Federal Court Cour fédérale

Date: 20230619

Docket: T-2385-22

Citation: 2023 FC 864

2023 FC 864 (CanLII)

Toronto, Ontario, June 19, 2023

PRESENT: Madam Justice Go

BETWEEN:

ANDRÉ GILLES GIVOGUE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. André Givogue [Applicant] submitted a complaint to the Canadian Human Rights Commission [Commission] on April 8, 2022, alleging that his employer, Fisheries and Oceans Canada [Employer], discriminated against him on the grounds of genetic characteristics and partial disability, contrary to section 7 of the *Canadian Human Rights Act*, RSC 1985, c H-6

[*CHRA*] [Complaint]. Specifically, he complained that he was denied workplace accommodation on human rights grounds when he objected to disclosing his COVID-19 vaccination status.

[2] By a decision dated October 18, 2022 the Commission refused to send the Complaint to be heard and investigated by the Canadian Human Rights Tribunal [Decision]. The Commission found that the Complaint was frivolous as the Applicant failed to establish a link between the alleged discriminatory conduct and a ground of discrimination under section 3 of the *CHRA.* The Applicant seeks judicial review of this Decision.

[3] While I acknowledge the Applicant's rationale for not disclosing his vaccination status and his sincerity in pursuing the Complaint, I find the Decision reasonable. As such, I dismiss the Applicant's judicial review application.

II. Background

A. *Factual Context*

[4] The Applicant has been employed by the Employer on a full-time indeterminate basis since January 19, 2015. On April 29, 2019, the Applicant began working remotely on a full-time basis pursuant to a Telework Arrangement Document he signed with his Employer.

[5] On October 6, 2021, the Treasury Board of Canada Secretariat [TBS] implemented the "Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal

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Canadian Mounted Police" [Policy]. Employees covered by the Policy, including the Applicant, were required to attest to their COVID-19 vaccination status by October 29, 2021.

[6] The Policy also set out the consequences of non-compliance with the Policy. Of relevance, section 7.1 of the Policy states that employees unwilling to be fully vaccinated will be subject to measures of progressive discipline, beginning with the requirement to attend an online training session on COVID-19 vaccination, followed by restrictions on their access to the workplace, and ending with being placed on administrative leave without pay.

[7] Under the Policy, the definition for "Employees unwilling to be fully vaccinated" includes employees who refuse to disclose their vaccination status, whether or not they are fully vaccinated, and for whom accommodation on a prohibited ground of discrimination is not granted.

[8] On October 29, 2021, the Applicant completed and submitted an Attestation Form, which he indicated to his manager that he amended. Instead of checking off one of the three options provided for COVID-19 vaccination status, the Applicant added and checked off a fourth option, which cited various provisions from federal legislation pertaining to privacy, information, and human rights. The Applicant added:

> By choosing this option I am not confirming that I am or am not vaccinated and therefore do not agree with the Appendix A's definition of the [Policy] which states: "For the purpose of this policy "employees unwilling to be fully vaccinated" means employees refusing to disclose their vaccination status (whether they are fully vaccinated or not)" as this is coercion and discrimination.

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[9] The Applicant also indicated on the Attestation Form that he is requesting accommodation under a prohibited ground of discrimination under subsection 3(1) of the *CHRA*.

[10] For the purpose of this application, it is not necessary to set out the detailed interactions between the Applicant and the Employer with respect to his request for accommodation. Suffice to say that on December 7, 2021 the Applicant notified the Employer that he was seeking accommodation under the *CHRA* grounds of "genetic characteristics" and "partial disability." The Applicant also provided detailed submissions and documentation to the Employer explaining how, in his view, the implementation of the Policy leads to discrimination under subsection 3(1) of the *CHRA* in relation to the *Genetic Non-Discrimination Act,* SC 2017, c 3 [*GNDA*].

[11] By a letter dated January 24, 2022, the Employer advised the Applicant that he would be placed on administrative leave without pay due to his failure to comply with the Policy.

[12] The Applicant commenced a grievance process with the Union of Health and Environment Workers [Union] alleging that he was subject to discrimination based on genetic characteristics. In the Union's letter to the Applicant dated February 25, 2022, it stated that it cannot reasonably support a discrimination allegation, and explained:

> Essentially, a vaccine is not a genetic test and disclosing your vaccination status does not disclose anything about your genotype or specific genetic characteristics. However, if you do believe that is the case and want it investigated, you certainly are free to file a human rights complaint with the Canadian Human Rights Commission.

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[13] The Applicant then filed the Complaint with the Commission.

B. *Procedural History of the Complaint*

[14] In the Complaint, the Applicant's characterization of the grounds of discrimination read:

> I fear that my genetic characteristics are being used and will be used to discriminate against me now and in the future. My employer is treating me like I have a partial/perceived disability; that I may or may not have Covid-19, may be more susceptible to this serious illness and assumes that I am a "health hazard".

[15] On April 22, 2022, the Complaints Services division of the Commission emailed the Applicant informing him that his Complaint cannot be accepted unless there is a "direct link between the alleged discriminatory act and one or more of the grounds of discrimination" in the *CHRA*. The email stated:

> … the ground of discrimination you listed in regard to your allegations of being denied accommodation due to your genetic information is not applicable in the case of COVID-19; therefore there is no direct link between the alleged discriminatory act and a ground of discrimination under the [*CHRA*].

[16] The Applicant responded to this email on May 12, 2022 to explain the direct link between the alleged discriminatory act and the ground(s) of discrimination at issue. The Applicant again relied on provisions of the *GNDA* in relation to the *CHRA* to argue that by forcing him to disclose his vaccination status, his Employer was acting akin to forcing him to undergo a genetic test or disclose the results of a genetic test. Specifically, the Applicant cited subsection 3(3) of the *CHRA* and the definition of "genetic test" set out in section 2 of the *GNDA*, respectively as follows:

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3 (3) Where the ground of discrimination is refusal of a request to undergo a genetic test or to disclose, or authorize the disclosure of, the results of a genetic test, the discrimination shall be deemed to be on the ground of genetic characteristics.	**3 (3)** Une distinction fondée sur le refus d'une personne, à la suite d'une demande, de subir un test génétique, de communiquer les résultats d'un tel test ou d'autoriser la communication de ces résultats est réputée être de la discrimination fondée sur les caractéristiques génétiques.
genetic test means a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or prognosis. (*test génétique*)	***test génétique*** Test visant l'analyse de l'ADN, de l'ARN ou des chromosomes à des fins telles la prédiction de maladies ou de risques de transmission verticale, ou la surveillance, le diagnostic ou le pronostic. (genetic test)

[17] Similar to the explanations he previously provided to his Employer and as part of his Complaint, the Applicant cited information from various sources indicating that the "golden standard" COVID-19 test is the polymerase chain reaction [PCR] test, which is nucleic-acid based. The Applicant presented information stating that DNA and RNA are types of nucleic acid, and argued therefore that the PCR test is a type of genetic test.

[18] The Applicant highlighted several parts of the Policy, a related "Framework on mandatory COVID-19 testing for implementation of the [Policy]" [Framework], and the Attestation Form, to indicate that the Policy essentially required him to undergo genetic testing or disclose the results of a genetic test.

[19] On August 2, 2022, a Human Rights Officer [Officer] reviewed the Applicant's Complaint and prepared a Report for Decision [Report], recommending that the Commission not deal with the Complaint. The Commission invited the Applicant to make further submissions.

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After receiving the Applicant's submissions dated August 23, 2022, the Commission issued the Decision concluding that "it is plain and obvious that the Complaint cannot succeed because it is frivolous."

III. Preliminary Issues

[20] As a preliminary point, the appropriate respondent is the Attorney General of Canada. The style of cause will be amended accordingly.

IV. Issues and Standard of Review

[21] The overarching issue before this Court is whether the Decision to refuse to deal with the Applicant's Complaint is reasonable. The Applicant raises several issues which can be summarized as follows:

A. Whether the Commission erred in its application of the relevant law, namely the standard for refusing to deal with complaints pursuant to subsection 41(1) of the *CHRA*;

B. Whether the Commission ignored or misapprehended evidence in arriving at its substantive findings surrounding the Applicant's Complaint; and

C. Whether the Commission erred in its treatment or understanding of the Applicant's claim of harassment.

[22] The Decision is reviewable on a reasonableness standard, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 33; see also *Bergeron v Canada (Attorney General)*, 2022 FCA 209 [*Bergeron*] at para 22.

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[23] A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker: *Vavilov* at para 85. Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences: *Vavilov* at paras 88-90, 94 and 133-135.

[24] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant: *Vavilov* at para 100. Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances: *Vavilov* at para 125. Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep": *Vavilov* at para 100.

V. Analysis

[25] While the Applicant raises several issues in this application, the determinative issue, in my view, is the reasonableness of the Commission's conclusion that the Complaint cannot succeed because it is frivolous as the term is understood under the *CHRA*.

[26] Central to the Applicant's Complaint was his allegation that the Employer's requirement that he disclose his vaccination status is equivalent to asking him to disclose the results of a genetic test, contrary to section 3(3) of the *CHRA*. The Officer dealt with this allegation squarely in the Report when they noted as follows:

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> 23. The Complainant further indicates that "[they are] not saying that a vaccine is a genetic test. In [their] view, the outcome of "asking employees' vaccination status' is the equivalent of an employee 'disclosing the results of a genetic test' […] which they have the right to refuse. By employees disclosing this private personal information, employers would know which genetic material is in their employee's body thereby allowing employers to create two classes of individuals (vaccinated and unvaccinated) and to discriminate against the employees by treating them differently […]
>
> 24. The Commission defines genetic characteristic as a term that includes but is not limited to undergoing a genetic test, disclosing, or authorizing the disclosing of, the results of a genetic test.
>
> 25. An employer cannot request genetic testing or force their employees to reveal the results of a genetic test. In this case, vaccination against COVID-19 is not a genetic test. Therefore, attesting to a vaccination status is not equivalent to revealing a genetic test.

[27] In the Decision, the Commission adopted the Officer's reasons in the Report.

[28] Having reviewed the relevant legislative provisions and the jurisprudence with respect to the *GNDA*, and having considered the Complaint and the Applicant's submissions to the Commission, I conclude that the Commission's conclusion that the Complaint cannot succeed is reasonable as it is justified in relation to the facts and the legal constraints: *Vavilov* at para 85.

[29] Section 7 of the *CHRA* stipulates that it is a discriminatory practice for an employer to refuse to employ or continue to employ someone, or to differentiate adversely in relation to an employee, on a prohibited ground of discrimination. Subsection 3(1) sets out the prohibited grounds of discrimination, which include "genetic characteristics." This ground was added to the *CHRA* pursuant to the enactment of the *GNDA* in 2017.

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[30] Specifically, subsection 3(3) of the *CHRA* provides that discrimination based on the refusal to undergo a genetic test or to disclose the results of a genetic test is deemed to be discrimination on the ground of genetic characteristics.

[31] The relevant sections of the *CHRA* and the *GNDA* can be found in Appendix A and Appendix B respectively.

[32] In *Reference re Genetic Non-Discrimination Act*, 2020 SCC 17 [*Reference*], the Supreme Court of Canada [SCC] upheld the *GNDA* as constitutional. The SCC confirmed that the *CHRA* was amended to add "genetic characteristics" as a prohibited ground of discrimination with the view to "prohibit differential treatment based on the information revealed by genetic testing": at paras 46-47, 49 and concurring reasons at para 124.

[33] The Respondent points this Court to the concurring reasons at para 119 for the definition of a "genetic test" as one that is "taken for health-related purposes such as predicting, preventing and diagnosing hereditary diseases, and guiding treatment options for a wide variety of diseases and conditions."

[34] As part of the concurring reasons, the definition quoted by the Respondent is not binding on me. However, I note that the definition offered in the concurring reasons is consistent with the analysis of the majority decision in *Reference*.

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[35] While the majority of the SCC did not offer ***a*** definition of a genetic test, the majority examined statements made in the course of parliamentary debates as extrinsic evidence of purpose during their pith and substance analysis: *Reference* at para 40. Among other things, the majority cited the evidence of Senator Cowan, the sponsor of the bill, who explained that unlike many other Western nations, there was no law at the time in Canada to prohibit against genetic discrimination in cases where a person undergoes genetic testing and discovers that they carry a gene associated with a particular condition or disease. Senator Cowan testified that the fear of having one's genetic test results being used against them caused many Canadians to choose not to undergo genetic testing in scenarios that would be beneficial to them, hence the need for the Government to step in to protect against genetic discrimination: *Reference* at para 41.

[36] The majority of the SCC concluded at para 49:

> The title of the *Act* and the text of the prohibitions provide strong evidence that the prohibitions have the purpose of combatting genetic discrimination based on test results, and that the more precise mischief they are intended to address is the lack of legal protection for the results of genetic testing. The *Act* does what its title says it does: it prevents genetic discrimination by directly targeting that mischief. The parliamentary debates also provide strong evidence to support this. I find that the purpose of the challenged provisions is to combat genetic discrimination and the fear of genetic discrimination based on the results of genetic tests by prohibiting conduct that makes individuals vulnerable to genetic discrimination in the areas of contracting and the provision of goods and services.
>
> [Emphasis added]

[37] In other words, according to the SCC, the mischief that the *GNDA* is designed to combat is the discrimination based on test results that would reveal the genetic characteristics of an individual: *Reference* at para 45. An example of such genetic characteristics would be a

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particular gene that an individual carries that may be associated with a particular condition or disease.

[38] As noted above, the Applicant does not suggest that a vaccine is a genetic test but argues that the PCR test is a type of genetic test, because it is nuclei acid-based. That may be so, but as the Respondent points out, asking the Applicant to attest to his vaccination status falls far short of forcing the Applicant to undergo a PCR test or to provide results of a PCR test, which may or may not lead to a form of genetic discrimination.

[39] I find that even if the Employer were to compel the Applicant to undergo a PCR test, a hypothetical scenario that the Applicant put before the Commission, the Applicant still has not demonstrated how that would amount to genetic discrimination in the sense contemplated by the legislature in the enactment of the *GNDA* and as interpreted by the SCC in *Reference*.

[40] In *Ontario Human Rights Comm v Simpsons-Sears*, [1985] 2 SCR 536, a case cited by the Applicant, the SCC confirmed that the burden of proof rests with the complainant to establish a *prima facie* case of discrimination: at para 28. Merely asserting that the "collection of personal information, including sensitive genetic information, can result in discrimination", as the Applicant does, without more, does not make it so.

[41] Paragraph 41(1)(d) of the *CHRA* provides the Commission with the discretion to not deal with complaints in circumstances where a complaint is trivial, frivolous, vexatious, or made in bad faith. As noted by the Respondent, the Federal Court of Appeal has interpreted this provision

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as imposing a "screening function" for the Commission to examine, on a *prima facie* basis, whether the grounds set out in subsection 41(1) are present and if so, to exercise its discretion in deciding whether the deal with the complaint nonetheless: *Canada Post Corp v Barrette*, [2000] 4 FC 145 (CA) at paras 23-25.

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[42] The decision not to deal with a complaint under subsection 41(1) is highly discretionary, and reviewing courts must give "deference and… latitude to the Commission in making factually-infused and policy-based screening decisions that involve expertise": *Alliance for Equality of Blind Canadians v Canada (Attorney General)*, 2021 FC 860 at para 35, as affirmed in *Alliance for Equality of Blind Canadians v Canada (Attorney General)*, 2023 FCA 31.

[43] The Applicant cites *Michon-Hamelin v Canada (Attorney General)*, 2007 FC 1258 [*Michon-Hamelin*] at para 23 to submit that because no investigation of his Complaint was carried out, the allegations before the Commission must be taken as true. If his allegations are taken as true, and in the absence of contrary information provided by his Employer, the Applicant argues that a *prima facie* case of discrimination was made out in his Complaint, and that the Commission erred by finding otherwise: *Johnstone v Canada (Attorney General)*, 2007 FC 36 [*Johnstone*] at para 31.

[44] I find the cases cited by the Applicant do not assist him. In *Johnstone*, the issue before the Court was whether the Commission applied the *prima facie* test or a heightened "serious interference" test: see para 10. In *Michon-Hamelin*, the Court found the decision was "fundamentally flawed" because the decision-maker failed to recognize that a facially neutral

policy could still be discriminatory: see paras 14 and 19. Neither of these scenarios apply to the case at hand.

[45] The Applicant also submitted at the hearing, that the SCC in *Reference* drew a distinction between sections 1 to 7 of the *GNDA* and sections 8 to 10. The Applicant submitted that this contrast provides support for his argument that the definition of a genetic test is much broader than the one proposed by the Respondent. The Applicant also pointed to the headnotes as well as reasons from the dissent in *Reference* in support.

[46] With respect, I am not persuaded by the Applicant's additional argument.

[47] Headnotes and dissenting judgment are not binding authority.

[48] More importantly, it should be recalled that in *Reference*, the SCC was asked to examine the constitutionality of sections 1 to 7 of the *GNDA*. Sections 8, 9 and 10 of the *GNDA* amended the *Canada Labour Code*, RSC 1985, c L-2, and the *CHRA*. None of those amendments was directly at issue in *Reference*, but the SCC considered these provisions as "they may help illuminate the purpose of ss. 1 to 7 of the *Act*": at para 10.

[49] In coming to its conclusion that the pith and substance of the *GNDA* is to adopt a "coordinated approach" to tackle genetic discrimination, the SCC noted at para 47:

> Parliament's decision to make these amendments to the *Canada Labour Code* and the *Canadian Human Rights Act* in conjunction with its enactment of the *Act*'s substantive provisions suggests that Parliament was looking to take a coordinated approach to tackling

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> genetic discrimination based on test results, using different tools. It was not only targeting genetic discrimination directly through human rights and labour legislation, but was also targeting precursors to such discrimination, namely forced genetic testing and disclosure of the results of such testing. The fact that Parliament did not criminalize genetic discrimination does not belie Parliament's purpose of combatting genetic discrimination in this context. The relative breadth, directness or efficacy of the means Parliament chooses to address a problem is not the court's concern in its pith and substance inquiry.

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[50] Rather than contrasting sections 8 to 10 with sections 1 to 7 of the *GNDA*, the above-cited paragraph confirms that SCC looked to sections 8 to 10 to construct the overall purpose behind the *GNDA* and to affirm the integrated approach adopted by the Government to combat genetic discrimination through various legislative amendments, including those made to the *CHRA*. Sections 8 to 10 do not offer a different, or a broader definition of a genetic test, as the Applicant contends. Rather, they from part of the multi-prong approach taken by the Government to protect individuals from genetic discrimination.

[51] In sum, I find that the Applicant has failed to establish that the Employer's requirement to reveal vaccination status is a form of genetic discrimination, as contemplated by the *GNDA* and *CHRA*.

[52] As such, I find the Commission reasonably concluded that the Complaint cannot succeed and as such, the Commission reasonably determined that the Complaint was frivolous on the basis of paragraph 41(1)(d) of the *CHRA*.

[53] The above reasons are sufficient to dismiss the application. However, I will briefly address the remainder of the Applicant's arguments.

[54] I reject the Applicant's argument that the Commission erred by ignoring or misapprehending the evidence. The Applicant argues that the Officer unreasonably omitted any reference to his May 12, 2022 email, which provided additional facts related to his case, and failed to investigate this "crucial evidence" in their analysis. At the hearing before me, the Applicant pointed to additional documents including email exchanges between him and the Commission staff to suggest that the Commission may not have considered all of his evidence. I note however that the Applicant's main submissions around his position with regard to the Policy and the PCR test as a genetic test were before the Commission as part of his response to the Report. I also note that the Commission acknowledged the Applicant's submission in response to the Report in the Decision. As such, I agree with the Respondent that Commission reasonably determined that it had sufficient information to understand and evaluate the Applicant's Complaint.

[55] As to the Commission's decision not to deal with the Applicant's harassment complaint on the basis that it was beyond the scope of the original Complaint, I disagree with the Applicant that the Commission erred because it incorrectly assumed that the Applicant was relying on a "Respectful Workplace Policy" when he alleged harassment. Irrespective of which policy the Applicant was relying on, I find the Commission reasonably refused to consider the Applicant's argument that the requirement to disclose his vaccination status was a form of harassment

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because this ground was not raised in the Complaint. As such, the Commission did not have to deal with it pursuant to *Manfoumbimouity v Canada (Attorney General)*, 2016 FC 988 at para 91.

[56] Finally, as I have made clear at the hearing, my review is limited to that of the Commission's refusal to deal with the Complaint. It is not my role to comment on the Policy itself, or assess the reasonableness of the Employer's decision not to accommodate the Applicant in light of his circumstances.

VI. Conclusion

[57] The application for judicial review is dismissed.

[58] The style of cause is amended to reflect the Attorney General of Canada as the correct Respondent.

[59] There is no order as to costs.

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JUDGMENT in T-2385-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The Style of Cause shall be amended to reflect the Attorney General of Canada as the correct Respondent.
3. There is no order as to costs.

"Avvy Yao-Yao Go"
Judge

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APPENDIX A

Canadian Human Rights Act, RSC, 1985, c H-6
Loi canadienne sur les droits de la personne, LRC (1985), ch H-6

Prohibited grounds of discrimination **3 (1)** For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. […] **(3)** Where the ground of discrimination is refusal of a request to undergo a genetic test or to disclose, or authorize the disclosure of, the results of a genetic test, the discrimination shall be deemed to be on the ground of genetic characteristics.	**Motifs de distinction illicite** **3 (1)** Pour l'application de la présente loi, les motifs de distinction illicite sont ceux qui sont fondés sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge, le sexe, l'orientation sexuelle, l'identité ou l'expression de genre, l'état matrimonial, la situation de famille, les caractéristiques génétiques, l'état de personne graciée ou la déficience. […] **(3)** Une distinction fondée sur le refus d'une personne, à la suite d'une demande, de subir un test génétique, de communiquer les résultats d'un tel test ou d'autoriser la communication de ces résultats est réputée être de la discrimination fondée sur les caractéristiques génétiques.
Employment **7** It is a discriminatory practice, directly or indirectly, **(a)** to refuse to employ or continue to employ any individual, or **(b)** in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination.	**Emploi** **7** Constitue un acte discriminatoire, s'il est fondé sur un motif de distinction illicite, le fait, par des moyens directs ou indirects : **a)** de refuser d'employer ou de continuer d'employer un individu; **b)** de le défavoriser en cours d'emploi.

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APPENDIX B

Genetic Non-Discrimination Act, SC 2017, c 3
Loi sur la non-discrimination génétique, LC 2017, ch 3

Definitions **2** The following definitions apply in this Act. […] ***genetic test*** genetic test means a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or prognosis. (*test génétique*)	**Définitions** **2** Les définitions qui suivent s'appliquent à la présente loi. […] ***test génétique*** Test visant l'analyse de l'ADN, de l'ARN ou des chromosomes à des fins telles la prédiction de maladies ou de risques de transmission verticale, ou la surveillance, le diagnostic ou le pronostic. (*genetic test*)
Genetic test **3 (1)** It is prohibited for any person to require an individual to undergo a genetic test as a condition of **(a)** providing goods or services to that individual; **(b)** entering into or continuing a contract or agreement with that individual; or **(c)** offering or continuing specific terms or conditions in a contract or agreement with that individual. **Refusal to undergo genetic test** **(2)** It is prohibited for any person to refuse to engage in an activity described in any of paragraphs (1)(a) to (c) in respect of an individual on the grounds that the individual has refused to undergo a genetic test.	**Test génétique** **3 (1)** Nul ne peut obliger une personne à subir un test génétique comme condition préalable à l'exercice de l'une ou l'autre des activités suivantes : **a)** pour lui fournir des biens ou des services; **b)** pour conclure ou maintenir un contrat ou une entente avec elle; **c)** pour offrir ou maintenir des modalités particulières dans le cadre d'un contrat ou d'une entente avec elle. **Refus de subir un test génétique** **(2)** Nul ne peut refuser d'exercer une activité visée à l'un des alinéas (1)a) à c) à l'égard d'une personne au motif qu'elle a refusé de subir un test génétique.
Disclosure of results **4 (1)** It is prohibited for any person to require an individual to disclose the results of a genetic test as a condition of engaging in an activity described in any of paragraphs 3(1)(a) to (c).	**Communication des résultats** **4 (1)** Nul ne peut obliger une personne à communiquer les résultats d'un test génétique comme condition préalable à l'exercice d'une activité visée à l'un des alinéas 3(1)a) à c).

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Refusal to disclose results **(2)** It is prohibited for any person to refuse to engage in an activity described in any of paragraphs 3(1)(a) to (c) in respect of an individual on the grounds that the individual has refused to disclose the results of a genetic test.	**Refus de communiquer les résultats** **(2)** Nul ne peut refuser d'exercer une activité visée à l'un des alinéas 3(1)a) à c) à l'égard d'une personne au motif qu'elle a refusé de communiquer les résultats d'un test génétique.

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2385-22
STYLE OF CAUSE:	ANDRÉ GILLES GIVOGUE v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	JUNE 1, 2023
JUDGMENT AND REASONS:	GO J.
DATED:	JUNE 19, 2023

APPEARANCES:

André Givogue	FOR THE APPLICANT (ON THEIR OWN BEHALF)
Helen Gray Mahan Keramati	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT

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