Date: 20251003

File: 561-02-52038

Citation: 2025 FPSLREB 131

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

CONNIE DELISLE

Complainant

and

CANADIAN ASSOCIATION OF PROFESSIONAL EMPLOYEES

Respondent

Indexed as
Delisle v. Canadian Association of Professional Employees

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

Before: Brian Russell, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Complainant: Herself

For the Respondent: Gabriel Hoogers, counsel

Decided on the basis of written submissions, filed May 1, 15, and 23, June 13 and 26, and July 18, 2025.

I. Complaint before the Board

[1] Connie Delisle ("the complainant") made this complaint against the Canadian Association of Professional Employees ("the respondent"). She alleged that on November 12, 2024, it violated ss. 187 and 188 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; "the *Act*"), which is about unfair representation by a bargaining agent.

[2] The complaint concerns retroactive pay. The complainant alleges that the respondent engaged in a consistent pattern of arbitrary, discriminatory, and bad-faith conduct, resulting in a complete failure to provide fair and meaningful representation on matters critical to her employment rights, including retroactive pay, collective bargaining, and a harassment case and investigation.

[3] She further contends that the respondent's actions severely prejudiced her ability to secure financial entitlements, left her unrepresented in critical employer negotiations, and subjected her to discriminatory treatment as someone with a permanent disability. She also indicated in her written submissions that the respondent committed an unfair labour practice by refusing to state whether it is representing her, according to the law.

[4] Her complaint also alleges that the respondent violated s. 186(1)(b) of the *Act*. Section 186 is about an unfair labour practice committed by an employer against an employee organization. I note that the Privy Council Office ("the employer") is not a party to the complaint, therefore I do not have jurisdiction to hear the allegations concerning the employer.

[5] As corrective action, she requests a formal letter of apology from the respondent, acknowledging that it acted in an arbitrary, discriminatory, and bad-faith fashion, and an order requiring it to fairly represent her or to pay for counsel to represent her on her retroactive-pay issue.

[6] The respondent made preliminary objections on the basis that the complaint was made outside the 90-day time limit set out in the *Act* and that it does not disclose an arguable case. It submits that the complaint should be summarily dismissed, without a hearing.

[7] Section 190(1)(g) of the *Act* requires that the Federal Public Sector Labour Relations and Employment Board ("the Board") examine and inquire into any complaint

that an employee organization committed an unfair labour practice. Under s. 22 of the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365), the Board "… may decide any matter before it without holding an oral hearing."

[8] I reviewed the parties' submissions. I am satisfied that they provide me with enough information to decide the respondent's objections, without holding an oral hearing.

[9] For the reasons that follow, I find that the complaint was made outside the 90-day time limit set out in the *Act*, and I dismiss it. There is no need for me to decide whether it discloses an arguable case.

II. Background

[10] The following facts are from the parties' submissions. They have not been challenged by the parties, so I rely on them. Between September 2017 and April 2022, the complainant had issues with a Workplace Safety and Insurance Board claim, disability payments with Sun Life, a harassment complaint investigation, and an access-to-information request.

[11] Sometime in 2022, the complainant engaged in mediation with her employer, with the respondent's help. An agreement to mediate was signed in August 2023, and mediation sessions took place later that year.

[12] On December 13, 2023, the employer presented the complainant with a final settlement, to resolve her outstanding issues. The respondent assessed the offer, found it reasonable, and recommended that she accept it. The respondent also advised her that if she chose not to accept the offer, then it would withdraw its representation of her. It also advised her that she could challenge its decision.

[13] Between December 2023 and January 2024, the respondent contacted the complainant twice. The first time was to advise her that the deadline to respond to the offer to settle had been extended and that amendments were made to the offer, which it believed were to her benefit. The second contact was made to confirm that the proposed offer to settle included all her outstanding issues.

[14] On January 15, 2024, the complainant advised the respondent that she had rejected the offer. The respondent then advised her that it was withdrawing its representation on all her matters, and it closed her file.

[15] The respondent contacted the complainant in late April 2024, to inform her that the employer's offer to settle was still available. On May 3, 2024, the respondent confirmed that it had withdrawn its representation and that the purpose of its communication was to notify her that the offer to settle was still available. It reiterated its position to her on May 13, 2024.

[16] On November 13, 2024, the complainant contacted the respondent, to request assistance about her entitlement to retroactive pay. It responded on November 20, 2024, advising her that the retroactive-pay issue was one of the issues raised during mediation in 2022. Since it was not a new issue, the respondent considered her case closed.

III. The complaint is untimely

[17] The complainant indicates November 12, 2024, as the date that gave rise to the complaint. A colleague had advised her to make her complaint with the Canada Industrial Relations Board (CIRB), which she did, on March 1, 2025. The CIRB advised her to make her complaint with the Board, which she did, on March 29, 2025.

[18] The respondent argues that the *Act* requires complaints that a bargaining agent acted in a manner that was arbitrary, discriminatory, or in bad faith in the representation of an employee must be made within 90 days after the date on which the complainant knew or ought to have known of the matter that gave rise to the complaint.

[19] It argues that the complainant became aware of the matter that gave rise to her complaint on November 12, 2024, and that she made her complaint on March 29, 2025. Therefore, it was made outside the 90-day time limit.

[20] According to the respondent, the Board does not have the authority to extend the 90-day time limit to make a complaint and cites *Burns v. Unifor Local 2182*, 2025 FCA 39, to support its position.

[21] The complainant argues that her complaint was timely. She argues that she acted promptly once she was properly informed that the Board had jurisdiction and not the CIRB. She argues that she made her complaint with the Board within days of being advised that she should have done so.

[22] She argues that the 90-day time limit is not absolute and that the Board has allowed adjustments to the time to make a complaint.

[23] She also argues that the delay was not negligent or excessive and that it resulted from an ambiguous representation relationship with the respondent. She argues that delays caused by good-faith confusion, disability, or direction may be excused.

[24] I find that the complaint is untimely because it was not made within the time limit set out in the *Act*, which s. 190(2) establishes as 90 days. In this case, all the incidents that gave rise to the complaint occurred before or on November 12, 2024. The deadline for making one was February 18, 2025. It was made on March 29, 2025, which was 39 days past the deadline.

[25] The complainant argues that the Board has the discretion to extend the time limit to allow for making a complaint late. The case law states that the time limit to make a complaint can be extended in very exceptional and limited situations, when the Board is convinced that the complainant could have neither anticipated nor controlled the cause of the delay because of an extraordinary event that is out of the control of the party that missed the time limit. See *Beaulieu v. Public Service Alliance of Canada*, 2023 FPSLREB 100 at paras. 38 to 41, which uses terms like “accident”, “force majeure”, and “Act of God”.

[26] The complainant indicated that the delay making her complaint was caused by good-faith confusion, disability, or direction. Good-faith confusion or direction, which I would describe as a lack of knowledge of the legal recourse available, is not a sufficient reason to extend the time limit to allow for making a complaint late. See *Langlois v. Professional Institute of the Public Service of Canada*, 2024 FPSLREB 162 at para. 36.

[27] The complainant indicated that her disability is also a reason to extend the time limit to allow for making her complaint late. *Cayen v. Public Service Alliance of Canada*, 2025 FPSLREB 4, states that exceptional cases may include a medical condition; however, it must incapacitate the complainant from making the complaint.

[28] The complainant did not provide any medical evidence to support her claim that her disability affected her ability to make this complaint within the time limits set out in the *Act*. So, I find that she did not demonstrate exceptional circumstances as the cause of the delay making her complaint.

[29] The complaint is dismissed because it is untimely.

IV. The use of artificial intelligence (AI) software

[30] The parties were invited to provide written submissions about the preliminary objections, and a schedule for them was established. During the process, the respondent advised the Board of the possibility that the complainant might have used artificial intelligence software in her submissions. It pointed out that most of the cases she cited either do not appear to exist or involve different parties than indicated in the submissions, and they do not stand for the propositions set out in the submissions.

[31] The complainant was advised of the issue, and she was provided an opportunity to provide the Board copies of the cases that she cited in her submissions or to provide electronic links to them. She advised the Board that a friend had helped her with the case citations, but they did not keep what she termed the "searchers", which I assume are links to the case citations. She also advised that she used legal search tools that she was unfamiliar with, she has no legal training or experience in Board submissions, and she was coping with health issues that affect her vision. She indicated that all the cases could be found.

[32] The complainant cited approximately 51 cases in the submissions in question. Approximately 19 of them concerned the timeliness of her complaint. I was able to find 6 of them, but not one concerned timeliness. I find that it is likely that the complainant used AI in her written submissions and that the cases that she cited either do not exist or involve different parties than indicated in her submissions. They do not stand for the propositions set out in her submissions.

[33] The cited decisions did not help me determine whether her complaint is timely. However, I will address the impact of citing decisions that do not exist.

[34] The complainant represented herself in her complaint before the Board. She admitted that she is not legally trained. It can be a daunting task to represent yourself before the Board if you do not have any experience or knowledge of it or its processes.

[35] AI can be a tool that can help parties prepare materials for the purpose of litigation. I understand the draw of a self-represented party to use AI to help prepare materials for the Board. I empathize with the complainant, and I do not fault her for the citations because she is not legally trained, and she does not have experience or knowledge of the Board or its processes. AI may be helpful in helping parties prepare submissions and it may assist a self-represent party prepare when appearing before the Board (see *Choi v. Lloyd's Register Canada Limited*, 2024 CIRB 1146 at para. 73;

however, the Federal Court ordered removing the motion record in *Lloyd's Register Canada Ltd. v. Choi*, 2025 FC 1233).

[36] Self-represented litigants are typically not legally trained and do not have the professional obligations that lawyers have but, I agree with the conclusions of the British Columbia Civil Resolution Tribunal, they do have an obligation as a participant in the Board's process not to provide misleading information (see *Simpson v. Hung Long Enterprises Inc.*, 2025 BCCRT 525 at para. 26). Basic decency and honesty require parties to come "with clean hands" and to put their best foot forward before the Board (see *Halton (Regional Municipality) v. Rewa et al.*, 2025 ONSC 4503 at para. 52 (*Halton*)).

[37] All parties should be aware of the negative consequences of using AI. Submissions with "fake" cases is an abuse of process. It is comparable to making a false statement to the Board. If the false statement is unchecked, it can lead to a miscarriage of justice (see *Zhang v. Chen*, 2024 BCSC 285 at para. 29). Misleading a court or tribunal may negatively affect the credibility of the party that used AI (see *Halton* at para. 52).

[38] Decisions based on "fake" caselaw could reflect poorly on the Board (see *Ko v. Li*, 2025 ONSC 2965). Submitting "fake" decisions also impacts the Board's resources because of the time it would take to locate cases that don't exist or stand for propositions that the parties did not indicate. The Board cannot be expected to verify these cases (see *Hussein v. Canda (Immigration, Refugees and Citizenship)*, 2025 FC 1060 at para. 39). It also reduces its resources available to work on other cases (see *Harber v. The Commissioners for His Majesty Revenue and Customs*, [2023] UKFTT 1007 (TC) at para. 24).

[39] There are some basic principles about the use of AI to help prepare materials for the Board. First, it is critical to use well-recognized and reliable sources but, if AI is used then it is a good practice to advise the Board and the parties. Second, the parties should check the results that AI has generated for errors (see *Hussein* at para. 39). Parties should verify whether the case exists and that it stands for the proposition they put forward (see *Halton* at para. 53).

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

(The Order appears on the next page)

V. Order

[41] The complaint is dismissed.

October 3, 2025.

Brian Russell,
a panel of the Federal Public Sector
Labour Relations and Employment Board