Federal Court Cour fédérale

Date: 20250609

Docket: T-995-24

Citation: 2025 FC 1036

Ottawa, Ontario, June 09, 2025

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

MICHAEL MOREAU

Applicant

and

ATTORNEY GENERAL OF CANADA (OFFICE OF THE INFORMATION COMMISSIONER OF CANADA)

Respondent

JUDGMENT AND REASONS

[1] Mr. Moreau is seeking judicial review under section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7, of a decision of the Information Commissioner [the Commissioner] refusing to investigate his complaint because the government institution never received his request for access. For the reasons that follow, I am dismissing his application.

[2] Mr. Moreau made a request for access to information to the Port Alberni Port Authority [the Authority or PAPA]. He sent it by email to the Authority's general mailbox (info@papa-appa.ca), to the attention of a Ms. Dianna Stubbs, who was identified as the Authority's Access to Information and Privacy [ATIP] coordinator on the "Privacy" page of the Authority's website, under the indication: "For more information about our privacy policy and practices, or to access your personal information, please contact […]". He never received a response. He then complained to the Commissioner pursuant to section 30 of the *Access to Information Act*, RSC 1985, c A-1 [the Act].

[3] The Commissioner refused to investigate Mr. Moreau's complaint because she found that the Authority never received his request. In a letter to Mr. Moreau, the Commissioner explained her finding as follows:

> Based on the information you have provided in your complaint, the Registry notes that your request was sent to the e-mail address info@papa-appa.ca. However, PAPA's website provides instructions on how to submit an access to information request (https://www.papa-appa.ca/information/access-to-information/). You did not follow these instructions, and PAPA indicated that it has not received your access request. Since PAPA never received your access request, the OIC cannot investigate your allegation.

[4] The determinative issue in this application for judicial review is the reasonableness of these findings.

[5] It is true that the email exchange between the Commissioner's investigator and the Authority, which is contained in the certified tribunal record, leaves the impression that the investigator could have further questioned the Authority's assertion that it never received Mr.

Moreau's request. Nevertheless, factual conclusions must be given a high degree of deference: *Canada (Minister of Citizenship and Immigration) v Vavilov,* 2019 SCC 65 at paragraph 125, [2019] 4 SCR 653. I have not been persuaded that the Commissioner's finding that the Authority did not receive Mr. Moreau's request is unreasonable.

[6] Mr. Moreau does not deny that he failed to follow the instructions found on the Authority's website for filing an access to information request. Ms. Stubbs's name appeared on a page that was not related to access to information. In addition, pursuant to subsection 4(1) of the *Access to Information Regulations,* SOR/83-507, a request must be made to the "appropriate officer," that is, the person designated pursuant to paragraph 5(1)(d) of the Act. The evidence shows that this person is the Authority's current CEO, yet Mr. Moreau did not send his request to him. Neither did he use the ATIP portal on which ATIP requests for all federal bodies are centralized. Hence, the Commissioner's finding that Mr. Moreau did not follow the mandatory instructions is reasonable.

[7] Mr. Moreau also argued that the Commissioner did not comply with the requirements of procedural fairness. I disagree. Upon receiving the complaint, the Commissioner wrote to Mr. Moreau to seek additional information, which Mr. Moreau provided. Under the framework laid out by the Supreme Court in *Baker v Canada (Minister of Citizenship and Immigration),* [1999] 2 SCR 817, Mr. Moreau would in any event be entitled to a minimal degree of procedural fairness, especially because nothing in what transpired affected his substantive right to access to information.

[8] In his memorandum of fact and law, Mr. Moreau made lengthy submissions regarding the standard of review and the right to be assisted by a lawyer at the Commissioner's expense. These submissions are without merit. This is clearly not the kind of jurisdictional dispute between two administrative bodies mentioned in *Vavilov* at paragraph 63. With respect to free legal assistance, Mr. Moreau never requested this from the Commissioner and cannot complain on judicial review. In any event, there is no general constitutional right to legal assistance in Canada: *British Columbia (Attorney General) v Christie*, 2007 SCC 21 at paragraphs 23, 25 [2007] 1 SCR 873; *MS c Procureur général du Québec*, 2023 QCCS 942 at paragraph 14.

[9] Given the way in which I am deciding the application, I need not address the issue of remedy.

[10] For these reasons, Mr. Moreau application for judicial review will be dismissed. The parties will be allowed to provide written submissions regarding costs.

JUDGMENT in T-995-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The respondent will serve and file their submissions regarding costs, not to exceed 5 pages in length, no later than 30 days after the date of this judgment.
3. The applicant will serve and file his responding submissions regarding costs, not to exceed 5 pages in length, no later than 15 days after the day the respondent serves their submissions.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-995-24
STYLE OF CAUSE:	MICHAEL MOREAU v ATTORNEY GENERAL OF CANADA (OFFICE OF THE INFORMATION COMMISSIONER OF CANADA)
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MAY 21, 2025
JUDGMENT AND REASONS:	GRAMMOND J.
DATED:	JUNE 9, 2025

APPEARANCES:

Michael Moreau	ON HIS OWN BEHALF
Geneviève Tremblay-Tardif	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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