Date: 20260202

Files: 561-02-40702 and 52374

Citation: 2026 FPSLREB 11

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

YAN CHEN

Complainant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

Indexed as
Chen v. Public Service Alliance of Canada

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

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

For the Complainant: Herself

For the Respondent: Zachary Rodgers, counsel

Decided on the basis of written submissions, filed September 6, 2019; January 2, 2020; and March 31, May 30, June 12, 13, and 16, July 23, October 31, November 7 and 17, and December 11, 2025.

REASONS FOR DECISION

I. Overview

[1] These reasons are about two duty-of-fair-representation complaints made by Yan Chen ("the complainant") against the Public Service Alliance of Canada (PSAC). I have decided to dismiss those two complaints.

[2] The first complaint (Board file no. 561-02-40702) was made on July 15, 2019. The complainant was a term employee at the Canadian Space Agency from April 10, 2018, to March 29, 2019. PSAC filed three grievances on her behalf about the end of her term employment (two of which it ultimately discontinued). Broadly speaking, the complainant made this complaint because she was dissatisfied that PSAC did not file more grievances and make more complaints on her behalf and that it withdrew two of its grievances about her end of term employment. PSAC responded to this complaint by asking that it be dismissed without an oral hearing.

[3] That complaint was scheduled for a hearing twice. The hearing was adjourned each time: once so that the parties could try to mediate a solution, and the second time at the request of the complainant. After the second adjournment, I directed that the parties provide written submissions about PSAC's request to have this complaint dismissed without an oral hearing. PSAC filed its submissions. The complainant never did. Instead, the complainant did three things.

[4] First, she filed an objection to PSAC's submissions on June 12 and 13, 2025, in a series of emails. I rejected that objection because I saw nothing improper about PSAC's submissions. I directed that the complainant cease swamping the registry of the Federal Public Sector Labour Relations and Employment Board ("the Board") with emails and, instead, file a single all-encompassing submission by November 14, 2025. She never did.

[5] Second, she made a new duty-of-fair-representation complaint on May 18, 2025 (Board file no. 561-02-52374). Initially, I suggested treating this new complaint as providing further details about her existing complaint; however, both parties insisted that this was designed to be, and should be treated as, a new complaint. In light of the parties' joint request, I agreed to treat it as a new complaint and directed the complainant to file submissions about its timeliness. She did so.

[6] Third, the complainant made a motion that I recuse myself from this case, along with a motion to order that a registry officer have no involvement in her case and that PSAC's counsel be struck from this file.

[7] I have dismissed the complainant's motion that I recuse myself from this matter and her related motions to have several other people removed from this file. The complainant has not set out grounds that would establish a reasonable apprehension of bias on my part in these complaints.

[8] I have also dismissed these two complaints. PSAC submitted that the first complaint does not raise an arguable case against it, and I agree. The second complaint is untimely, and the Board has no jurisdiction to consider it further.

[9] My detailed reasons follow.

II. Motion for recusal

[10] The complainant brought a motion that I recuse myself from this case. While she asked the Chairperson of the Board to decide this motion, recusal motions are properly directed to the member of the Board assigned as a panel to a particular case. This is consistent with the practice of the Board (see, for example, *Abi-Mansour v. Public Service Alliance of Canada*, 2025 FPSLREB 101 and *Panesar v. Canada Revenue Agency*, 2024 FPSLREB 32) and other labour relations boards (see, for example, *Sapone v. Chanel Canada ULC*, 2025 CanLII 126656 (ON LRB) at para. 27). Therefore, I considered but have rejected her request that I recuse myself.

[11] A request that a member of a tribunal recuse themselves is assessed using the normal test for whether there is a reasonable apprehension of bias on the part of that member. In *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369, the Supreme Court of Canada formulated the test for a reasonable apprehension of bias as follows:

> …
>
> *… the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information… that test is "what would an informed person, viewing the matter realistically and practically … conclude. Would he think that it is more likely than not that* [the decision maker]*, whether consciously or unconsciously, would not decide fairly."*

…

[12] The complainant has two bases for her request that I recuse myself.

[13] First, before my appointment to the Board on April 1, 2023, I represented the appellant in *Meredith v. Canada (Attorney General)*, 2015 SCC 2. PSAC was an intervener in that case, represented by the same law firm that represents it in these complaints. The complainant argues that I should recuse myself on this basis. The complainant cites no authority for the proposition that a tribunal member is biased because, before their appointment, they represented one party as counsel in a legal proceeding, and a different party appearing before them was an intervener in that proceeding.

[14] In considering this basis for recusal, I reviewed the Canadian Judicial Council's *Ethical Principles for Judges*. While not binding on the judiciary (and certainly not binding on tribunals), it suggests that a judge who was in private practice should not hear any case in which the judge or the judge's former firm was involved before the judge's appointment and that there should be a "cooling off" period, during which the judge will not hear cases involving their former clients or former law firm partners and associates. The length of this cooling off period depends on local tradition; in the Board, the tradition is a cooling off period of 1 year before hearing or deciding cases. While this is less time than usual for judges, this is because of the nature of an appointment to a labour board. It is for only a 5-year fixed term (so a lengthy cooling off period would capture a more significant period of appointment compared to judges who are appointed until age 75), appointments are made in part based on lists created by employers and bargaining agents (so there is an expectation that Board members have a pre-existing relationship with parties), and the statute requires Board members to act impartially, despite any prior association (so there is still an expectation of that prior association); see the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365; *FPSLREBA*), at ss. 6 and 8(2).

[15] I was appointed to the Board on April 3, 2023, so I am now well outside the cooling-off period. In any event, before my appointment, I never represented PSAC. I represented one of its components in 2008 (see *Birch v. Union of Taxation Employees, Local 70030*, 2008 ONCA 809), but I was well outside any reasonable "cooling off" period when I was appointed in 2023.

[16] Second, the complainant states that my procedural decision to hear PSAC's motion to dismiss her first complaint in writing means that I am biased and that I should recuse myself. She has filed written submissions on this point, including an initial 21-page submission to the Chairperson of the Board. She summarizes her 6 allegations at the end of that submission, which are (1) that I compelled her to attend a case management conference, (2) that PSAC had an unequal opportunity to file written submissions, (3) that I fabricated the case history of these complaints, (4) that I should not have accepted PSAC's submissions, (5) that I falsely stated that the complainant refused an oral hearing, and (6) that I criticized her writing style. I will address each of these in turn.

[17] The first complaint was scheduled to be heard from June 17 to 19, 2025. On February 24, 2025, the complainant made some procedural requests, including interpretation from English to Mandarin and to postpone the hearing for health reasons. I requested a case management conference to discuss those requests and asked the parties to provide their availability for one. On February 27, the complainant objected to holding a case management conference and asked that all communication be conducted in writing, due to her health concerns. Despite her request, I scheduled a case management conference for March 31 and provided an agenda. That agenda included PSAC's original request from 2019 to dismiss the first complaint without an oral hearing. The complainant objected again to having to participate in a case management conference and objected to including PSAC's request on the agenda. On March 26, I cancelled the case management conference in light of the complainant's second request and granted her request for an adjournment of the hearing. Additionally, I directed that PSAC's request to dismiss the first complaint without an oral hearing be decided in writing, and I set a timetable for it.

[18] This addresses the complainant's first ground for recusal because I never required her to attend a case management conference. On the contrary, I eventually acceded to her request to cancel the case management conference.

[19] Second, in respect of the allegation of unequal opportunity to file written submissions in PSAC's request to dismiss the first complaint, the submission schedule was as follows: PSAC's submissions were due on May 30, 2025, the complainant's submissions were due on November 14, and then PSAC's reply submissions were due on December 19. This followed the standard pattern for submissions. PSAC bears the

burden of proof to show that I should dismiss the complaint, so it goes first; the party who goes first also gets the final reply.

[20] Third, the complainant says that I fabricated the case history of these complaints. Her main complaint is that I referred to "multiple occasions" on which PSAC asked to dismiss the complaint without an oral hearing. The complainant does not say when I used that term. I have looked through the directions that I issued in this matter and found one direction on March 10, 2025, when I said that "PSAC has indicated on a few occasions that it wants the complaint dismissed …" when I provided an agenda for the case management conference that did not proceed.

[21] PSAC requested that the Board dismiss the first complaint without an oral hearing in its initial response to the complaint on September 6, 2019. PSAC wrote on February 24, 2025, to ask that the complaint be heard in writing. It wrote on March 25 to say that the case was ripe for dismissal without a hearing and that it wanted to proceed by written submissions. I do not agree that referring to a "few occasions" or "multiple occasions" would give rise to a reasonable apprehension of bias, regardless of the context; however, I also conclude that this was a fair characterization of the situation.

[22] Fourth, the complainant objected to PSAC's submissions dated May 30, 2025. In short, the complainant says that its submissions are not about its original motion but comprise a new motion because PSAC's submission is titled "Motion to Dismiss". She also objects to the fact that they were filed on May 30 (i.e., on the deadline day) instead of earlier. Finally, she objected to the fact that the employee of the law firm representing PSAC who sent the email filing those submissions no longer works at that law firm. I already dismissed those concerns and wrote to the parties as follows:

> …
>
> *I have read PSAC's submissions carefully, along with the complainant's objections to them. I have decided to accept PSAC's submissions. Those submissions are consistent with the Board's procedural direction to file submissions in support of its motion to dismiss the complaint. As PSAC pointed out in its June 13 email, any differences between its submissions and its initial response on September 6, 2019 reflect the fact that the complainant added details to her complaint on January 5, 2020. The identity of the law clerk or legal assistant who sent the submissions to the Board is also irrelevant to their validity. I have concluded that these submissions are not an abuse of process and I will accept them.*

…

[23] The fact that the complainant still disagrees with my conclusion does not lead to a reasonable apprehension that I am biased against her.

[24] Fifth, the complainant says that I am biased against her because I wrote on March 26, 2025, that "… the Board cancelled the second oral hearing, at the request of the complainant." The complainant says that this is an unfair characterization of her request, which was to postpone and not cancel the hearing. I frankly fail to see the difference between cancelling hearing dates and postponing them. Even if there were a difference, this does not demonstrate a reasonable apprehension of bias against the complainant.

[25] Finally, the complainant alleges that I have criticized her writing style. As I mentioned earlier, the complainant provided a reply to PSAC's response on January 2, 2020. On June 24, 2025, to address the numerous correspondence sent by the parties to that date, I provided a procedural overview of this case. In that overview, I referred to the complainant's January 2, 2020, reply as "… a Word document that went paragraph-by-paragraph through PSAC's response and provided the complainant's position on each paragraph." The complainant says that this is unnecessarily critical of her submissions. I disagree. I do not see how correctly stating that a document is a paragraph-by-paragraph rebuttal is a criticism. On the contrary, I found the complainant's organization of her reply helpful, and it allowed me to better understand her first complaint.

[26] Throughout her submissions, the complainant refers to her "right" to an oral hearing. Her main concern appears to be that PSAC is permitted to bring this motion in writing, and she insists that she should have an oral hearing. However, there is no right to an oral hearing. Section 22 of the *FPSLREBA* is clear that the Board may decide any matter before it without an oral hearing. As the Federal Court of Appeal put it in *Klos v. Canada (Attorney General)*, 2021 FCA 238 at para. 8, "… the Board is entitled to control its own procedure and has the explicit statutory authority to decide any matter before it without holding an oral hearing …".

[27] The complainant asks that one of the Board's registry officers no longer work on this file because the email correspondence with her contains "RE:" prefixes and refers to her as Chen instead of Yan Chen. She alleges that this shows that the registry

officer "… demonstrates consistent cross-file obstruction, reflecting the systemic pattern present across all five files." For context, the complainant has other files at the Board against her former employer, which is why she is referring to five files instead of just these two. The complainant also alleges that a notice of settlement conference in one of those other files has been "fabricated" and that the fact that emails by the Board and PSAC use "Nos" as short for "numbers" shows systemic interference in her files. The fact that the complainant does not like the formatting of correspondence does not give rise to a reasonable apprehension of bias in this matter.

[28] Finally, the complainant seeks an order that PSAC's counsel no longer be permitted to represent it. She has presented no basis for the Board's jurisdiction to make such an order. Additionally, there are no grounds on which I would grant such an order; PSAC's counsel has argued his client's case with vigour, but nevertheless with courtesy.

III. Board file no. 561-02-40702: no arguable case

[29] As an initial stage of a complaint, the Board often asks the parties to make submissions about whether a complainant has made out an "arguable case" of a breach of the duty of fair representation. In this arguable-case analysis, the Board treats the facts alleged by the complainant as true and then determines whether the complainant has made out an arguable case that the bargaining agent has breached its duty of fair representation. In other words, "… the complainant's factual allegations must suggest that the respondent's decisions, actions, or omissions could be considered arbitrary or discriminatory or as resulting from bad faith …" (from *Gonzague v. Professional Institute of the Public Service of Canada*, 2024 FPSLREB 38 at para. 61).

[30] PSAC filed written submissions arguing that the complaint does not disclose an arguable case. The complainant never responded to those submissions. Therefore, I reviewed her initial complaint, the particulars that she provided on July 28, 2019, and her response on January 2, 2020, to assess whether the allegations, if proven, suggest a breach of the duty of fair representation.

[31] The complainant does not set out any basis for a complaint that PSAC acted in a way that was discriminatory or in bad faith. While her complaint includes those words, it does not allege that she was treated differently by PSAC from other employees

whom it represents; nor does it allege that its representation was tainted by malice or other forms of bad faith.

[32] The complainant's complaint is about the quality of PSAC's representation of her. Concerns about the quality of representation are assessed by deciding whether the representation was arbitrary. In *Noël v. Société d'énergie de la Baie James*, 2001 SCC 39, the Supreme Court of Canada explained the arbitrariness standard as follows:

> …
>
> *50 The concepts of arbitrary conduct and serious negligence, which are closely related, refer to the quality of the union representation. The inclusion of arbitrary conduct means that even where there is no intent to harm, the union may not process an employee's complaint in a superficial or careless manner. It must investigate the complaint, review the relevant facts or seek whatever advice may be necessary; however, the employee is not entitled to the most thorough investigation possible. The association's resources, as well as the interests of the unit as a whole, should also be taken into account. The association thus has considerable discretion as to the type and extent of the efforts it will undertake in a specific case.…*
>
> …

[33] In *Drouin v. Professional Association of Foreign Service Officers*, 2023 FPSLREB 3, the Board described the content of the duty of fair representation as follows:

> …
>
> *[66] First, a union must exercise its duty of fair representation in good faith, objectively and honestly, and only after thoroughly considering a grievance while taking into account the employee's interests on one hand and its and those of its membership on the other. It must not act in an arbitrary, discriminatory, capricious, or wrongful manner and must act without serious negligence or hostility toward the employee; see* Canadian Merchant Service Guild v. Gagnon, *1984 CanLII 18 (SCC) at 526; and* McRaeJackson.
>
> *[67] What does "arbitrary" mean?* The Canadian Oxford Dictionary *(1998) defines "arbitrary" as follows: "**1** based on the unrestricted will of a person, not according to a scheme or plan; capricious. **2** established at random. **3** despotic."*
>
> *[68] A union that conducts a grievance in a perfunctory fashion, merely going through the motions simply to preserve appearances, is acting in an arbitrary fashion; see* Gagnon, *at 526. The British Columbia Labour Relations Board commented that "… a union cannot act arbitrarily, disregarding the interests of one of the employees in a perfunctory matter." It went on, stating, "Instead, it*

> *must take a reasonable view of the problem before it and arrive at a thoughtful judgment about what to do after considering the various relevant and conflicting considerations." The Supreme Court of Canada adopted those comments in* Gagnon*, at 520, in its discussion of a union's duty of fair representation; see also* Canadian Union of Public Employees, Local 3912 v. Nickerson*, 2017 NSCA 70 at para. 43. As long as a union does not conduct its preparation for a grievance in a perfunctory or cursory fashion, and as long as it has gathered sufficient (not all) information necessary to arrive at a sound (not perfect) decision, then its duty of fair representation is satisfied;* see Cadieux v. Amalgamated Transit Union, Local 1415*, 2014 FCA 61 at paras. 30 to 33.*
>
> *[69] Second, and flowing from the first, the assessment of whether a union acted in an arbitrary fashion does not involve armchair quarterbacking. It does not involve second-guessing the decisions that the union made when processing a grievance. As a general rule, the question of whether, in retrospect, the union was right or wrong in its assessment of a grievance's merits is irrelevant; see, for example,* Vilven v. Air Canada Pilots Association*, 2011 CIRB 587 at para. 36. All that matters is whether the union acted reasonably when it made its decisions.*
>
> …
>
> [Emphasis in the original]

[34] After reviewing the complaint and PSAC's submissions carefully, I have concluded that the complaint does not disclose an arguable case that PSAC acted in a way that was arbitrary. The complaint is based on a disagreement over whether PSAC should have filed (and continue to represent the complainant in) more grievances.

[35] As I said earlier, the complainant was a term employee at the Canadian Space Agency from April 10, 2018, to March 29, 2019. During her employment, she received a performance appraisal that she disagreed with. She raised this with representatives at PSAC. She complains that these representatives did not present a grievance against her performance appraisal on her behalf and that they dissuaded her from doing so personally. She alleges that this breached PSAC's duty of fair representation. She also alleges that PSAC breached its duty of fair representation by not appropriately challenging the end of her term employment.

[36] The duty of fair representation does not require a bargaining agent to take on every grievance requested by an employee (see *Fraser v. Public Service Alliance of Canada*, 2024 FPSLREB 28 at para. 32). The complaint does not expressly allege that PSAC's representatives did not review the relevant facts or investigate her concerns.

[37] Instead, the complaint alleges that PSAC's representatives should have advised her to present a grievance about her performance appraisal. However, the complaint describes how PSAC's representatives met with the complainant, considered her views, and then advised her not to proceed with a grievance about her performance appraisal. The complainant describes that PSAC's representatives reviewed the performance appraisal and that they disagreed with her about how negative it was.

[38] To give one example, the complainant says that the performance appraisal was defamatory. However, in her 2020 reply, she quotes from some of her representative's emails to her, in which they said things like this: "As explained in previous emails, the information you provided was added to the Termination grievance file as it was deemed that this does not constitute proof of defamation but it may be useful in the purpose of the Termination grievance."

[39] To give another example, PSAC filed — but later withdrew — a grievance arguing that the decision to end the complainant's term employment was discriminatory. The complainant says that she had "… very clear proof shows that it is systematic discriminatoin [*sic*]". However, she never says what that proof is. In its submissions, PSAC provided a copy of the email that it sent the complainant about her discrimination grievance. That email is worth quoting at length:

> …
>
> *As far as the evidence required, for the* ***discrimination grievance****, I informed you in my May 14 (see attached) email that :*
>
> > "There must be a clear link between the actions you are alleging and the protected ground (which based on your document I assume to be "race" or "ethnic origin" (This is the exact wording in the Act so I put quotation marks) based on the fact that you indicated that the ground of discrimination is that you are "Chinese-Canadian". The fact that you are Chinese Canadian in itself is not sufficient to link the actions to the prohibited ground of discrimination. This is not to say that the actions you are alleging and the differential treatment you deem you were subjected to cannot be a form of harassment, but you must prove the link between them and the protected ground in the CHRA."
>
> *You were also informed of your right to file a complaint with the Canadian Human Rights Commission, which you confirmed that you have done.*
>
> *Furthermore, you inquired again about the discrimination claim after you received the above mentioned email because you felt that*

the 15 pages document you sent to me contained the evidence required to show discrimination on a protected ground. I answered the next day with s summary of the information contained in the document in question and explained to you why this did not constitute proof/evidence. I also bring your attention more specifically to the following portion of my May 15 email response:

> "The above is a **general summary** of allegations/actions you have raised in your 15 page document. None of which you have connected to the protected ground as far as I can see in the document. Even in the information you sent me below, I am unclear how those general stereotypes about Chinese are connected to the above information I have summarized and that is contained in your complaint. I am not trying to put up roadblocks, but rather, I am trying to be helpful by indicating to you what some of the shortfalls are in your discrimination complaint as it stands.
>
> It would be helpful that you take all these allegations and perhaps specifically point out how each is connected to the protected ground in question".

For clarity, the list of stereotypes I mention are ones you sent to me describing what you believe to be general beliefs people have about people of Chinese culture/origin.

On June 19, you sent me an email with your complaint to the CHRC attached which you said contained more details about the discrimination. After reading the complaint, I sent you this response on June 19 (see attached):

> "What I see at this time other than your own description of how traditional Chinese are/act is the following comment:
>
> "sent an email to Mr. Laporte the president of CSA on March 6th about my situation. Mr. Laporte asked HR agents to talk with me. On March 13rd, I had an imformal discussion with Rea and HR, Real could not explain the untrue and negative information. At the end **he even said that he was surprised to see that I was brave as a Chinese-Canadian and performed/argued well that day**."
>
> Is that a direct citation of what he said? He mentioned your ethnic origin when he commented about how you presented your arguments at that meeting? Who else what present during this meeting? "

In response to my question, you sent me an audio recording of a meeting were the conversation referred to in the complaint to the CHRC. I listen to the recording and as per my email sent July 2nd (see attached) I responded :

> "I listened to the part you mention and I have to say that what I heard is Real saying he did not understand why it was difficult for you to come to him (paraphrasing here) and you are the one that offered your Chinese culture as an explanation … The conversation then simply continued on

> that note where Real is trying to figure out how this may affect your attitude or demeaner in the workplace (specifically in the technical environment you were working in) and encouraging you to be more outspoken. He is giving you advice and tips to be more successful in that type of environment.
>
> I am trying to see how this was discrimination when the comment about Chinese culture came in the conversation from your end and he was trying to give advice to you based on what you said about it. I am not seeing how this can be objectively viewed as discrimination."
>
> …
>
> [Emphasis in the original]
>
> [*Sic* throughout]

[40] This email shows that PSAC's representatives reviewed the information that the complainant provided, considered it, and disagreed with her. Disagreement is not an indication of arbitrary representation.

[41] The complaint alleges that some of PSAC's representatives originally did not file grievances about the end of the complainant's term employment. However, PSAC ultimately did file those grievances. A duty-of-fair-representation complaint is not made against individual representatives; it is made against the bargaining agent as a whole. Even if one or, in this case, more than one representative does not file a grievance, the fact that other PSAC representatives course-corrected and filed the grievances is not an indication that the bargaining agent breached its duty of fair representation.

[42] For these reasons, I have concluded that the complainant has not set out an arguable case that PSAC breached its duty of fair representation.

IV. Board file no. 561-02-52374: it is untimely

[43] On May 18, 2025, the complainant made this duty-of-fair-representation complaint against PSAC. Section 190(2) of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2) requires a complainant to make a complaint with the Board within 90 days of "… the date on which the complainant knew, or in the Board's opinion ought to have known, of the action or circumstances giving rise to the complaint."

[44] This new complaint is about PSAC's representation of the complainant in 2019. Therefore, it is clearly outside the 90-day period in which to make such a complaint, and the Board has no jurisdiction to consider it further.

[45] The complainant alleges that she was never informed that she was represented by a bargaining agent. Even if that is true, she clearly knew that by 2019 when she was dealing with PSAC and even made the earlier complaint against it. That allegation is out of time.

[46] She complains that she was not added to bargaining agent email lists and that she did not receive a union card until 2022. Even if that is true, she clearly knew it by 2022. That allegation is out of time.

[47] She complains that she was excluded from union activities in 2019. Even if that is true, she clearly knew that by 2019. That allegation is out of time.

[48] She complains that PSAC failed to review the employer's budget. Her theory appears to be that PSAC should have reviewed the employer's budget, to determine whether there was a financial reason not to extend her term employment. However, she refers to meetings with PSAC in 2019 about this issue. She does say that she realized that she was misled only in mid-April 2025, when she was reviewing her pay stubs. However, this is belied by her acknowledgment that she met with a PSAC representative in 2019 about this issue. Therefore, even if her allegation is true, she clearly knew about it by 2019. That allegation is out of time.

[49] She complains again about PSAC's decision not to file a grievance against her performance appraisal. Since she already complained about this in 2019, she is out of time to complain about it again in 2025.

[50] She complains that she received no support after filing grievances. Her grievances are all from 2019. Therefore, even if this is true, she clearly knew that by 2019. That allegation is out of time.

[51] She complains that PSAC withdrew her grievances and that it did not advise her of her right to refer them to the Board without union representation. This is part of her 2019 complaint as well. Therefore, she clearly knew that by 2019. That allegation is out of time. Her claim that she learned that she could refer a grievance to the Board on her own only in February 2025 does not restart the 90-day limitation period because the

limitation period runs from the day that the complainant learned of the facts on which the complaint is based, not the day that she learned about the applicable legal principles (see *Canada (National Film Board) v. Coallier*, [1983] F.C.J. No. 813 (C.A.)(QL) at para. 3). The essential nature of her complaint is PSAC's treatment of her grievances in 2019.

[52] She complains that PSAC did not investigate her allegations. That already forms part of her 2019 complaint and therefore cannot be a timely complaint in 2025.

[53] She complains about an offer that PSAC made to settle her complaint. This offer is protected by settlement privilege and cannot form the basis of a complaint against PSAC. In any event, it made that offer well before 2025, and such a complaint is well out of time.

[54] Finally, she also makes allegations about alleged pay difficulties; paying employees is not PSAC's responsibility, so this allegation falls outside the scope of any complaint against it.

[55] As I stated earlier, after the complainant made this new complaint, I initially concluded that I would treat it as further details or particulars of her existing complaint. PSAC objected to this approach. The complainant did too; specifically, she wrote to the Board on June 13, to assert that she had complied with the requirements for making a "new" complaint (and she emphasized the word "new" in her email). I wrote a new direction on June 24, 2025, stating that in light of the parties' agreement that the complaint should be treated as a new complaint, I would do so. I gave the complainant an opportunity to file written submissions about whether the complaint was timely. She did so and had three main submissions.

[56] First, she argued that the fact that the Board's registry opened a file for her complaint means that it must be timely and valid. In support of that proposition, she cites s. 3 of the "FPSLREB Regulations and Rules of Procedure". There is no such regulation or rules of procedure. If she is referring to the *Federal Public Sector Labour Relations Regulations* (SOR/2005-79), s. 3 of those *Regulations* (which had to do with the timing of correspondence sent by fax machine) was repealed in 2020. The fact that the Board's registry accepts a complaint for filing and assigns it a file number does not deem that complaint timely or valid.

[57] Second, the complainant argued that her complaint is about "ongoing and cumulative" conduct by PSAC. However, as I set out earlier, her complaint is about discrete actions taken by PSAC in 2019 and a settlement offer made before 2025.

[58] Finally, the complainant argued that she learned about her ability to refer a grievance to adjudication only in 2025. I have already addressed that argument earlier.

V. Allegation by PSAC of abuse of process

[59] PSAC asked the Board to dismiss these complaints because the complainant was acting as a frivolous or vexatious litigant and her actions constitute an abuse of process. I have decided that I do not need to address that argument.

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

(The Order appears on the next page)

VI. Order

[61] The complaints are dismissed.

February 2, 2026.

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