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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

JOE BATE

Complainant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

Indexed as

Bate v. Public Service Alliance of Canada

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

Before: Amélie Lavictoire, a panel of the Federal Public Sector Labour Relations
and Employment Board

For the Complainant: Themselves

For the Respondent: Sevda Mansour, counsel

Decided on the basis of the documentation on file.

REASONS FOR DECISION

I. Complaints before the Board

[1] Parties who make complaints with the Federal Public Sector Labour Relations and Employment Board (“the Board”) have a duty to participate in, and facilitate, the adjudication of those complaints. When a party makes their complaint, they must provide the minimum information required to allow the opposing party to understand the allegations made against them and find evidence and witnesses to answer the allegations and to allow the Board to assess whether it has jurisdiction to hear the complaint. In Board parlance, providing that minimum of information is commonly referred to as the provision or filing of “particulars”.

[2] If a complaint does not provide sufficient particulars, the Board can order the complainant to provide them. When it does so, the complainant must comply. If they do not, they risk seeing their complaint dismissed.

[3] Joe Bate (“the complainant”) made seven complaints, alleging that the Public Service Alliance of Canada (“the respondent” or “the bargaining agent”) breached its duty of fair representation. The complaints were made between October 2020 and November 2023.

[4] The complaints can best be described as a series of allegations in point-form style. Several allegations are illegible, either in whole or in part. Each complaint contains little in the way of an explanation of the action or actions complained of. Only a small number state the names of the bargaining agent representatives alleged to be responsible for the actions complained of. Even fewer set out the specific dates on which the actions complained of are alleged to have occurred.

[5] The respondent filed preliminary objections with respect to several of the initial complaints. It argued that they lack particulars and explained what information the complainant was required to provide. It argued that the complaints do not make out an arguable case that it acted in bad faith or in a manner that was arbitrary or discriminatory in its representation of the complainant. It also argued those initial complaints deal with internal bargaining agent matters that fall outside the Board’s jurisdiction. It asked the Board to dismiss the complaints without a hearing.

[6] My involvement in the case management of the initial complaints began in January 2022. After that, the complainant continued to make complaints against the bargaining agent until the total reached seven. The complaints were consolidated.

[7] At a case management conference held some time ago, the respondent indicated that its objection applied to all the consolidated files. Only the seventh complaint was made after that case management conference. Although the respondent did not file a formal objection with respect to the seventh complaint, its correspondence with the Board and the complainant indicates that it had the same concerns, namely that the seventh complaint lacked particulars. I have accepted those concerns as constituting an objection with respect to the seventh complaint.

[8] Since I began my involvement in the case management of these complaints, the complainant has been repeatedly asked – by the Board and by the respondent – to provide particulars with respect to their complaints.

[9] The Board explained — orally and in writing — what was required of the complainant. It explained that all that was required at such a preliminary stage of the proceedings was to provide a description of the “where, what, when, who, and how” relevant to each complaint to the best of their ability, knowledge, and recollection. The complainant was repeatedly informed and reminded that supporting documents or evidence were not required at such a preliminary stage. They were encouraged to consult the respondent’s written objection, in which it outlined the types of details that were being asked of the complainant, including dates, names, and other factual information about the incidents that were alleged to have occurred.

[10] The complainant requested numerous extensions of time that for the most part were granted. I will return to the reason that they were granted later in this decision.

[11] In the fall of 2024, the complainant sought yet another extension of time. The Board granted what it described as a final three-month extension to provide particulars. It indicated that if they failed to provide the particulars for each complaint, it could issue a decision with respect to the respondent’s objection based on the information already in the Board file.

[12] The Board issued an order setting the complainant’s final deadline for January 31, 2025. They did not comply with the Board’s order.

[13] Some three years after I began case-managing these complaints, and almost five years after the first complaint was made, the complainant has still not provided the particulars necessary for the respondent to understand the allegations made against it and the case it had to meet and to allow the Board to assess whether it had jurisdiction over the complaints.

[14] For the reasons that follow, the complaints are dismissed.

II. Summary of the complaints and their procedural history

[15] The seven complaints made with the Board contain very little detail. To illustrate the importance of the particulars that the Board ordered the complainant to provide, I will describe the information in the complaints.

[16] The first complaint was made on October 30, 2020. It alleges that the “Union” called the complainant a white supremacist, refused to answer questions pertaining to unspecified grievances, and failed to provide them a new representative. The complaint also alleges that one or more unnamed bargaining agent representatives called them a liar and hung up on them. In the portion of the complaint form that requires the complainant to indicate the date on which they knew of the matter that gave rise to the complaint, they indicated August 1, 2020, to “current”, presumably meaning to the date of the complaint, October 30, 2020.

[17] A December 27, 2020, complaint contains a list of four bullet points. It alleges that a named bargaining agent representative kept contacting the complainant at their personal email address without their authorization. It also alleges that an unnamed bargaining agent representative repeatedly called them an “a**hole” and hung up on them. The complaint also contains a vague allegation with respect to the untimely handling of an unspecified grievance from 2019 to early 2020. The complainant identified “December 2020” as the date on which they knew of the matters that gave rise to the complaint.

[18] A complaint received by the Board on June 3, 2021, contains a list of six bullet points. The complaint alleges that the bargaining agent refused to sign grievances “on too many subjects to list”, including with respect to the failure of the complainant’s employer to accommodate their disability and to allow their doctor to participate in what are termed “IAP” meetings. It also alleges that an unnamed bargaining agent

representative refused to answer the complainant's questions or provide clarification with respect to an unspecified topic, that an unnamed bargaining agent representative repeatedly called them an "a**hole", and that an unnamed bargaining agent representative wrote to the complainant's colleagues and told them that the complainant was a white supremacist. Furthermore, the complaint alleges that the bargaining agent had discussions with the complainant's employer about them, outside the grievance process, and then denied it. Lastly, the complaint alleges that the complainant had heard nothing from the bargaining agent with respect to an unspecified grievance filed more than one year prior. The period from August 1, 2020, to June 3, 2021, is identified as the date or dates on which the complainant knew of the matters that gave rise to the complaint.

[19] A complaint dated December 24, 2021, once again contains a list of six allegations, although some of them are, in whole or in part, illegible. The legible allegations pertain to the bargaining agent's refusal to accommodate the complainant by allowing them to make an audio recording. The complaint does not indicate what they wanted to record. The complaint also alleges that the bargaining agent refused to provide them a first-level grievance hearing and failed to provide them proper notice of a second-level hearing for an unspecified grievance. Lastly, the complaint alleges that an unspecified person referred to the complainant as a white supremacist and refused to provide them with a new representative. December 24, 2021, is indicated as the date on which they knew of the matters that gave rise to the complaint.

[20] Portions of the allegations in a complaint dated April 25, 2022, are illegible, either in whole or in part. From what I can decipher, the complaint alleges that the bargaining agent failed to set up a meeting pertaining to an unspecified individual grievance that the complainant had filed, refused to address a discrimination grievance in 2020, refused to provide information to two representatives (at least one of whom may be a bargaining agent representative), refused to address unspecified issues related to a grievance, and refused to provide an access-to-information request related to a grievance. The period from August 1, 2020, to April 25, 2022, is identified as the date or dates on which the complainant knew of the matters that gave rise to the complaint.

[21] A complaint dated October 15, 2022 contains numerous allegations, some of which are, in whole or in part, illegible. From what I can decipher, the complainant

alleges that the bargaining agent moved forward with a grievance despite their request that it be kept in abeyance because information supporting the grievance was under their employer's control. The complaint also alleges that the bargaining agent refused to present relevant information of an unspecified nature and on an unspecified topic, refused to set up meetings for grievances filed, failed to respond to the complainant's requests to add allegations to an existing grievance, failed to answer their questions and refused to allow them to be present at a grievance hearing. The complaint also contains a vague reference to a conflict of interest, followed by a name that I am unable to decipher. I am unable to assess the meaning of that allegation. The period from September 2021 to October 14, 2022, "and ongoing" is identified as the date or dates on which the complainant knew of the matters that gave rise to the complaint.

[22] The last complaint is dated November 2, 2023 but appears to have been received by the Board five days later. In it, the complainant alleges that a named bargaining agent representative did not attend a meeting and refused to subsequently meet with them or respond to their messages. I am unable to decipher the rest of the allegations in the complaint. In the portion of the complaint form that requires the complainant to indicate the date on which they knew of the matter giving rise to the complaint, they indicated January 2023 to November 2023.

[23] The procedural history related to these complaints is lengthy, much too lengthy to summarize in this decision. The Board's file with respect to one of the complaints alone contains more than 1700 pages.

[24] The essential elements of that procedural history were largely described at the start of this decision. I will add that as early as October 2022, the Board informed the parties that the bargaining agent's objection with respect to what were then the complainant's six duty-of-fair-representation complaints would eventually be decided on the basis of written submissions. However, before the Board could do so, the complainant had to file particulars with respect to each of their complaints. Furthermore, on more than one occasion, the complainant was reminded that they were required to diligently engage in moving their complaints forward.

[25] A deadline was set for filing the particulars. It was repeatedly extended to accommodate the complainant, until the fall of 2024, when the Board set a final deadline of January 31, 2025, and informed them that there would be no further

extensions. It indicated that if they failed to provide particulars for each complaint, the Board could issue a decision with respect to the respondent's objection based on the information already in the Board's file.

III. Accommodation requests, and accommodation measures

[26] A large amount of time has elapsed between the initial complaints being made and this decision. That time can largely be attributed to the complainant's accommodation requests based on what they describe as multiple documented disabilities, specifically their repeated requests for extensions of time to provide particulars.

[27] They provided a copy of a medical assessment prepared in 2020 at their employer's request. In its opening paragraph, the assessment indicates that the complainant can follow directions but requires clear written instructions and directions. It also indicates that if instructions are provided verbally, they should be provided with an audio recording of those directions and instructions.

[28] For that reason, the Board provided the complainant with detailed written instructions and directions with respect to what was expected of them, and when.

[29] The complainant was authorized to record the audio of some case management conferences. At other times, the Board indicated that it would record the conferences and share the recording with the parties.

[30] In the context of a case management conference, the Board informed the complainant that they could seek the assistance of a third party to act as their representative or to take notes for them during Board proceedings. The complainant was provided an extension of time when they indicated that they wanted to find a representative to assist them. Although the Board file contains a fleeting reference to a person possibly willing to be the complainant's representative, there is nothing to indicate that the complainant obtained assistance.

[31] For a time, some of the complaints were held in abeyance. Once that ended, the complainant invoked their medical condition to support numerous successive requests for extensions of time that for the most part were granted.

[32] In early 2022, when the complainant expressed a concern about providing particulars based on their memory alone and indicated that they did not have access to the emails and documents that could jog their memory, as those materials were on a work computer to which they did not have access, the Board took the unusual step of issuing a disclosure order at that preliminary stage of the proceedings. It ordered the bargaining agent to disclose to them the documents arguably relevant to the complaints, including documents pertaining to exchanges between the complainant and bargaining agent representatives during the periods referred to in the complaints.

[33] The bargaining agent provided the complainant with a significant number of documents. It provided paper copies to accommodate the complainant. It provided them again in late 2024 after the complainant indicated that they had lost some or most of the documents disclosed earlier.

[34] The complainant repeatedly indicated that they wanted or needed to provide the Board with documents subject to a then-ongoing access-to-information request, along with the particulars with respect to their complaints. The Board repeatedly informed them that supporting documents were not required and that the time had not come to file documentary evidence. It reminded them that all that was required was to provide — to the best of their ability, knowledge, and recollection — a description of the “where, what, when, who, and how” relevant to each complaint.

[35] In the fall of 2023, the Board indicated that further requests for extensions of time would be considered only if they were accompanied by a medical note setting out the complainant’s accommodation needs, to allow these matters to move toward a resolution.

[36] In early 2024, the complainant emailed the Board. A portion of the email was titled in part “letter for accommodations”, was written in both the first and the third person, and referred to the complainant as “my patient”. In that email, the complainant requested a minimum extension of one year to provide particulars.

[37] Shortly after that, the complainant provided a medical note that specifically addressed the Board’s request that they provide particulars for each complaint. That note indicated that the pressure caused by the Board’s filing deadlines could lead to a deterioration of the complainant’s health. Their health professional estimated that the

complainant would require several months to provide particulars, depending on the barriers that they were presented with.

[38] The Board granted a six-month extension of time. It indicated that that extension was compatible with the medical note and would allow it to ascertain, in six months' time, whether the deadline for filing particulars should be extended further.

[39] When the complainant failed to respect the new deadline and indicated that they were experiencing health issues, the Board provided further extensions, as an accommodation measure.

[40] As previously indicated, in the fall of 2024, the complainant sought yet another extension of time. The Board granted what it described as a final three-month extension to provide particulars. It indicated that if the complainant failed to provide particulars for each complaint, it could issue a decision with respect to the respondent's objection based on the information already in the Board's file.

[41] January 31, 2025, was the complainant's final deadline. They did not respect it.

IV. Reasons

[42] Section 22 of the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365) provides that the Board may decide any matter before it without holding an oral hearing.

[43] As previously indicated, the complaints at issue are sparse. They are written in point form. Some are partly illegible. Some refer to comments or actions directed at the complainant, but it is unclear in which context those comments and actions allegedly occurred; i.e., whether they occurred in the context of exchanges pertaining to the bargaining agent's representation of the complainant.

[44] Some complaints allege that the bargaining agent refused to answer unspecified questions or address unspecified issues. Again, it is impossible to determine — on the face of the complaints — whether those questions and issues pertained to or arose in the context of the bargaining agent's representation of the complainant.

[45] With a few exceptions when a bargaining agent representative's name is expressly provided, it is difficult to ascertain whom from the bargaining agent the allegations refer to.

[46] Few of the complaints contain specific dates on which the actions complained of are alleged to have occurred, which is necessary information to determine whether the complaints were made with the Board in a timely manner and thus fall within its jurisdiction.

[47] Generally speaking, in duty-of-fair-representation complaints, a complainant is responsible for outlining the details of their complaints to the extent necessary to establish how the alleged acts or omissions constituted a breach of the duty of fair representation on a *prima facie* basis. This is not a high threshold (see *Exeter v. Canadian Association of Professional Employees*, 2009 PSLRB 14 at paras 13-14). The burden rests with them (see *Bastasic v. Public Service Alliance of Canada*, 2019 FPSLREB 12 at para. 43).

[48] The complainant is responsible for making cogent allegations. They are required to provide sufficient information to reveal the essential subject matter of their complaints so that the Board can be satisfied that they have been properly filed, and that there is, or could be, an arguable case for a violation of the duty-of-fair-representation. As indicated in *Russell v. Canada Employment and Immigration Union*, 2011 PSLRB 7, at para. 48, as a matter of procedural fairness, the requirement to provide particulars is also vital to allowing the respondent to understand the case against which it must defend.

[49] In this case, the complainant was ordered to provide the Board and the respondent particulars with respect to the complaints; that is, basic information about the “where, what, when, who, and how” of the events that gave rise to their complaints. They were repeatedly informed that at this preliminary stage of the proceedings, they were required to provide only a description of the actions and events at the source of each complaint, to the best of their knowledge and recollection. It was not the time to file supporting documents or evidence. That would come later, once the particulars had been provided and the adjudication process was at a more advanced stage.

[50] When it ordered the complainant to provide particulars, the Board gave them the chance to supplement their complaints by making the nature of their allegations clearer and more detailed.

[51] Over the span of a few years, the complainant was provided with numerous opportunities to provide them but has failed to.

[52] During that time, the complainant communicated frequently and persistently with the Board on a variety of issues, including how the Board should address them and whether it was properly accommodating their needs. They repeatedly expressed the opinion that the Board was discriminating against them.

[53] While a party may feel that the Board discriminated against them and treated them unfairly, nevertheless, they must comply with its orders and facilitate the adjudication process. Complying with Board orders does not prevent a party from making a discrimination complaint with respect to the Board's processes. They are free to exercise that right. In this case, more than once, the Board provided the complainant with information with respect to the complaint mechanisms available to them, while reminding them of their duty to comply with Board orders and provide the required particulars.

[54] The Board's efforts at encouraging the complainant to provide it with the information necessary for it to move the complaints closer to a resolution were unsuccessful.

[55] I previously described the complainant's accommodation request. They raised the accommodation issue early.

[56] Decision-makers have a duty to accommodate the needs of litigants with disabilities, to ensure that they can present their case fully and fairly. The Federal Court of Appeal described that duty in *Haynes v. Canada (Attorney General)*, 2023 FCA 158 (at paras 27-31). It also briefly addressed the obligation of individuals seeking accommodation to assist in securing appropriate accommodation (at para. 30).

[57] The steps necessary to accommodate a party with a disability will depend on the nature of the disability and the unique needs of that party (see *Haynes*, at para. 30).

[58] In this case, the complainant has provided some information about their accommodation needs. The Board further inquired – verbally and in writing – about their accommodation needs. It asked the complainant to provide a medical note setting out their accommodation needs.

[59] Taken individually or collectively, the information available to the Board with respect to the complainant's functional abilities and accommodation needs does not suggest that they are unable to follow or abide by directions. Rather, the information

indicates that they can follow and abide by directions when those directions are detailed, and in writing, which the Board has done. It repeatedly set out, in writing and in detail, what was expected of the complainant, and when. Those expectations were also described verbally to the complainant, and his verbal exchanges with the Board at the time indicated that the complainant understood what was expected of them and what information they were required to provide.

[60] The Board also took the unusual step of ordering the bargaining agent to disclose documents to the complainant at a preliminary stage of the proceedings. It did so to ensure that they had sufficient information in their possession to provide particulars and provide cogent allegations, because they had alluded to concerns about providing particulars based on memory alone.

[61] Although there are indications in the information that the complainant provided with respect to their medical condition that the need to provide particulars is a source of stress or could exacerbate an underlying medical condition, they were provided with additional time, as their medical practitioner recommended. They were provided with repeated lengthy extensions of time.

[62] There is nothing to indicate that the complainant is unable to provide the most basic of information with respect to their complaints after having been provided detailed written instructions, documentary disclosure, and numerous lengthy and successive extensions of time.

[63] When a complainant's medical condition requires accommodation, the Board may provide them with flexibility with respect to procedural rules and requirements, as an accommodation measure. Among other things, it can extend timelines, which it did. However, in the absence of indications that the complainant is unable to comply with Board directions and orders to provide the most basic of information with respect to complaints made with the Board and where numerous extensions of time have been provided, the Board cannot allow proceedings to extend indefinitely.

[64] The Board must balance the complainant's accommodation needs, the efficient use of its resources, and the overarching principle of fairness to both parties, including both parties' right to a fair and efficient adjudication process.

[65] The Board must be able to satisfy itself that it has jurisdiction over the complaints that it receives. It must also ensure that the respondent is able to know the allegations made against it and the case that it must meet. It must guarantee to the extent possible that neither party will be prejudiced in its ability to present its case on the merits due to the passage of time.

[66] In this case, the respondent raised a concern about the passage of time and its ability to identify and locate witnesses and evidence to defend itself against the complainant's allegations if and when the matter proceeded to a hearing on the merits. Almost five years after the first complaint was made, and two years after the last one was made, its concern is reasonable.

[67] By failing to provide particulars, the complainant has left the Board with a vague and occasionally illegible series of point-form statements that contain little in the way of an explanation of the action or actions complained of. The complainant has failed their duty to provide the minimum of information required to ground their duty-of-fair representation complaints.

[68] I note, with interest, that the Board has dismissed complaints in circumstances where a complainant has failed to provide particulars after having been provided with two opportunities to do so (see *Gibbins v. Professional Institute of the Public Service of Canada*, 2015 PSLREB 36, at paras 91-94 and 106).

[69] In this case, almost five years after the first complaint was made, and two years after the last one was made, there are still no detailed particulars of the events or actions that led the complainant to make these complaints.

[70] The complainant has been provided numerous opportunities to provide particulars. They have not. For that reason, the complaints are dismissed.

[71] Before concluding, I would add that the complainant's behaviour, which cannot fully be explained by the information available to the Board with respect to their accommodation needs, has hindered the Board's ability to move these files forward in any meaningful way.

[72] As previously indicated, the Board's files with respect to these complaints are voluminous. Rather than comply with the Board's order and directions, the complainant communicated frequently and persistently with the Board on a variety of

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

other issues. Significant Board and Board Registry resources were expended on the management of these complaints.

[73] Given some of the complainant's conduct in this case, the Board wishes to comment more generally on the issue of frivolous and vexatious complaints and the impact such behaviours have on Board processes and its ability to carry out its mandate.

[74] As the Federal Court of Appeal indicated in *Public Service Alliance of Canada v. Abi-Mansour*, 2025 FCA 81, at para. 7, courts and judges must ensure that their finite resources and limited capacity to deal with the parties who come before them are not squandered (see also *Canada v. Olumide*, 2017 FCA 42, at para. 19). They must guard against those who would deplete the scarce and finite resources of the court by, among other things, the style or manner of their litigation, their motivations, intentions, attitudes and capabilities while litigating, or any combination of these things (see *Simon v. Canada (Attorney General)*, 2019 FCA 28, at para. 15). The same principle applies to a quasi-judicial tribunal such as this Board.

[75] As the Federal Court of Appeal indicated in *Simon*, at para. 13, courts and judges must be careful not to confuse self-represented litigants who require extra attention and assistance with those who are vexatious. I would add that courts and tribunals must also be careful not to confuse vexatiousness and genuine needs for accommodation. However, vexatious behaviour and accommodation needs can also co-exist. They are not mutually exclusive.

[76] Where the accommodation needs - whether expressly stated or identified through proactive inquiry on the part of the decision-maker - cannot explain the behaviour witnessed by a board or tribunal, those accommodation needs cannot constitute a shield barring the board or tribunal from addressing circumstances where a litigant routinely and consistently ignores orders and directions and fails to participate constructively in a litigation process that they have initiated.

[77] In a recent Board decision, a duty-of-fair-representation complaint was dismissed as frivolous and vexatious due to the complainant's failure to abide by the Board's rules and direction and the ongoing delays that the complainant had caused in the complaint process (see *Belisle v. Public Service Alliance of Canada*, 2025 FPSLREB 79). In that case, the Board noted the complainant's failure to provide clearly

enunciated allegations and the related particulars that would have allowed the respondent to prepare its case and defend itself (see *Belisle*, at para. 2), despite repeated requests.

[78] Although the respondent in this case did not ask the Board to dismiss the complaints as frivolous and vexatious, there are some similarities between this case and *Belisle*, although I recognize that *Belisle* does not appear to involve an accommodation need. In both cases, the complainant repeatedly failed to abide by the Board's directions. The case management of both duty-of-fair-representation complaints consumed precious Board resources, including those of its registry. In both cases, the respondent had to expend considerable resources by having representatives represent it through many communications and case management conferences.

[79] That being said, I have not disposed of these complaints on the grounds that they are frivolous or vexatious. As previously indicated, the complaints are dismissed due to the complainant's failure to provide the minimum of information required to ground their duty-of-fair representation complaints.

V. Conclusion

[80] Despite having been provided with numerous opportunities, the complainant has not provided the minimum of information required to allow the Board to assess whether it has jurisdiction to hear the complaints and to allow the respondent to know how it is alleged to have breached its duty of fair representation.

[81] The complainant was responsible for outlining the details of their complaints and for making cogent allegations. The bar they had to meet was not high. Unfortunately, they do not appear to have made any effort to clear that bar.

[82] The complaints shall be dismissed.

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

(The Order appears on the next page)

VI. Order

[84] The respondent's objection that the complaints lack the required particulars to ground the Board's jurisdiction is allowed.

[85] The complaints are dismissed.

[86] Board file nos. 561-34-42615, 561-34-43002, 561-34-43275, 561-34-44000, 561-34-44625, 561-34-46055, and 561-34-48578 are ordered closed.

September 9, 2025.

**Amélie Lavictoire,
a panel of the Federal Public Sector
Labour Relations and Employment Board**