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



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

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BETWEEN

**KISANI PERINPARAJAH**

Complainant

and

**CHAIRPERSON OF THE IMMIGRATION AND REFUGEE BOARD**

Respondent

and

**OTHER PARTIES**

Indexed as

*Perinparajah v. Chairperson of the Immigration and Refugee Board*

In the matter of a complaint of abuse of authority - section 77(1)(a) of the *Public Service Employment Act*

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

**For the Complainant:** Herself

**For the Respondent:** Anna Ndegwa, counsel

**For the Public Service Commission:** Marc-Olivier Payant, senior analyst

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Decided on the basis of written submissions,  
filed September 30 and October 29, 2025.

## REASONS FOR DECISION

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### I. Overview

[1] This complaint is against the selection of an appointee and the respondent's use of a non-advertised appointment process for the position of Member of the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB).

[2] I have dismissed the complaint because the complainant did not demonstrate an abuse of authority in either the selection of the appointee or the choice of a non-advertised appointment process. My reasons follow.

### II. The appointment

[3] This complaint is about a non-advertised acting appointment for the position of Member of the RPD. The acting appointment runs from May 21, 2024, through March 31, 2026.

[4] Members of the RPD make decisions on refugee claims. They are appointed on a temporary or term basis. This means that there is a significant amount of attrition in the positions. The RPD typically appoints approximately 150 new Members each year, in cohorts of approximately 50 appointees in each hiring cycle. To find 150 new Members each year, the RPD uses advertised and non-advertised processes and draws from internal and external appointment processes.

[5] At the time of the hiring cycle during which this appointment took place, the RPD was growing, to deal with an increased number of refugee applications. It received additional funding for a two-year period to deal with this increase. To fill these positions, the RPD used two external advertised appointment processes, one from 2019, and one from 2023.

[6] In addition, in 2021, the IRB launched a strategy to make its organization more inclusive. One of the ways the RPD supported that plan was to engage in outreach to employment equity groups who are underrepresented at the RPD and to consider employment equity criteria when considering which candidates to appoint from a pool generated from the external advertised appointment processes. In the May 2024 group of hires (of approximately 35 people), the RPD targeted employment equity gaps for people with disabilities and Indigenous people. All candidates in the pool who met those two employment equity criteria were appointed in this May 2024 cohort.

[7] The appointee was not appointed using the existing pools. She worked with the registry of the RPD in Toronto, Ontario. The Deputy Chairperson of the RPD knew her

professionally and was impressed by some of her work. In 2023 or 2024, she asked the appointee whether she was interested in becoming a Member. In 2024, the appointee said that she was interested. The Assistant Deputy Chairperson vetted the appointee, to make sure she met the essential qualifications to be a Member, and ultimately, the Deputy Chairperson appointed her, using a non-advertised appointment process. The appointee started at roughly the same time as the rest of the May cohort.

[8] As it turns out, the appointee is a member of one of those employment equity groups. However, the Deputy Chairperson selected her on March 19, 2024, without knowing it by signing off on a narrative assessment of the appointee and the justification for the choice of a non-advertised appointment process. The notice of acting appointment was posted on April 22, 2024.

[9] Ultimately, the Deputy Chairperson learned that the appointee was a member of one of those employment equity groups. On the advice of Human Resources, she revised the narrative assessment and the statement of merit criteria to include that fact. A new notice of acting appointment was posted on May 8, 2024.

[10] The complainant also works for the IRB. She made a complaint against this appointment on May 7, 2024, which the Federal Public Sector Labour Relations and Employment Board (“the Board”) served on the respondent later that month. In essence, her complaint crossed paths with the new notice of acting appointment.

### **III. Procedural background to deciding this complaint**

[11] The Board originally scheduled this complaint to be heard on August 18 and 19, 2025. I held a pre-hearing conference with the parties on June 16 and set some deadlines for the parties to meet to file their documents ahead of the hearing. The respondent had to file its documents by August 7, and the complainant had to file any additional documents that she wanted to rely on by August 12. The respondent filed a book of documents; the complainant did not file any additional documents.

[12] At 9:30 p.m. on Friday, August 15, 2025, the complainant wrote to the Board, to explain that she was unable to proceed with the hearing due to an unexpected personal health situation. As a result, I adjourned the hearing. However, the complainant’s message was unclear about whether she was abandoning her complaint or she just could not participate in a hearing on those days. Therefore, I asked the complainant to clarify her intention. I also explained that it might not be possible to reschedule the hearing for several months. In light of that, I asked whether the parties would prefer

that I decide the complaint in writing through a combination of witness statements, written submissions, and any additional documents.

[13] On August 25, 2025, the complainant wrote to the Board, to state that she wanted to continue the complaint and to proceed in writing. The respondent also wrote to say that it was open to proceeding in writing. Considering the parties' agreement, I have exercised the power of the Board under s. 22 of the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365) to determine a matter without an oral hearing. I issued directions to the parties with a timetable for the exchange of evidence and submissions. I included directions that each party file a written statement of evidence from their respective witnesses.

[14] The complainant filed written submissions but did not file a written statement of her evidence. In her email attaching those submissions, she explained that she had no additional evidence to provide aside from the book of documents already provided by the respondent. The respondent filed an affidavit from its witness along with written submissions. The complainant had an opportunity to file reply submissions, but she did not.

#### IV. Analysis

[15] The complainant's written submissions are very short. Therefore, I will go through them one by one and explain my reasons for dismissing this complaint.

##### **A. The first submission: The appointment was made without informing or considering other qualified staff. No notice was given to staff about the opportunity.**

[16] The short answer to the first submission is that the respondent did not have to inform or consider other qualified staff. As the complainant concedes, a respondent is allowed to use a non-advertised appointment process (see the *Public Service Employment Act* (S.C. 2003, c. 22, ss. 12, 13; *PSEA*), at s. 33). By definition, a non-advertised appointment process means that other staff are not informed about the opportunity and may not be considered. Additionally, s. 30(4) of the *PSEA* states expressly that the respondent is not required to consider more than one person. One of the earliest Board decisions about the *PSEA*, *Clout v. Deputy Minister of Public Safety and Emergency Preparedness*, 2008 PSST 22, stated this at paragraph 32:

*32 ... Clearly, a Deputy Head, as the PSC's delegate, has discretion to choose between an advertised and a non-advertised appointment process. Moreover, considering only one person, as*

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*was done in this case, is also discretionary and specifically authorized by subsection 30(4) of the PSEA.*

**B. The second submission: The appointee was not required to apply, undergo testing, or participate in an interview. Instead, the appointment was offered through a narrative assessment, which was conducted internally and without notice to others.**

[17] As I said earlier, the appointee did express interest in being a Member of the RPD. She also provided a copy of her résumé. While she might not have applied using the other external advertised processes, she did apply for the job.

[18] In terms of the rest of that submission, there is nothing in the *PSEA* requiring candidates to be tested or interviewed. The Board has accepted the validity of narrative assessments in numerous cases. For example, in *Desalliers v. Deputy Head (Department of Citizenship and Immigration)*, 2022 FPSLREB 70 at para. 110, the Board explained that a “... narrative assessment must reflect why the manager believed that the appointee met the merit criteria when the appointment was made.” I reviewed the narrative assessment carefully, and it provides information about how the appointee met each of the qualifications for this position. The complainant even admits that she is not challenging the qualifications of the appointee, indicating that the narrative assessment shows that the appointee met each qualification.

**C. The third submission: This method of selection is unfair to me and other qualified employees at the IRB who were excluded from consideration. The appointment was made without considering other qualified staff.**

[19] As I said earlier, the respondent is not required to consider other qualified employees. The complainant also does not say how using a non-advertised process was unfair to her, aside from the fact that it meant that she was not considered. That is true of all non-advertised appointment processes, and so cannot invalidate this one.

**D. The fourth submission: The rationale for the appointment and exclusion of pools was only disclosed after I raised concerns.**

[20] There is nothing in the *PSEA* requiring a department to disclose the rationale for an appointment to any other employee. The only legal requirement to disclose information occurs in the exchange of information that must be completed 25 days after the Board acknowledges its receipt of a complaint (see the *Public Service Staffing Complaints Regulations* (SOR/2006-6), at s. 16(2)). In the fiscal year 2023-2024 (so, just before the year of this appointment), there were 62 077 appointments made under the

PSEA (see the Public Service Commission's *Annual Report 2023 to 2024*), and only 378 complaints were made (see the FPSLREB's annual report for 2023-2024). It would be unusual if each appointment needed to be accompanied by a published explanation for it, instead of providing an explanation to someone who complains or otherwise asks for one.

**E. The fifth submission: While the Employment Equity considerations are important, they should be applied in a manner that upholds the principles of fairness and merit.**

[21] On this point, I share some of the complainant's concerns, but ultimately, I conclude that those concerns do not rise to the level of an abuse of authority.

[22] As I said earlier, the Deputy Chairperson decided to appoint the appointee on March 19, 2024, before she knew that the appointee was a member of an employment equity group. She explains what happened next, in her affidavit:

...

*20. On April 24, 2024, [the Director, Business Management, at the RPD] informed me that the Human Resources advisor ("HR") had advised her that Ms. Green met the applicable Employment Equity ("EE") criterion and asked whether we wished to include this as part of the selection criteria. HR also asked that the rationale be reflected appropriately in the CAP/SD.*

*21. At that time, all individuals identified from the inventory pool who were members of the targeted EE groups had received letters of offer. Because the Diversity and Inclusion Strategic Plan remained an operating priority, I confirmed that this information could be incorporated into the selection criteria and reflected in the CAP/SD.*

*22. The CAP/SD was returned to HR. [The Director] subsequently advised me that HR recommended amending the Assessment Against Merit Criteria to reference the EE need. [She] made the amendments, I reviewed them, and the documents were subsequently resubmitted to HR.*

...

[23] My concern is this: the Deputy Chairperson decided to appoint the appointee without knowing that she was a member of one of the employment equity groups being prioritized at that time. Therefore, the respondent cannot say that employment equity played any role in the decision to appoint the appointee. A respondent cannot credibly suggest that something it learned about a candidate after it appointed them was a factor in their appointment.

[24] However, the respondent does not do that, at least not in its written submissions or evidence filed in this complaint. The justification for the non-advertised appointment was that the candidates in those two employment equity groups in the existing pool had already been appointed. In fact, the justification went further and stated as follows: "... the available qualified candidates from the advertised process were not sufficient to meet the current hiring needs."

[25] The complainant presented no evidence and specifically did not present evidence to suggest that this was untrue. Her submissions refer to "active pools", but she does not say which pools were active or even whether she disagrees with the respondent's justification that I just set out. While the respondent's response to the complainant's initial allegations suggested that employment equity considerations were behind the appointee's appointment, it is not longer taking that position — rightfully so.

[26] I do not endorse adding or relying on employment equity considerations for an appointment when the appointment was decided before the hiring manager learned about those considerations. However, in this case, the other justifications for using a non-advertised appointment are sufficient, and I cannot allow the complaint on this basis.

#### **F. The sixth submission: The process was extended beyond a reasonable duration**

[27] The complainant does not explain what she means by this submission. However, in her complaint form, she says that the Member process (by which she means the advertised external process) closed on March 31, 2024, and yet, a non-advertised offer was made and "extended to over a year." It appears as if the complainant is saying that the acting appointment should have been made for a shorter duration. However, there are no statutory limits on the duration of an acting appointment, and the complainant does not explain why the duration of this acting appointment was prejudicial to her or how it resulted in an abuse of authority.

#### **V. Conclusion**

[28] Having gone through each of the complainant's submissions, I have concluded that I must dismiss the complaint. The complainant led no evidence to support her complaint, and her allegations did not disclose an abuse of authority in the selection of the appointee or the use of a non-advertised appointment process.

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

*(The Order appears on the next page)*

**VI. Order**

[30] The complaint is dismissed.

December 24, 2025.

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