

FILED / PRODUIT

Date: March 31, 2023

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Annie Ruhlmann for / pour
REGISTRAR / REGISTRAIRE

OTTAWA, ONT.

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Tribunal File No.

Public Servants Disclosure Protection Tribunal

Application by the Public Sector Integrity Commissioner of Canada

In the Matter of:

Heather Langille

Complainant

and

Transport Canada

and

Samantha Wilson-Clark and Tyler Brooks

Respondents

Notice of Application

Pursuant to paragraph 20.4(1)(b) of the *Public Servants Disclosure Protection Act*, SC 2005, c 46, (PSDPA) and in accordance with Rule 5 of the *Public Servants Disclosure Protection Tribunal Rules of Procedure*, SOR/2011-170, I am hereby making an application to the Public Servants Disclosure Protection Tribunal (Tribunal) for a determination of whether or not reprisals, as defined under subsection 2(1) of the PSDPA, were taken against the Complainant and for an order pursuant to subsection 21.5(1) of the PSDPA respecting a remedy in favour of the Complainant and an order pursuant to subsection 21.5(4) of the PSDPA respecting disciplinary action against any person(s) determined by the Tribunal as having taken the reprisal.

Basis for the Application

1. This Application relates to Dr. Heather Langille's (the Complainant) allegations that she was subjected to reprisal measures when she was employed at Transport Canada (TC) because she made protected disclosures and/or cooperated in good faith in an investigation into a disclosure.
2. The Complainant is a public servant within the meaning of subsection 2(1) of the PSDPA. She held the position of Regional Aviation Medical Officer (RAMO) at TC for more than 10 years until October 2020.
3. TC is a federal department as defined under section 2 of the *Financial Administration Act*, RSC, 1985, c F-11.
4. On August 16, 2020, the Complainant filed a reprisal complaint with the Office of the Public Sector Integrity Commissioner of Canada (PSIC or my Office) under subsection 19.1(1) of the PSDPA. She identified the following two individuals as being responsible for taking reprisal measures against her:
 - Ms. Samantha Wilson-Clark, former Director of Civil Aviation Medicine, TC; and
 - Dr. Tyler Brooks, Director of Civil Aviation Medicine, TC.
5. Ms. Samantha Wilson-Clark and Dr. Tyler Brooks (the Respondents) are public servants pursuant to the PSDPA. Ms. Wilson-Clark is now employed at Indigenous Services Canada, while Dr. Brooks is still employed at TC.
6. In her reprisal complaint, the Complainant alleged that Ms. Wilson-Clark and Dr. Brooks took several reprisal measures within the meaning of paragraphs 2(1)(d) and (e) of the definition of "reprisal" in the PSDPA – any measure that adversely affects the employment or working conditions of the public servant; and a threat to take any of the measures referred to in any of paragraphs (a) to (d), respectively.
7. My Office investigated the Complainant's reprisal complaint, and based on the results of the investigation, I find that there are reasonable grounds for believing that the Complainant was reprisal against primarily because of the protected disclosures that she made and/or primarily because she cooperated in an internal TC investigation into a disclosure that was commenced under the PSDPA.
8. Accordingly, I have determined that an Application to the Tribunal for an order respecting a remedy in favour of the Complainant and an order respecting disciplinary action against the persons identified in this Application as having taken

the reprisals is warranted, pursuant to paragraph 20.4(1)(b) and subsection 20.4(3) of the PSDPA.

Summary of the Reprisal Complaint

9. Between 2018 and 2020, the Complainant alleges to having made several protected disclosures. The Complainant disclosed to her superiors concerns relating to improper conduct in a staffing process, mismanagement of medical files by another RAMO that was creating a risk to public safety, and mismanagement by her superiors of the concerns that she had been raising. The Complainant also filed a complaint with the Public Service Commission of Canada (PSC) related to her concerns about that staffing process, and she cooperated in an internal TC investigation commenced under the PSDPA.
10. On August 16, 2020, Dr. Langille filed a reprisal complaint with PSIC, annexed to this Notice of Application as Exhibit A.
11. On September 18, 2020, I decided to commence an investigation into the Complainant's allegations of reprisal. Based on the evidence gathered during the investigation, I have determined that, in accordance with paragraph 20.4(3)(a) of the PSDPA, there are reasonable grounds for believing that over a period of 2 years, the following reprisal measures were taken against the Complainant:
 - a. Ms. Wilson-Clark and Dr. Brooks did not choose the Complainant to attend an international conference in Hungary in 2019 when several of her colleagues were allowed to attend international conferences;
 - b. Ms. Wilson-Clark questioned the Complainant's work performance and scrutinized her work hours and leave requests;
 - c. Dr. Brooks did not choose the Complainant for an acting opportunity in February 2020 or to work on a policy project in March 2020;
 - d. Dr. Brooks initiated a fact-finding process and threatened disciplinary measures against the Complainant regarding her presence during a teleconference call in May 2020;
 - e. Dr. Brooks embarrassed the Complainant when she requested to be considered for a position in May 2020;
 - f. Dr. Brooks humiliated the Complainant in emails in June 2020; and
 - g. Dr. Brooks initiated a disciplinary process against the Complainant in June 2020, removed her from her duties and assigned her to a special project.
12. In her reprisal complaint, the Complainant alleges that the Respondents took these measures against her because she made several protected disclosures and/or cooperated in an investigation.

13. More specifically, the Complainant alleges she was not chosen to attend an international conference in Hungary in September 2019 because she had made several protected disclosures and Ms. Wilson Clark had recently subjected her to a disciplinary process in May 2019.
14. The Complainant also alleges that she was micromanaged and embarrassed in 2019 by Ms. Wilson-Clark. Her hours of work were scrutinized, her leave requests, including the proper leave codes, were questioned, and she was accused of unexplained absence at work. Ms. Wilson-Clark also involved the Director General in the Complainant's requests for vacation. In addition, her performance at work was questioned and she was accused of completing a lower number of file assessments than other RAMOs.
15. In addition, the Complainant alleges that Dr. Brooks did not choose her to act for him during his absence in February 2020 or to work on a policy project in March 2020. He instead asked two of the Complainant's colleagues who had been with TC for less time than her.. The Complainant alleges that Dr. Brooks did not give her these opportunities because he was angry with her for disclosing allegations of wrongdoing about another RAMO and disclosing his support of this RAMO to the Director General in January 2020 and to the TC Integrity Office in February 2020.
16. The Complainant alleges that she was subjected to a fact-finding meeting by Dr. Brooks regarding her presence during a telephone conference in May 2020 and threatened with disciplinary measures, which she claims was an unfair and unjustified treatment in the circumstances.
17. The Complainant alleges that in May 2020 she was embarrassed by Dr. Brooks when she expressed her interest to be considered for the Senior Consultant, Policy and Standard position, which was Dr. Brooks' substantive position before he was appointed Director. The Complainant was informed abruptly and unjustly that she would not be considered for this role, despite the fact that she has more than 10 years of experience at TC and was part of a pool of qualified candidates. She alleges she was refused to be considered for this opportunity because she had disclosed wrongdoing that involved Dr. Brooks.
18. In June 2020, the Complainant alleges that Dr. Brooks admonished her by sending her a strongly worded email and he embarrassed her by including her colleagues in his email.
19. Also in June 2020, Dr. Brooks initiated a disciplinary process regarding the Complainant's inappropriate conduct towards employees, and removed her from her duties and assigned her to a special project that involved making a spreadsheet

and reviewing “CAME credentialing”. Even though the Complainant resumed her duties in September 2020 and left TC in October 2020, it seems that this disciplinary process is still unresolved.

20. In the course of PSIC’s investigation into this reprisal complaint, the Respondents took the position that the alleged measures were taken in consultation with their Human Resources and Labour Relations directorate. They also allege that the Complainant’s behavior in the workplace required, at times, active management actions. However, a reprisal can still be disciplinary in nature pursuant to the PSDPA.
21. Considering the above, I am applying to this Tribunal for a determination of whether or not reprisals were taken against the Complainant and as the case may be, for an order respecting a remedy in favour of the Complainant and an order respecting disciplinary action against the Respondents who took the reprisal measures.

Contact Information for the Parties

Complainant

Heather Langille

Complainant’s employer at the time of reprisal

Transport Canada
330 Sparks Street
Mail Stop XMS, Building Tower C
Floor 29, Room 2901
Ottawa ON K1A 0N5

Per: Arun Thangaraj
Deputy Minister
Tel: (613) 949 – 2960
Email: arun.thangaraj@tc.gc.ca

Persons identified as having taken the alleged reprisal/ Respondents

Dr. Tyler Brooks,

Ms. Samantha Wilson-Clark

Office of the Public Sector Integrity Commissioner of Canada

60 Queen Street, 4th Floor

Ottawa ON

K1P 5Y7

Per: Ms. Josiane Houde, Senior Counsel
Tel: (343) 573 – 6651
Email: houde.josiane@psic-ispc.gc.ca

Ms. Aurora Lu, Legal Counsel
Tel: (613) 327 – 9791
Email: lu.aurora@psic-ispc.gc.ca

Fax: (613) 946 –2151

Language of Proceedings

English

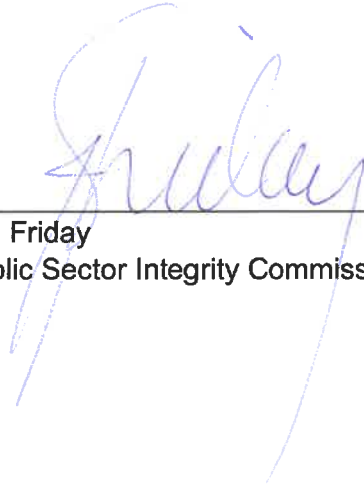
Location

To be determined by the Tribunal in consultation with the parties.

Special Arrangements

No

Signed at Ottawa, Ontario, this 28th day of March 2023.



Joe Friday
Public Sector Integrity Commissioner

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e-Form Submission

RWEB2020-08-16-1597635729

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Reference Number RWEB2020-08-16-1597635729

Contact Information

I am a Federal Public Servant

Applicant Name Pleather Langille

Job title or rank Regional Aviation Medical Officer

Department where you work Transport Canada

Work unit or branch Ottawa

Telephone number (daytime) (613) 617-1774

Telephone number (alternate)

Fax {Empty}

Email address _____

Address where you would like to be contacted

Contact Address

Official language of choice for correspondence English

Are you or were you Currently employed in the federal public sector

Name of employer (Department or Organization) where reprisal(s) occurred

Transport Canada

Representation

Are you currently being represented? No

Reprisal Complaint

In your own words, while keeping in mind the definition of reprisal, please describe what reprisal measures you believe were taken against you.

I just want to let you know that this is my 3rd time trying to submit this form, as there seems to be a problem attaching supporting documentation and every time that I try the program crashes and I lose the form. Therefore can you please contact me regarding submitting my supporting documentation in another way? Thank you!

I observed serious wrong-doing on the part of a colleague (Dr. Jim Pfaff) and attempted to raise it within the chain of command between March of 2018 and February of 2019. My concerns were dismissed by Management (Ms. Samantha Wilson-Clark and Dr. Tyler Brooks) who ultimately supported Dr. Pfaff in his actions. Only after other colleagues came forward with their concerns was Management forced to take the matter seriously and Dr. Pfaff was removed. Since then, in June of 2019 Ms Wilson-Clark disciplined me with a letter of reprimand because I had sent an email to a small group of colleagues that contained a dancing penguin. In May of 2020 Dr. Brooks subjected me to a Disciplinary Hearing because I had left my mobile phone on after a teleconference, and this after we had discussed the matter verbally and I thought that the matter was closed. It took 5 weeks and prompting from my union representative

for the matter to be dismissed. On 2 July 2020, 45 days ago, Dr. Brooks removed me from my duties over vague allegations that I was condescending, intimidating, and demeaning to a colleague. He has not yet provided me with a single example to support these allegations.

Alleged individual

Individual Name Tyler Brooks

Job title or rank Acting Director of Civil Aviation Medicine

Department Transport Canada

Work unit or branch {Empty}

Work telephone number (343) 550-8320

Ind Address Place de Ville Tower C AARG, 330 Sparks Street
Ottawa, ON. K1A 0N8
Canada

Add another individual

Add Another Name Samantha Wilson-Clark

Job title or rank former Director of Civil Aviation Medicine, now Acting Executive Director

Department Public Health Agency of Canada

Work unit or branch Regional Programs

Work telephone number (613) 404-9159

Ind Address 130 Colonnade Road A.L.6501H
Ottawa, ON. K1A 0K9
Canada

Did you make a protected disclosure of wrongdoing or have you cooperated in an investigation?

Yes

Please provide details, including relevant dates and names of the people to whom or the office to which you made a protected disclosure. If you made a disclosure of wrongdoing to our Office, you only need to include the PSIC file number (i.e. PSIC-2017-D-0000).

On 5 July 2018 I met with Ms Wilson-Clark and the Acting DG of Civil Aviation, Mr. Francois Collins, and we discussed concerns about Dr. Pfaff's conduct. After that meeting I was asked to produce a Briefing Note containing examples of how his conduct and behaviour were dangerous to public safety. I provided the BN on 17 July 2018 and never had any follow up from either of them regarding it. In November of 2019 Mr. Nicholas Robinson, DG of Civil Aviation, became aware that Ms. Wilson-Clark, on the advice of Dr. Brooks, may have been supporting Dr. Pfaff's actions and asked me to provide him with evidence of this wrong-doing. I provided him with this evidence, and Mr. Robinson questioned Ms. Wilson-Clarke as to why she had supported Dr. Pfaff. He then turned the evidence over to Mr. Claude Blanchette, the departmental Senior Integrity Officer. On 13 February 2020 I met with Mr. Blanchette at his request and answered his questions regarding the actions of Ms. Wilson-Clark and Dr. Brooks. Since that time Mr. Blanchette has requested that I provide him with further information and I have complied with his request.

Time Limit

Please indicate when you became aware of the reprisal(s), to the best of your recollection

2020-07-02

If you are filing your complaint outside the 60-day limitation period, please explain the reasons for the delay

In the past year I have been subjected to 3 Disciplinary Hearings, one by Ms. Wilson-Clark and two by Dr. Brooks. In regards to Dr. Brooks, the first was over a matter that I thought had been settled during a telephone call. The notice of the Disciplinary Hearing was transmitted to me by Dr. Brooks 3 days after I enquired about a MOF-4 position in our division and received an abrupt response informing me that he was not considering me for that position. When I asked for the reasons why I was not being considered there was no response. Three days later I was compelled to attend a Disciplinary Hearing about matter that I thought was closed. Five weeks after the hearing and after

prompting from my union representative the matter was finally dismissed. 45 days ago Dr. Brooks initiated another disciplinary process against me, over allegations that 4 months of interactions with a co-worker were "intimidating, demeaning, and condescending". I have been removed from my duties. In the time since I have been informed of this disciplinary hearing Dr. Brooks has not provided any further detail as to the exact nature of these allegations and has not provided a single example of how my actions might merit this description.

How did you become aware? It was this last action on the part of Dr. Brooks, taken 45 days ago on 2 July, that has convinced me that he is acting in reprisal against me for my disclosure of wrong-doing to the DG, and ultimately to the departmental Senior Integrity Officer. I have been removed from my duties which has effectively reassigned and demoted me. It has embarrassed me in front of my co-workers and our external clients. When I tried to raise my concerns about this to Dr. Brooks I was told that this demotion was "non-negotiable". In addition, I have been passed over for projects and career development opportunities such as acting positions. In the 45 days that have passed since he has taken that aggressive action Dr. Brooks has failed to provide a single incident upon which the allegations are based. It appears that Dr. Brooks is acting against me by way of reprisal by denying me career opportunities and using the disciplinary process as a means of retaliation against me.

Other Proceedings

Have you filed a complaint with another person or body acting under another Act of Parliament, or under a collective agreement?

No

Does the subject-matter of the reprisal complaint concern an action under section 20.2 of the Royal Canadian Mounted Police Act, or any matter that is the subject of an investigation or proceeding under Part IV of the RCMP Act?

No

Please describe {Empty}

Date when procedures were concluded {Empty}

Supporting Evidence

Evidence {Empty}

Date modified:

2020-08-17