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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

BETWEEN

CHANTAL DUNN AND VIRGINIA NOBLE

Complainants

and

DEPUTY HEAD

(Department of Crown-Indigenous Relations and Northern Affairs)

Respondent

and

OTHER PARTIES

Indexed as

Dunn v. Deputy Head (Department of Crown-Indigenous Relations and Northern Affairs)

In the matter of complaints of abuse of authority under ss. 77(1)(a) and (b) of the
Public Service Employment Act

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

For the Complainants: Satinder Bains, Union of Safety and Justice Employees

For the Respondent: Chris Ludwinski, counsel

For the Public Service Commission: Marc-Olivier Payant

Heard by videoconference,
August 18 to 21, 2025.

REASONS FOR DECISION

I. Complaints before the Board

[1] Chantal Dunn and Virginia Noble (“the complainants”) made individual complaints under s. 77(1) of the *Public Service Employment Act* (S.C. 2003, c. 22, ss. 12, 13; *PSEA*) following the notification or proposal of appointment of Donna Young on June 18, 2024, to the indeterminate forensic audit manager (AS-06) position within the Department of Crown-Indigenous Relations and Northern Affairs (CIRNAC). Ms. Young was appointed to the position on June 26, 2024. Crown-Indigenous Relations and Northern Affairs (“the respondent”) requested that both complaints be consolidated because they contest the same staffing process. The complainants agreed, so the Federal Public Sector Labour Relations and Employment Board (“the Board”) agreed to hear the cases together.

[2] The complainants allege that there was an abuse of authority in the choice of a non-advertised staffing process (numbered 24-IAN-NCR-INA-627893). They claim that the staffing process was not open and transparent because it was non-advertised, so they were denied an opportunity to apply. They argue that other employees, Indigenous and not, including Ms. Dunn, met the merit criteria and should have at least been considered for appointment.

[3] They also claim abuse of authority in the establishment of the essential qualifications and in the application of merit. They argue that the process was tainted by bias and personal favouritism because the appointee was given an opportunity to act in the position before she was appointed, the appointee submitted a CV with items copied from Ms. Noble’s CV, and the language requirements were changed to bilingual non-imperative, to favour the appointee, who was not bilingual.

[4] The respondent denies any abuse of authority under s. 77(1) of the *PSEA*. It argues that it was justified using a non-advertised process because there was an urgent need to address a backlog of forensic audit cases that had accumulated since the position had been left vacant for two years. It also argues that no abuse of authority occurred when the statement of merit criteria (SOMC) was modified, to move two essential qualifications to asset qualifications, and that regardless, the appointee met those two qualifications. It argues that the appointee met the merit criteria and that there was no evidence of bias or personal favouritism. Although the respondent was

not aware that the appointee had mistakenly copied material from Ms. Noble's CV when it appointed her, none of the material was used in the narrative assessment.

[5] For the reasons that follow, I deny the complaints. Merely selecting a non-advertised process does not automatically constitute an abuse of authority, especially when management provides a reasonable justification for its choice. In this case, there was clear and compelling evidence that management chose a non-advertised process to quickly address an urgent operational need. Although the complainants disagree that there was an operational need, they provided insufficient evidence to substantiate their claim.

[6] I also find that the complainants failed to establish on a balance of probabilities that moving two qualifications from essential to asset was an abuse of authority. In any event, the appointee met them, regardless of where they were in the SOMC. Other than vaguely stating that the narrative that the appointee filled out lacked examples, the complainants were unable to point to any specific essential qualifications that the appointee did not meet.

[7] I find that the complainants failed to establish that exempting Ms. Young from the language requirement was an abuse of authority. Under the *Public Service Official Languages Exclusion Approval Order* (SI/2005-118), exemptions from official language requirements are exceptionally allowed if a candidate is immediately eligible for superannuation and submits a resignation to take effect within 2 years of the non-imperative appointment. The appointee had 33 years of service in the public service and submitted an irrevocable letter of resignation, effective June 26, 2026, which was within 2 years of her appointment on June 26, 2024. Although the complainants may not believe that the appointee will retire, it is mere speculation, with no evidentiary foundation. The resignation is irrevocable and evidence that the appointee met the criteria to be excluded from the official language requirement. Therefore, it was not an abuse of authority to make the appointment.

[8] Finally, the complainants provided no evidence of personal favouritism or a reasonable apprehension of bias in the selection process. There was clear and compelling evidence that the subdelegated manager and senior manager involved in the process had no personal relationship with the appointee. Based on the evidence, I find that due to the backlog in forensic audits to be completed, the respondent was

singularly motivated by the need to fill the position quickly with an appointee who met the merit criteria and could hit the ground running.

[9] Mere speculation is not enough to prove a reasonable apprehension of bias. Bias must be real, probable, or reasonably obvious (see Robert W. McCauley and James L.H. Sprague, *Practice and Procedure before Administrative Tribunals*, vol. 4, quoted at paragraph 100 of *Viggers v. Deputy Head (Department of National Defence)*, 2024 FPSLREB 34). The complainants failed to establish any case that rises to the level of a reasonable apprehension of bias.

II. Procedural note

[10] Both complainants requested accommodations under human rights grounds, which were provided. Ms. Dunn identifies as an Ojibway woman of the Chippewas. On her request, her solemn affirmation was administered by the Board Member with the use of an Eagle Feather that Ms. Dunn provided and held as she made it. She was accompanied by Elder Barbara Brant, who provided social and cultural support for her throughout the hearing process.

[11] Ms. Noble testified with dark glasses due to a temporary medical condition and turned her camera off when she was not testifying. Neither accommodation had any impact on the Board Member's ability to assess her credibility and to ensure a fair, credible, and efficient process.

III. Summary of the evidence

[12] Five witnesses were called to testify. The complainants testified on their own behalf. They also called the appointee, Ms. Young, to testify.

[13] The respondent called Alexandre Parent, the senior manager in its Assessment and Investigation Services Branch (AISB), who prepared all the key documents in the staffing process for the subdelegated manager's approval. The subdelegated manager who made the appointment, Stephanie Barozzi, Chief Audit and Evaluation Executive, also testified.

[14] The complainants challenge Ms. Young's appointment to the forensic audit manager position in the AISB. It is an AS-06 position that reports to the chief audit and evaluation executive.

A. The AISB

[15] The AISB is a CIRNAC branch and includes a team that receives complaints and allegations from the general public, private companies, and individuals about Indigenous and First Nations organizations. The complaints or allegations often concern programs for which CIRNAC provided funding. At times, they include allegations of the misuse of funds that CIRNAC provided to First Nations or Indigenous organizations. The AISB receives about 1000 intake points every year and then assesses them. Once an assessment is completed, it proceeds with recommendations. It conducts approximately 8 to 10 forensic audits per year.

[16] Analysts, such as Ms. Noble or Ms. Dunn, review the allegations that CIRNAC receives. If necessary, a determination is made to conduct a forensic audit, which a private firm conducts, in collaboration with the AISB.

[17] The forensic audit manager position is in the AISB. It involves managing the portfolio of forensic audits for CIRNAC. This includes managing projects through contracts because the team lacks the specialized expertise and tools to conduct audits. CIRNAC has supply arrangements with forensic audit accounting firms, and the manager manages the contracts and contractors. When trips are made to First Nations communities and recipient sites, the manager will typically travel with the consultants.

[18] The manager is responsible for providing recommendations for the scope of an audit, developing the terms of reference, assisting with selecting contractors, and managing projects from start to finish. During the reporting phase, the manager also creates briefing notes and materials, which the deputy minister ultimately approves.

[19] The uncontested evidence from Ms. Young, Ms. Barozzi, and Mr. Parent was that the AISB went through internal challenges in the spring of 2024. Due to the COVID-19 pandemic, there had been significant instability, with five directors in place in five years.

[20] The complainants testified that they were both surprised to see the notification of the proposal of Ms. Young's appointment to the forensic audit manager position.

B. The complainants' testimonies

[21] Ms. Noble works as an investigation analyst (AS-04) in the AISB, which she joined in August 2023. She submitted into evidence a will-say statement and referred to many documents in it that were not admitted into evidence.

[22] Ms. Noble admitted in cross-examination that she did not know all the appointee's experience. She knew that the appointee had been in the AISB for a long time.

[23] She based her experience with the appointee on her observations of the appointee in team meetings and on hearsay. She had never been on a work trip with Ms. Young. For example, she testified generally and vaguely that there was cause for concern with the appointee's work. When asked to identify how the appointee did not meet the SOMC, she responded vaguely that the narrative assessment lacked examples and timelines. She thought that the appointee should have elaborated further. For example, she testified that she would have mentioned her own experience in the corporate sector leading change and her finance information technology background since she has worked with U.S. and Canadian firms dealing with forensics in the banking sector.

[24] She questioned the appointee's ability to effectively work with others and to coach and mentor since she claimed that those things did not happen with her.

[25] Ms. Noble also noted that the appointee copied subheadings, content about procurement and contracting, three certificates, and even punctuation errors from Ms. Noble's résumé.

[26] Ms. Noble testified that because the subdelegated manager and the senior manager involved in the appointment process were not involved in day-to-day operations, they could not assess or verify if the appointee met the merit criteria.

[27] Ms. Dunn has worked at CIRNAC as an analyst (AS-04) in the AISB since May 2008. She is a certified fraud examiner, a certified forensic interviewer, and a commissioner for taking affidavits. She has some post-secondary training in law and has received certification from the Federal Court Registrar.

[28] Ms. Dunn testified that she was in a talent-management program and that she was on French language training from January until April 15, 2024. She said that she achieved her results but did not state them. She testified that she thought that the AS-06 position was supposed to be hers because she had completed the talent-management program. She worked with Ms. Young for 14 years in the Office of the Indian Registrar, which works alongside her unit. She did not have a good working relationship with Ms. Young, but she remained cordial and was never disrespectful towards her.

[29] Ms. Dunn claimed that a casual director, Jean-Marc Lafrenière, who had no involvement in the appointment, was a friend of Ms. Young. Without any evidence, Ms. Dunn claimed that Ms. Young helped him obtain his security clearance and in turn, he rewarded her with a four-month acting opportunity from February to June 2024, which formed the basis for her appointment.

[30] Ms. Dunn testified that several times, she requested an acting appointment, and that it was denied, without any explanation. She also claimed that Mr. Parent promised that there would be acting opportunities on June 6, 2024 — on the same day Ms. Young was offered the forensic auditor position.

[31] She said that it made no sense to fill the position for only two years. In her view, Ms. Young's narrative assessment was not detailed enough to establish that she met the merit criteria. In addition, Ms. Dunn did not understand why in March 2024, some essential qualifications in the job description (knowledge of the culture, aspirations, and current issues facing Indigenous communities, and knowledge of the respondent's contracting policy and contracts directive) were moved to the assets qualifications.

C. The senior manager's role in the staffing process

[32] Mr. Parent testified about his role in the staffing process. He has been employed in the public service since 2014 and in a senior manager role (AS-07) within the AISB since August 2023.

[33] Currently, he manages two teams in the AISB. One takes care of intaking complaints and allegations received from the private sector, internal actors, First Nations communities, and organizations. The second, which includes the

complainants, is composed of four analysts who review the allegations that CIRNAC receives.

[34] He began working in the public service at Public Services and Procurement Canada as a PM-02 in an information officer position in a call centre. He was later promoted to an outreach officer position (PM-04) and then to a PM-05 position as a senior client relations officer, in which he managed a team for five years and had a few acting opportunities, including as an advisor to the senior director within the contract-sector program. Mr. Parent testified that he received a two or three days of staffing training from the Canada School of Public Service.

[35] He was involved in different capacities in four or five staffing processes since he became a senior manager. For example, he reviewed screening questions, interviewed candidates, and ran an entire staffing process from start to finish. For the AS-06 process at issue, he assisted Ms. Barozzi by preparing all the documents that she eventually approved. At that time, he reported to her because there was no director within the unit.

[36] The documents he wrote or prepared from March to June 2024 included the SOMC, the evaluation-of-bias documents, and the articulation of selection decision. His role in the validation process was to review the SOMC, review each résumé, determine if the candidate met the SOMC's qualifications, and then provide the documentation to Ms. Barozzi for her review as the subdelegated manager with the authority to make the appointment.

[37] In cross-examination, Mr. Parent clarified that his role was not to verify all the information per se but to consider what the candidate provided, just as he would with the screening questions. He trusted that the appointee told the truth with respect to the information that she provided in her résumé and in her SOMC.

1. Reviewing the SOMC

[38] Mr. Parent noted that while reviewing the SOMC, a Human Resources (HR) advisor indicated that he should consider moving the knowledge area to the assets area instead of keeping it in the essential criteria, to reduce the burden for the position and to expand the number of groups that might be able to access it.

2. The rationale for choosing a non-advertised process

[39] Ms. Barozzi made the decision to proceed by way of a non-advertised process for the forensic audit manager position.

[40] She joined the federal government in 2009 on an indeterminate basis and has been in the same department and sector since that time. In 2009, she was a manager of an internal audit team. After several years, she was appointed as the senior director of internal audit and later became the senior director of evaluation. In 2019, she was appointed into her current role as the chief audit and evaluation executive.

[41] Her position oversees all the activities in audit and evaluation, which includes three business lines: an internal audit team, an evaluation team, and an assessment and investigation team, which the complainants are part of. Her role is to oversee the AISB's work, and her position reports to CIRNAC's deputy minister and audit committee.

[42] There was an urgency to fill the position because it had been vacant since 2022, and there was a significant backlog of files.

[43] Mr. Parent noted that there were operational risks in not having someone in the position, due to the significant backlog. If management did not move forward with staffing the position quickly, it would have put the team's operational requirements at risk and jeopardized the work of the AISB.

[44] Ms. Barozzi testified that in early 2024, CIRNAC's deputy minister and other senior officials were adding pressure by asking for updates on files. Therefore, management urgently needed to put someone in the position. Ms. Barozzi had to rectify the situation, which had been caused by the COVID-19 pandemic and instability at the director level. No director was in place at the time because the current one was on leave.

[45] The files involved assessing recipients' use of CIRNAC funding. To ensure that the files moved forward in a timelier fashion, Ms. Barozzi decided to proceed with a non-advertised process. Proceeding with an advertised process would have required much more time on her part, and a series of rotating acting appointments would not have worked because the project files take an average of one to two years to complete, and she required continuity.

[46] Ms. Barozzi testified that she required a candidate in the role who could hit the ground running. These forensic audit files garner significant attention from senior management, even at the minister level, including a large number of media requests and order-paper questions from members of the public.

[47] In cross-examination, Mr. Parent noted that he does not believe that the staffing process was rushed. He said that Ms. Young acted in the position from February to June 2024 and that she moved files forward, finalized at least three separate forensic audits, and initiated two more in that time. Based on the instability within the team and the backlog, the decision was made to move forward with a non-advertised process. Management did not have time to wait another year to run a competitive process.

3. The appointee's assessment

[48] Mr. Parent explained that he prepared the SOMC. Ms. Young was asked to complete a document and explain how she met each criteria through the method of a self-assessment. In addition, she submitted a résumé, and he had online Microsoft Teams and in-person meetings with her. She was also assessed based on the documentation that he had seen in the past during her roles with the AISB as an analyst and while acting in the forensic audit manager position.

[49] After the self-assessment was completed, Mr. Parent used his professional judgment and reviewed what had been written to determine if Ms. Young's experience and skills met the position's requirements.

[50] When asked whether he was aware that two sections of Ms. Young's résumé were copied from Ms. Noble's, he said that he was not aware of it during the staffing process. He testified that to his knowledge, the appointee used none of the copied information in the self-assessment tool.

[51] Mr. Parent explained that these two essential qualifications were moved to the asset criteria:

- 1) knowledge of the culture, aspirations, and current issues facing Indigenous communities; and
- 2) knowledge of the respondent's contracting policy and contracts directive.

[52] In terms of the position's education requirement, it was a secondary-school diploma or an acceptable combination of education, training, or experience. Ms. Young cited a two-year business diploma and therefore had completed high school. She did not provide a copy of the diploma.

[53] In cross-examination, Mr. Parent noted that Ms. Young had been an investigator for 14 years. She had taken several training courses, including that of the Association of Certified Fraud Examiners and training related to investigation techniques from the Ontario Police College.

[54] Mr. Parent testified that while developing the SOMC, an HR advisor advised that management should consider moving the two essential qualifications to the assets, to reduce the burden required for the position and to allow more groups to apply. However, he noted that Ms. Young met those criteria, regardless of where they were placed.

[55] Mr. Parent noted that he was not aware of any conflict of interest during the staffing process or of any personal favouritism.

[56] Mr. Parent noted that since Ms. Young's appointment, there are still some files in the queue, but they are moving along nicely, and all files in the backlog have now been finalized. The files are moving much quicker.

D. Acting opportunities before the appointment

[57] Ms. Barozzi acknowledged that during the two-year period in which the AS-06 position was vacant, recommendations were made for different acting opportunities, but that she did not agree with all of them. During that period, it was also recommended that Ms. Young assume an acting role, but the working environment, at that time, was also not favourable to that possibility.

[58] She said that the AISB could not staff at the AS-05 level because the AS-05 position had been classified down to AS-04, which meant that when the staffing process was run, there were no AS-05 positions to staff in the AISB.

[59] Ms. Barozzi explained that in early 2024, her understanding of the AISB's work changed. The acting director in place then, Mr. Lafrenière, brought to her attention that forensic audits were not progressing as quickly as she had thought they were.

[60] Mr. Lafrenière recommended that somebody act in the AS-06 role, to help bring the files up to date because many projects required managing. Ms. Barozzi required one person to be accountable, as previously, there was no clear accountability for these projects. She agreed that that person would be Ms. Young, who acted for four months less a day from February to June 2024 before being appointed to the position.

E. Exemption from the official languages requirement

[61] Ms. Barozzi explained that a decision was made to staff the position as bilingual non-imperative. Therefore, under the *PSEA*, the candidate did not have to meet the position's bilingual requirements. She pointed to the "Notice of Consideration", which stated that the position was being staffed on a non-imperative basis. Since the appointee was eligible to retire with an unreduced pension and intended to retire within two years, she was eligible for the exclusion.

[62] Management filled out the justification for the non-imperative staffing of a bilingual position. Mr. Parent was to be available to fulfil any bilingual requirements. The justification indicated that there were very few French files.

[63] Ms. Young signed the intention to resign, and Ms. Barozzi replied to accept her resignation letter, effective June 26, 2026.

[64] In response to whether there was any personal favouritism, bias, or a conflict of interest in the staffing process, Ms. Barozzi testified that she was not aware of any. Both Ms. Barozzi and Mr. Parent testified that they knew Ms. Young only professionally.

[65] Ms. Barozzi testified that she observed Ms. Young's work for many years in her current role. She said that the appointment was based on merit, an assessment of Ms. Young's experience, and her personal suitability. Ms. Young had worked on the team for a long time. She had a proven track record of success.

[66] Mr. Parent testified that on June 6, 2024, he spoke about acting opportunities, generally to the team, but that he did not mention that there would be acting opportunities in the AS-06 role, even though Ms. Noble's notes indicate that he advised the team that there would be some.

F. Copying sections of Ms. Noble's résumé

[67] Both Mr. Parent and Ms. Barozzi noted that Ms. Young's résumé was one of the items used to assess merit. However, neither were aware that two portions of it had been copied from Ms. Noble's résumé, notably, the entire section on procurement and contracting and the listing of three certificates.

[68] Ms. Barozzi testified that the information under the procurement subheading appeared to be work that Ms. Noble had done while working in the office of the comptroller general. She noted that none of that information was required, and it was not mentioned in the self-assessment. This is also true for the three certificates that according to the appointee, were incorrectly copied into her résumé. She noted that none was mentioned in the SOMC.

[69] Ms. Young explained that she had updated her résumé. It was relatively old because she had been in the same job for 17 years. She saw the subheadings that Ms. Noble used and found them more practical, so she used them too.

[70] She copied what she thought was the subheading and inadvertently included the additional information under the bullets. She said that she had nothing to gain from copying it into her résumé because she did not rely on it in the self-assessment.

[71] She noted that while she does have experience in contracting and requests for proposals, copying that content from Ms. Noble's résumé was an honest mistake.

[72] In cross-examination, she said that she had no ill intent to use Ms. Noble's experience in these areas because she did not have it. She also stated that she did not rely on any of that information when she completed the self-assessment tool for the SOMC.

IV. Summary of the arguments**A. For the complainants**

[73] Both parties delivered their arguments orally but also submitted copies in writing. I have summarized their arguments.

[74] The complainants argue that they made this complaint because they were denied a fair and transparent opportunity to be considered for the AS-06 forensic

audit manager position. They argue that a non-advertised appointment process provided no opportunity for qualified candidates, such as them, to apply.

[75] They argue that the appointee's résumé was never verified and that there are no working papers to establish how merit was determined. Instead, the process relied on an unverified and flawed assessment of Ms. Young's résumé and her performance management assessment. They submit that therefore, the appointee's appointment breached public service values and ethics and constituted favouritism.

[76] The complainants argue that the AS-06 position remained vacant for two years and that they continued to perform the required duties, demonstrating their competence, but were denied acting opportunities.

[77] The complainants note that abuse of authority consists of not only bad faith and favouritism but also any action, omission, or error. Parliament could not have envisaged what occurred in this case as not constituting an abuse of authority (see *Tibbs v. Deputy Minister of National Defence*, 2006 PSST 8; *Ross v. Commissioner of the Correctional Service of Canada*, 2017 PSLREB 48; *Turner v. Deputy Head (Royal Canadian Mounted Police)*, 2021 FPSLREB 52; and *Bain v. Deputy Minister of Natural Resources*, 2011 PSST 28).

[78] The failure to assess merit fairly in *Bain* resulted in a finding of abuse of authority. That is precisely the type of misconduct in this case.

[79] The complainants argue that Ms. Young admitted that she used Ms. Noble's résumé as a template without her consent and that she copied all the bullets under the procurement and contract management section, three certificates under the relevant education section, and some punctuation errors.

[80] They argue that Ms. Young's claim that she did not review her résumé before submitting it to Mr. Parent is impossible, given its importance.

[81] Further, they argue that Mr. Parent assessed Ms. Young even though he was not her direct supervisor, treated the assessment as a simple screening, and accepted a narrative assessment that did not contain concrete, verifiable examples. They argue that he said that he assessed the appointee's CV and her performance assessment, but he did not. Further, he kept no working papers of his assessment.

[82] The respondent reclassified the essential qualifications to allow Ms. Young to qualify, altered the language requirement from BBB imperative to non-imperative, and falsely claimed an urgency to fill the position, even though it had been vacant for two years.

[83] Further, the complainants note that Ms. Barozzi's evidence was that she reviewed all the documentation that Mr. Parent prepared, even without examples and validation. Further, she was aware of an alleged conflict of interest. She authorized Mr. Parent to look into it, but he never followed up.

[84] The complainants note that the right fit has been invoked as justification, but there were no criteria to establish it, and no competing candidates were ever identified.

[85] As in *Amirault v. Deputy Minister of Nation Defence*, 2012 PSST 6, and *Desalliers v. Deputy Head (Department of Citizenship and Immigration)*, 2022 FPSLREB 70, this case is an example of a flawed process in which qualifications were manipulated to favour the appointee. Ms. Young was allowed to write her own assessment, and conflict-of-interest and ethical breaches were ignored to exclude candidates who met and exceeded the qualifications.

[86] The complainants argue that harm and consequences resulted from the selection process at issue because they were deprived of a fair opportunity to apply to it. It also undermined team morale and created the perception of bias.

[87] Ms. Dunn is a certified fraud examiner and was denied acting opportunities. Ms. Noble is a highly qualified professional, but she was excluded.

[88] They did not seek favours but a fair and transparent process.

[89] Management's right to exercise its discretion is not a licence to manipulate a staffing process. Discretion must be exercised in accordance with the law and the principles of fairness and merit. When the results are unreasonable and the outcome is discriminatory, abuse of authority is established, whether or not it was intentional.

[90] The complainants request that the Board find that an abuse of authority occurred in the choice of process and in the application of merit. They request that the Board order the immediate revocation of the appointment and direct that the AS-06 position be filled through an open and fair selection process.

B. For the respondent

[91] The respondent submits that this proceeding is about the two staffing complaints that the complainants made after Ms. Young was appointed to the AS-06 forensic audit manager position. It notes that the allegations relate to abuse of authority in the choice of process and the application of merit and that they also raise issues of bias and personal favouritism.

[92] The respondent notes that the proposal of appointment for the indeterminate position was posted on June 12, 2024. The complainants made their staffing complaints on June 25 and 30, 2024.

[93] The complainants had the burden of proof to establish that abuse of authority occurred, on a balance of probabilities.

[94] Per paragraphs 49 and 55 of *Tibbs*, the complainants had to demonstrate on a balance of probabilities that the staffing process was tainted by an abuse of authority. That is an extremely difficult burden to meet.

[95] Under s. 33 of the *PSEA*, management has the discretion to use a non-advertised or an advertised process, as was upheld in *D'Almeida v. Royal Canadian Mounted Police*, 2020 FPSLRB 23 at para. 55.

[96] In *Parliament v. Deputy Minister of Public Works and Government Services*, 2020 FPSLRB 118, the Board determined that an appointee's experience and knowledge can constitute significant considerations when choosing a non-advertised appointment process.

[97] In *Haller v. Deputy Head (Department of National Defence)*, 2022 FPSLRB 100, the Board stated that pressing operational requirements and organizational needs are valid justification to staff a position using a non-advertised process.

[98] The respondent submits that the evidence is clear that it had to fill a vacancy in the AS-06 position to address operational needs, while navigating administrative constraints. Its view is that choosing a non-advertised process was reasonable and allowable under the *PSEA*.

[99] With respect to the assessment, when making an appointment, s. 36(1) of the *PSEA* permits the assessment method that is considered appropriate, to see if the *Federal Public Sector Labour Relations and Employment Board Act* and *Public Service Employment Act*

candidate meets the qualifications. An employer may use any assessment method to review past performance, including interviews or exams. There is no set of strict rules in the *PSEA* on how to establish the assessment method or how a candidate meets any essential and asset qualifications.

[100] Parliament has provided those with staffing authority the means by which to exercise their discretion, according to their judgement (see paragraph 34 of *Visca v. Deputy Minister of Justice*, 2007 PSST 24).

[101] The role of the manager holding staffing authority is not to witness each activity. They may review the narrative and determine whether it demonstrates that a candidate met the required qualifications. Managers evaluate these narratives and assess the relevance of examples against criteria, clarity, and completeness.

[102] The respondent submits that a manager's ability to assess a candidate does not depend on prior or direct knowledge of every task that the candidate has accomplished. They rely on the narrative and their professional judgment to determine if a candidate meets the merit criteria.

[103] The respondent argues that in this case, the appointee was fully assessed against the merit criteria. The narrative was completed against the SOMC. Both Mr. Parent and Ms. Barozzi validated the information when they determined whether the appointee met or did not meet the merit criteria. They determined that she met the appointment's essential criteria and asset qualifications.

[104] In *Muka v. The President of the Canada Border Services Agency*, 2021 FPRLREB 53, the Board recognized that assessment method as a valid way to obtain information (see paragraph 56).

[105] Section 36 of the *PSEA* allows using any assessment method to determine whether a candidate meets the qualifications (see *Visca*, at para. 42; and *Jolin v. Deputy Head of Service Canada*, 2007 PSST 11 at paras. 26 and 27).

[106] Further, there is evidence that Mr. Parent worked closely with the appointee during the previous acting appointment, when she occupied the senior manager position. Since August 2023, they had a broad view of all the team's activities.

[107] In response to the complainants' allegation that it was unfair that they were not considered for the position, the respondent submits that there is no requirement under s. 30(4) of the *PSEA* to consider more than one person for an appointment to be based on merit. Employees do not have guaranteed access to every appointment process that may arise (see *Jack v. Commissioner of the Correctional Service of Canada*, 2011 PSST 26 at para. 18). The fact that the complainants might have qualified does not establish that the respondent abused its authority by deciding to appoint someone else.

[108] Section 2(4) of the *PSEA* contemplates that abuse of authority may include personal favouritism and bad faith.

[109] The respondent submits that in *Portree v. Deputy Head of Service Canada*, 2006 PSST 14, paras. 45 to 56 the former Public Service Staffing Tribunal (PSST) noted that a complainant must establish that a serious act, an error, an omission, or improper conduct occurred.

[110] Speculations of bias, a suspicion of bias, or the probability of bias are insufficient. Bias must be real, probable, or reasonably obvious. The complainants failed to meet their threshold to demonstrate bias.

[111] With respect to the personal favouritism allegations, the test for it can be found at paragraph 39 of *Glasgow v. Deputy Minister of Public Works and Government Services Canada*, 2008 PSST 7, which was reaffirmed in *Menzies v. Deputy Head (Correctional Service of Canada)*, 2023 FPSLREB 68. Parliament's intent was that the words "personal" and "favouritism" be read together. Other types of favouritism are not contemplated in what constitutes an abuse of authority.

[112] The respondent submits that if the Board found that a personal relationship existed between any of the parties involved, the complainants failed to establish any personal relationship outside work or that the decision to appoint the appointee was made due to granting a personal favour or reward or that it was made to gain favour from someone else.

[113] The complainants' arguments about personal favouritism are based on personal opinion and speculation. Allegations alone are insufficient. The respondent submits that there is no credible evidence to support these allegations.

[114] All the personal favouritism allegations relate to Mr. Lafrenière, who was not involved in the staffing process, did not have the delegated authority to make the staffing appointment, and had no relevance to the proceeding. The respondent raised an objection to Mr. Lafrenière testifying by way of subpoena and the Board did not issue a subpoena.

[115] The respondent submits that the complainants were not able to answer how Ms. Young did not meet the merit criteria.

[116] The authority to find and assess qualifications lies with the assessors, not the complainants. Ms. Dunn could not possibly have reviewed the appointee's qualifications or analyzed them. She did not observe the appointee's day-to-day tasks during the relevant period because she was away from the AISB for several years on French language training when Ms. Young acted in the AS-06 position. Ms. Noble could not review the appointee's qualifications since she started only in August 2023. Further, Ms. Noble's will-say statement is riddled with hearsay, irrelevance, and conspiracy. It should be given little to no weight.

[117] On the issue of Ms. Young's résumé, the respondent submits that the complainants seem stuck on the idea that it is insurmountable proof that an abuse of authority occurred. However, the evidence established that Ms. Young used Ms. Noble's résumé as a template to gain an understanding of the best practices because it looked good and that she forgot to remove some of Ms. Noble's information.

[118] The respondent submits that the appointee's explanation had conviction and credibility and that it should be deemed credible. Furthermore, it submits that when each witness was asked to identify if any information in the narrative came from the copied portions of Ms. Noble's CV, no one could locate that information in the SOMC.

[119] Finally, the respondent wishes to address Ms. Dunn's email to the former director, Abdahamid Mao, which was presented to Ms. Barozzi at the end of the proceeding. The most troubling aspect of this evidence is that it is based on speculation, just like the complaints. The truth of its content is not proven until a witness speaks to it, and the Board should give little weight to this evidence, as it is based on unsubstantiated claims.

[120] Therefore, for all the reasons stated earlier in this decision, the respondent requests that the complaints be dismissed and that any requested corrective measures be denied.

[121] The appointee was selected based on merit, and there is no evidence of an abuse of authority. Should the Board find that an abuse of authority occurred, the respondent refers to the Federal Court's decision in *Canada (Attorney General) v. Cameron*, 2009 FC 618, which affirmed that the Board's remedial powers must align with paragraphs 81 and 82 of the *PSEA*.

C. The complainants' reply

[122] In rebuttal, the complainants submit that a non-advertised process was chosen because the respondent could not extend Ms. Young's acting appointment since she did not meet the position's language requirements.

[123] Further, the complainants argue that Ms. Barozzi testified that procurement was an essential component of the job, and it was in the criteria for the assessment of merit. However, there is no verification that Ms. Young performed such duties.

[124] The complainants submit that it is reasonable to deduce that the procurement examples in Ms. Noble's résumé were considered when Ms. Young was assessed.

[125] The Public Service Commission (PSC) took no position. It submitted its observations and authority, both of which I reviewed.

V. Reasons

[126] The Board must determine these questions:

- 1) Was there an abuse of authority in the choice of process?
- 2) Was there an abuse of authority in the assessment method used and in the application of merit?
- 3) Were there a reasonable apprehension of bias and personal favouritism in the selection process?

[127] In staffing complaints made under s. 77(1) of the *PSEA*, the burden of proof falls on the complainants to establish an abuse of authority on a balance of probabilities.

[128] "Abuse of authority" is not defined anywhere in the *PSEA*. However, the PSST's foundational decision in *Tibbs* outlines that an abuse of authority may include serious

errors or omissions, bad faith, or personal favouritism. The Board's case law, following that decision, underlines that an abuse of authority must be more than mere errors or omissions.

A. Credibility findings

[129] Overall, I found the complainants' testimonies riddled with personal opinion, unsubstantiated theories, and irrelevant information but devoid of evidence. Both were unable to clearly respond to questions asked in cross-examination on how the appointee did not meet the merit criteria.

[130] Further, Ms. Noble's will-say statement relied on assumptions and opinions that were not substantiated by any evidence. For example, she provided her notes from a June 6 team meeting as evidence that the staff members were told by management that acting opportunities were available in the AS-06 position at the same time Ms. Young was being assessed in a non-advertised appointment process. Mr. Parent claims that the promise was not specific to the AS-06 position. However, regardless of what was promised in the June 6 team meeting, I fail to find how this is relevant to whether there was an abuse of authority in the application of merit in the non-advertised process for the forensic audit manager position.

[131] Throughout the hearing, the complainants attempted to introduce evidence that was not connected to the issues at hand and that would have served as a distraction for the trier of fact, including information that predated the selection process by three years and that referred to individuals who were not remotely connected to the staffing process or the development of any of the tools used in the assessment of merit. Each time, I was required to apply the evidentiary rule of relevance, and I refused to introduce many of the complainants' documents on that basis alone.

[132] On the other hand, the appointee testified in a frank and candid manner. I found her admission of inadvertently copying parts of Ms. Noble's résumé into hers an unfortunate but credible error.

[133] Further, both Mr. Parent and Ms. Barozzi testified clearly and forthrightly. Ms. Barozzi corroborated much of what Mr. Parent said on the justification for a non-advertised process and how the appointee was assessed. I found their testimonies credible.

B. No abuse of authority in the choice of process

[134] The complainants insist that there was an abuse of authority in the choice of process because by making the process non-advertised, they were excluded from the opportunity to apply. They argue that the mere fact that a non-advertised process was chosen is evidence of an abuse of authority because it was not transparent or fair.

[135] I cannot agree.

[136] Section 33 of the *PSEA* clearly states that the employer has the discretion to choose between an advertised or a non-advertised process when it makes an appointment. That means that when it comes to choosing a process, the statutory language is clear that Parliament did not intend to favour one process over the other. Rather, it gave the PSC or its delegated authority the power to choose between a non-advertised or an advertised process (see *Parliament*).

[137] Although a respondent is not required to consider more than one person, a non-advertised process is by nature less transparent because it is not advertised before an appointment is proposed and does not give others a chance to apply (see *Parliament*, at para. 99 citing *Kitsos v. the President of the Canadian Border Services Agency*, 2012 PSST 35 at para. 17).). However, this does not mean that using a non-advertised process automatically constitutes an abuse of authority.

[138] The complainants seem to suggest that any appointment process that is non-advertised is automatically an abuse of authority. That position is simply not consistent with s. 33 of the *PSEA*, the PSC's *Appointment Policy*, or the Board's and its predecessors' case law (see *Robbins v. the Deputy Head of Service Canada*, 2006 PSST 17 at para. 36; *Velasco v. Deputy Minister of Transport, Infrastructure and Communities*, 2011 PSST 17 at para. 55; and *Yousuf v. Deputy Head (Department of Indigenous Services)*, 2025 FPSLREB 40 at para. 80).

[139] Further, the Board has determined that pressing operational requirements are a reasonable justification for choosing a non-advertised process (see *Haller, Parliament*, and *Yousuf*).

[140] In this case, I find that there is uncontradicted evidence that the respondent had an urgent operational need to fill the AS-06 position because there was a backlog in processing forensic audit files. Ms. Barozzi testified that new information was brought

to her attention in February 2024 by a reporting manager that forensic audit files were not progressing as quickly as she had thought

[141] Ms. Barozzi testified that she was receiving pressure from the deputy minister's office to get those files moving. Due to the time that an advertised process would take, and given that there was no guarantee that she would end up with the required objective of quickly reducing the backlog, she chose a non-advertised process.

[142] Although the position had been vacant for several years, I find the respondent's explanation that there was an urgent operational need to address the backlog a reasonable justification for the choice of process. Its testimony was also corroborated in the articulation of the selection decision document, in which it noted that the appointee was selected based on the "current needs to the organization", the necessity of ensuring continuity in the position due to the AISB's heavy workload, and "... ongoing files that need to be managed effectively and in a timely manner."

[143] In the *Evaluation of Barriers and Biases and Articulation of the Selection* document, the respondent further noted this additional reason behind the decision to proceed with a non-advertised process, in that it "... enables the [AISB] to meet its objectives in promoting the diversification of our workforce by appointing an individual who self-identifies [sic] as Indigenous and a woman to the position."

[144] Priorities and operational needs are not static. They may change over time. Although the complainants disagree with the respondent's reasons for choosing a non-advertised process because they believe that the position had been vacant for two years and that work was being done, they provided no evidence to substantiate their claim that it was unnecessary to fill the position urgently. They provided no evidence to refute the employer's evidence that there was a backlog of forensic audit cases that had to be addressed in a timely manner. They provided no response to the respondent's evidence of significant pressure from senior leadership to process the forensic audit files. In essence, they failed to establish that the respondent's reasons for choosing a non-advertised process constituted an abuse of authority.

C. No abuse of authority in the assessment method and the application of merit

[145] Appointments in the public service must be based on merit.

[146] The preamble of the *PSEA* reinforces that "... Canada will continue to benefit from a public service that is based on merit and non-partisanship and in which these values are independently safeguarded ...".

[147] In assessing merit, the *PSEA* provides broad authority at s. 36 for the PSC or the delegated authority to use any assessment method that it deems appropriate to assess the essential and asset qualifications for a position.

[148] This may include reviewing past performance and accomplishments, formal exams and interviews, or informal discussions and writing assignments to assess merit. The language at s. 36 of the *PSEA* is expansive. It allows the PSC to choose the appropriate assessment method in the circumstances. For example, it could include allowing developing innovative and more equitable ways to assess and evaluate employees, to reduce bias and increase access to staffing opportunities.

[149] As the former staffing tribunal noted at paragraph 34 of *Visca*, Parliament has provided those with staffing authority the means to exercise their discretion according to their professional judgment.

[150] Any assessment method may be used to determine whether a candidate meets the essential qualifications of a position (see paragraphs 26 and 27 of *Jolin*).

[151] While the complainants take issue with the self-assessment narrative and suggest that it was flawed because there were no timelines and examples, I accept the employer's evidence that it is one method of assessment among many that is available to managers to assess whether a candidate meets the merit criteria.

[152] Moreover, it is not uncommon in staffing processes for the delegated authority to ask a candidate to provide a written assessment explaining how they meet the SOMC. This is similar to a take-home exam and an assessment of each response based on an answer sheet. While there was no expected-answers grid in this case, the respondent's witnesses testified that the self-assessment for each essential qualification was evaluated on a met or not-met basis. Therefore, the complainants' claim that there are no working papers to establish how the merit was established and that there was no verification is simply without foundation.

[153] In *Muka*, at para. 56, the Board determined that a self-assessment narrative tool was an appropriate method of assessing a candidate.

[154] Moreover, on reviewing the narrative assessment, I find that the appointee's narrative on the left side for the 15 required essential qualifications was meaningfully connected to the SOMC on the right side.

[155] For example, in response to the essential qualifications of significant experience planning and leading projects and experience liaising with internal and external stakeholders, the candidate referred to her 17 years of experience planning and leading projects within her unit and to liaising with internal and external stakeholders. She also referred to her experience as an AS-05 investigative project manager and an AS-06 forensic audit manager, which were referenced in her CV.

[156] Throughout the narrative assessment, I find that the candidate demonstrated how her experience and skills aligned with the competencies required for the position. Furthermore, I do not agree with the complainants' claim that she was required to enumerate an exhaustive list of examples to demonstrate that she met the merit criteria, particularly since the respondent also had her CV, which listed in relative detail the tasks that she had performed in all the positions referenced in her narrative assessment.

[157] The complainants argue generally that there were a lack of examples and timelines, but the tool did not require the appointee to give a specific number of examples or to specify timelines. It simply required her to demonstrate how she met the position's essential qualifications, based on her experience and knowledge, and I find that she did so.

[158] Contrary to more conventional assessment methods, the narrative assessment was not scored. Nonetheless, this does not make it a less-valid method of assessing merit, particularly for a non-advertised selection process that involves only one candidate and that requires no comparison of results with other candidates.

[159] Although the complainants claim that the narrative was not verified, I find this claim wholly unsubstantiated. Instead, I accept the respondent's evidence that once completed, the narrative assessment was reviewed by the senior manager, Mr. Parent, and then shared with the chief audit executive for her ultimate verification and approval as the sole delegated authority. Further, I reject the complainants' claim that Mr. Parent could not assess the appointee because he was not her direct supervisor or

that the chief audit executive could not either because she did not observe the appointee's day-to-day work.

[160] Mr. Parent was a senior manager with a broad view of the work of the two units he supervised since August 2023. He was in an ideal position to be able to verify whether Ms. Young met the merit criteria because he had worked with her since August 2023 and had seen her in action as the acting forensic audit manager.

[161] Ms. Barozzi had been in a senior leadership position in the AISB since 2008. She was well aware of Ms. Young's work as an analyst and as an acting forensic audit manager. Like Mr. Parent, she had seen Ms. Young's work and found her a competent and efficient analyst. As the chief audit executive, not only did she know the AISB, but also, she had spent 14 years overseeing its entire work. Suggesting that those managers were not competent to assess the narrative assessment is simply illogical.

[162] The complainants also attempt to rely on an email from Ms. Dunn to the previous director, Mr. Mao, in December 11, 2023, which raised possible issues with procurement in files that Ms. Young handled over a year-and-a-half before she was appointed to the forensic audit manager position. I put little to no weight on this self-serving evidence because it is not relevant to the selection process that took place in June 2024.

[163] Instead, they appear to be Ms. Dunn's unverified observations. She did not supervise Ms. Young's work and admits that she did not have a good relationship with her. Ms. Dunn, when describing her email, notes at the end of the it, "... keep in mind the above noted is [sic] only observations of the documentation contained in gdocs [sic]." Therefore, I agree with the respondent's submissions that these are purely speculative observations that were not established and that have no relevance to the selection process.

D. Relying on a CV that contained inaccurate information is not evidence of abuse of authority in the application of merit

[164] There is no dispute that the appointee copied portions of Ms. Noble's CV into hers. Ms. Young admitted it. I accept her explanation that it was an inadvertent error and not an attempt to gain any advantage in the staffing process. She should certainly have been more careful when she reviewed her CV, especially given that the role for which she was assessed required meticulous attention to detail.

[165] I must add as an aside that had the appointee copied portions of Ms. Noble's CV intentionally in an attempt to claim experience and education that she does not have, it would have raised other issues, such as potential fraud, that the Board would have no jurisdiction to investigate further in an internal staffing process. However, if the information was considered in the assessment process, it could be a factor leading to a determination of an abuse of authority in the assessment of merit.

[166] In this case, I agree with the appointee. I can see no advantage gained by copying those portions of Ms. Noble's CV since I find that none of the experience and none of the education were relied on in the narrative assessment. The section copied on procurement and contract management is with respect to a singular experience that Ms. Noble had at the Office of the Comptroller General. According to Ms. Young's CV and her testimony, she had experience in procurement, which included making requests for proposals and contract management in her roles as an analyst, a contracting officer, and as the acting forensic audit manager.

[167] I have reproduced as follows the portions that she copied:

...

Procurement and Contract Management (Internal Audit - Professional Practices)

- *As part of the bid evaluation team, reviewed Request for Proposal (RFP) bids for the Office of the Comptroller General (OCG) Licensed Audit Software Solution (LASS), submitted findings report; assessed the Proof of Proposal for the winning bid, submitted results, and signed final project reports and documents.*
- *Developed Advanced Contract Award Notice (ACAN) used to aid the OCG with their multi-departmental contract.*
- *Supported the OCG through assessing a Challenger's Request for Information and Statement of Capability against the ACAN: Challenger was defeated and the ACAN was awarded (lifespan 7 years max. \$17 million)*
- *Liaised with various departments on behalf of the OCG's Departmental Audit Software Initiative introducing and sharing documents required for the audit and IT teams, explaining roles and demystifying the Requisition on Contract (ROC) procurement vehicle.*
- *As an evaluator for the interdepartmental Professional Audit Services Supply Arrangement evaluation team, assessed over 80 resources and 1600 projects in eight separate streams for both mandatory and rated criteria; submitted consensus*

evaluation reports; consensus on 28 discrepancies was finalized in one meeting.

- *Annually oversaw the software maintenance renewal contract including providing appropriate approvals and documentation; provided advice regarding the ROC procurement vehicle.*
- *Developed statements of work, rating criteria and justification documents (documents became templates for procurement processes in the division) for various procurement vehicles.*
- *Managed professional services contracts and amendments.*

...

Relevant Certificates / Certificates of Completion

Open Source Investigative Techniques

- *Wolters Kluwer, TeamMate® Audit Management System Certifications*
- *Institute of Internal Auditing, Quality Assessment Certificate*
- *Institute of Internal Auditing, Fraud Detection and Investigation*

...

[Emphasis in the original]

[168] The respondent testified that it was not aware that those portions of the appointee's CV were not hers. However, Mr. Parent and Ms. Barozzi also acknowledged that nothing copied was mentioned in the self-assessment narrative. On closely reviewing the SOMC, I find no indication that Ms. Young referred to any of the experience and education that she mistakenly copied.

[169] Therefore, I find that the complainants failed to establish that the respondent's lack of awareness that those portions were copied constitutes an abuse of authority in the application of merit since they were not used to assess whether the appointee met the merit criteria. While the subdelegated manager involved in the appointment could have been more vigilant when reviewing the appointee's CV, the fact that she was unaware that a section of Ms. Young's résumé was not hers had no impact on the assessment of merit. Therefore, this does not rise to the threshold of a serious error or omission or an abuse of authority in the application of merit.

E. Moving two essential qualifications to asset qualifications and exempting the appointee from the position's language requirement did not constitute an abuse of authority

[170] The complainants argue that the SOMC was diluted, to favour the appointee. They provide insufficient evidence to substantiate their claim.

[171] There is no dispute that the knowledge of the culture, aspirations, and current issues facing Indigenous communities and the knowledge of the respondent's contracting policy and contracts directive were moved from the essential qualifications to the asset qualifications in the course of developing the SOMC.

[172] However, I heard uncontested evidence from Mr. Parent that Ms. Young would have met the merit criteria whether those qualifications were deemed essential or assets. She had worked in the AISB for 17 years and had travelled to Indigenous communities when audits were being conducted, and in her role as the investigation manager and forensic audit manager, she had overseen work contracted out to third-party companies, including handling requests for proposals, which are part of the procurement and contracting process. Moreover, having visited Indigenous communities in her investigator role and identifying as Indigenous herself, she would have had knowledge of the varied cultures, aspirations, and issues facing at least some Indigenous communities.

[173] While the complainants are unhappy that the two essential qualifications were moved to the asset qualifications, they are unable to point to evidence to establish their claim that Ms. Young did not meet them.

[174] The complainants also argue that it was an abuse of authority to change the position from bilingual imperative (second-language level BBB) to bilingual non-imperative (BBB).

[175] The job description for the senior analyst position, which corresponds to the forensic audit manager position, notes that the second-language-level requirement is BBB, which is indeed bilingual imperative.

[176] However, the Board heard evidence that the subdelegated manager made a decision to staff the position as bilingual non-imperative. The appointee was exempted from meeting the requirement under the *Public Service Official Languages Exclusion*

Approval Order because she was eligible to retire within two years of the appointment, and she signed a resignation letter.

[177] Section five of that exclusion order notes that these two conditions are required to exempt a person from a position's bilingual language requirement:

- 1) the person must be eligible for an immediate annuity within two years of a non-imperative appointment to a bilingual position; and
- 2) the person must submit an irrevocable resignation to take effect no later than two years from the appointment date.

[178] I find that the evidence clearly establishes that Ms. Young met both conditions. As a result, I find that Ms. Young was exempted from the requirement to meet the position's bilingual language requirements.

[179] Further, in the documentation, the respondent provided another justification for the non-imperative staffing of a bilingual position, which indicated that it was imperative that the position be staffed due to the workload, and there were very few French files in the sector.

[180] Mr. Parent was assigned as the person who would take on any French requirements of the position, should they have been required, and his second-language-level evaluations results are a bilingual designation of EEE.

[181] Although Ms. Dunn indicated that she completed French language training and vaguely noted that she achieved her results, she provided no evidence to indicate that she would have met the position's BBB requirements. Ms. Noble, being in an English essential position, also failed to establish that she would have met the bilingual language requirement.

[182] Therefore, I find that there was no abuse of authority in exempting the appointee from the position's BBB language requirements.

F. No bias or personal favouritism

[183] Finally, the last issue that I must address are the complainants' allegations that the staffing process was biased and that the selection committee exhibited personal favouritism toward the appointee.

[184] Throughout the hearing, the complainants suggested that the respondent manipulated the staffing process to favour the appointee and that it chose a non-advertised process to exclude them from being able to compete because it favoured the appointee. The complainants also made claims that the managers involved in the selection process exhibited personal favouritism by appointing Ms. Young.

[185] The test for a reasonable apprehension of bias is cited in the Supreme Court of Canada's decision in *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369 at 372. I must look at what an "... informed person, viewing the matter realistically and practically ..." would conclude. Furthermore, as the Court noted, "... the grounds for the apprehension must be substantial."

[186] On applying that test to the staffing process and the actions of the managers involved, I find insufficient evidence of any bias, either real or perceived.

[187] The Board has repeatedly noted that complainants do not have guaranteed access to every staffing process. Thus, there is nothing inherently biased about running a staffing process in which there is only one candidate.

[188] Further, I disagree with the complainants that this case is in any way similar to *Amirault*, in which the PSST found a reasonable apprehension of bias due to a past conflict between the complainant and certain members of the assessment board and because a member had a business relationship with one of the appointees whom he assessed. In this case, there is no evidence of a conflictual relationship between management and the complainants; nor is there any evidence that management had anything but a professional relationship with the appointee.

[189] Similarly, I find *Bain* easily distinguishable from the case before me because it had evidence that a selection committee member was a personal friend of the appointee, which could have led a reasonably informed bystander to conclude that there was a real or perceived bias in the selection process.

[190] Further, while personal favouritism is a form of bias and a clear abuse of authority under s. 2(4) of the *PSEA*, I find no evidence of it in this case.

[191] In *Glasgow*, at para. 41, the PSST explained that selecting someone for reasons of personal favouritism includes when there might be a personal relationship between the person selecting and the appointee, or selecting the person might be done as a

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personal favour or to gain a personal advantage of some kind, such as a personal favour with someone else.

[192] Other examples of personal favouritism in a selection process include selecting someone because they are a personal friend or neighbour or because they have a close personal relationship with the selection committee either outside or inside the office.

[193] I find that the complainants failed to establish any evidence of personal favouritism. The uncontested evidence of Ms. Barozzi and Mr. Parent is that they knew Ms. Young only professionally, at work. They had no personal relationship or friendship with her and received no personal benefit from appointing her to the position at issue. After reviewing her CV, her self-assessment, and her performance in her acting role, they decided that she met the merit criteria and that she was the best fit for the job.

[194] Further, I find that the complainants' allegations about Mr. Lafrenière's professional relationship with Ms. Young are completely baseless and irrelevant. He had absolutely no involvement in the selection or appointment process at issue. The uncontested evidence from Ms. Barozzi is that his 90-day term as a casual director ended in early May 2024, or more than a month before Ms. Young was appointed.

[195] The complainants suggest that Mr. Lafrenière appointed Ms. Young in the (four months less a day) acting forensic audit manager role as a favour for approving his security clearance. They provided no evidence to substantiate these egregious claims. Further, even if it had been so, and I insist that it was not, the Board has no jurisdiction over acting appointments of four months less a day.

[196] I find that there was no evidence that Ms. Barozzi or Mr. Parent stood to gain anything personal from Ms. Young's appointment.

[197] While the subdelegated manager had worked with Ms. Young for 14 years, I find that the evidence is that it was an entirely professional relationship. Both Mr. Parent and Ms. Barozzi testified that they did not have a relationship with Ms. Young outside work, and I found them credible.

[198] Finally, both parties referred to a comprehensive list of jurisprudence to make their respective cases. Although I reviewed all the cases, I will limit my comment to those I consider relevant.

[199] The complainants claim that this case is similar to *Tibbs*, *Bain*, *Turner*, and *Ross*. However, I find that this case can be easily distinguished from each of those cases.

[200] In *Turner* (partially quashed on judicial review regarding the remedy, not on the determination of an abuse of authority, see *Cathy Turner and Attorney General of Canada*, 2022 FCA 192), the Tribunal Member found that the removal of essential qualifications just weeks before the appointment was made was arbitrary and an abuse of authority because removing them eliminated key requirements of the position. That differs from this case, in which the SOMC reflected the essential qualifications of the forensic auditor manager position, even if two essential qualifications were moved to asset qualifications.

[201] In *Ross*, the Board determined that information provided to assess several essential qualifications of the appointees was inadequate. The written assessments for three of the essential qualifications for both appointees were identical, which led the Board to question whether any individual assessment of the qualifications had actually occurred. I find that that is in contrast to the case before me, in which the appointee provided a unique response to explain how she met each essential qualification, which management then subsequently reviewed and approved.

[202] *Bain* can be easily distinguished from this matter because in that case, there was evidence of a close personal friendship between the appointee and a member of the selection committee, which is nothing like the case before me, in which the complainants failed to show any personal relationship between the appointee and the selection committee. In *Bain*, the PSST found that the personal friendship could have led a reasonably informed bystander to conclude that the appointee was advantaged in the selection process. Therefore, it found that the complainant established a reasonable apprehension of bias in the selection process. That is a far cry from the facts in the case before me.

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

(The Order appears on the next page)

VI. Order

[204] The complaints in files 771-02-50117 and 771-02-50133 are dismissed.

December 16, 2025.

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