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Federal Court of Appeal File No.:  
Federal Court File No.: T-133-22

## FEDERAL COURT OF APPEAL

BETWEEN:

**CHELSEA GIFFEN**

Appellant

- and -

**TM MOBILITY INC.**

Respondent

## NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Federal Court of Appeal at a time and place to be fixed by the Judicial Administrator. Unless the court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the Federal Courts Rules and serve it on the appellant's solicitor WITHIN 10 DAYS after served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the judgment appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the Federal Courts Rules instead of serving and filing a notice of appearance.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-996-6795) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: January 4, 2024

Issued by: \_\_\_\_\_

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Counsel for the Respondent

## **APPEAL**

THE APPELLANT, Chelsea Giffen, APPEALS to the Federal Court of Appeal from the judgment of Justice Go dated December 11, 2023, in Federal Court No T-133-22 (2023 FC 1666) by which the judge rendered a judgment that:

1. The Application for judicial review was dismissed; and
2. Costs were ordered in favour of the Respondent.

THE APPELLANT ASKS that:

1. The judgment dismissing the Application be set aside and that the Applicant's Application for Judicial Review be granted;

2. The matter be referred to the *Canada Industrial Relations Board* for a determination of remedy;
3. Costs of the within Appeal be awarded to the Appellant; and
4. Such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS OF APPEAL are as follows:

1. The application judge erred in law and fact with respect to finding that the adjudicator properly applied the test for “discontinuance of a function.”
2. The application judge misapprehended the evidence with respect to the Applicant’s supervisor and his decision to dismiss the Applicant over another employee.
3. The application judge erred in law with respect to her interpretation of ss.209.1, 209.2 and 209.3 of the *Canada Labour Code* and its interaction with s.242(3.1).
4. The application judge erred in failing to find that the Applicant’s dismissal was discriminatory and in finding that time on maternity leave is only counted for the purpose of determining seniority but not experience.
5. Such further and other grounds as counsel may advise and this Honourable Court deems just.

THE APPELLANT INTENDS TO RELY on the following statutory provisions and rules, together with such further and other statutory provisions and rules as counsel may advise and this Honourable Court permit:

1. *Federal Courts Act*, RSC 1985, c. F-7, S.27



2. *Federal Court Rules* SOR/98-106

3. *Canada Labour Code*, RSC 1985, c. L-2, Sections 209.1(1), 209.2(1), 209.2(4), 209.3(1), 209.3(2), 242 (3), 242(3.1) and 242(4).

Date: January 4, 2024



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Court File No.

**FEDERAL COURT**

B E T W E E N :

**CHELSEA GIFFEN**

Applicant

- and -

**TELUS MOBILITY**

Respondent

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**NOTICE OF APPEAL**

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Lawyer for the Appellant