

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230830

Docket: A-102-20

Ottawa, Ontario, August 30, 2023

Present: GLEASON J.A.

BETWEEN:

AIR PASSENGER RIGHTS

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

and

THE CANADIAN TRANSPORTATION AGENCY

Intervener

ORDER

UPON informal motion of the applicant, seeking an order for a subpoena to require Mr. Scott Streiner, the former Chairperson of the intervener, the Canadian Transportation Agency (the CTA) and Mr. Marc Roy, a former Chief of Staff to the former Minister of Transport, to provide oral out-of-court evidence regarding discussions that occurred during a meeting held prior to the issuance of the Statement on Vouchers at issue in this application;

AND UPON determining that, in light of the nature of the informal motion, it is appropriate that the CTA be allowed to respond to it;

AND UPON reviewing the submissions of the parties and the intervener, filed;

AND UPON considering that the underlying proceeding in this matter is a judicial review application, which is meant to proceed expeditiously and that the bounds of appropriate pre-hearing disclosure in such an application are more limited than in an action;

AND UPON considering that, pursuant to multiple previous pre-hearing Orders issued in this proceeding:

- (1) the CTA has already undertaken an exhaustive search for documents;
- (2) the person responsible for such search on behalf of the CTA has filed an affidavit detailing the search undertaken and has been cross-examined on her affidavit by the applicant; and
- (3) a subpoena was issued to Transport Canada to require production of certain documents that passed between the CTA and Transport Canada that the CTA no longer had in its possession;

AND UPON considering that the relief requested in the present informal motion is extraordinary and, in the circumstances of this case, ought not be granted, given the extensive disclosure orders already made, it being borne in mind that, in a judicial review application an applicant is not entitled to “every last crumb of information sought by the information requests”,

as noted by Stratas, J.A. in *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2017 FCA 128 at para. 165;

THIS COURT ORDERS that:

1. The applicant's informal motion is dismissed;
2. If any adjustment to the schedule for completing the remaining steps to perfect this Application is required, it may be sought by letter addressed to the Judicial Administrator; and
3. Costs of this motion are in the cause.

"Mary J.L. Gleason"

J.A.