Canadian Human Rights Act*.

[212] If the parties are unable to reach an agreement on the remedy within 90 days of the date of this decision, a hearing on remedy will be scheduled.

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

*(The Order appears on the next page)*

**VI. Order**

[214] Mr. Stewart made out a *prima facie* case of discrimination.

[215] Mr. Stefanescu's grievance is denied.

[216] Ms. Joanisse's grievance is denied.

[217] Mr. Harrison's grievance is denied.

[218] Ms. Prévost made out a *prima facie* case of discrimination.

[219] I remain seized of the grievances for which a *prima facie* case of discrimination was made out.

[220] The parties have 90 days from the date of this decision to inform the Board if they have reached a settlement. If none is reached, the matter will be remitted to the Board for a hearing on the remedy issue.

May 14, 2025.

**Patricia H. Harewood,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**