IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *BC Teachers Against Antisemitism v. British Columbia Teachers' Federation,* 2026 BCSC 898

Date: 20260515
Docket: S257151
Registry: Vancouver

Between:

BC Teachers Against Antisemitism

Petitioners

And

British Columbia Teachers' Federation and British Columbia Human Rights Tribunal

Respondents

On judicial review from: A decision of the British Columbia Human Rights Tribunal dated July 24, 2025

Before: The Honourable Justice Klein

Reasons for Judgment

Counsel for the Petitioners:	P.M. Pulver
Counsel for the Respondent, British Columbia Teachers' Federation:	M. Pongracic-Speier, K.C.
The Respondent, British Columbia Human Rights Tribunal:	No appearance at this hearing
Place and Date of Hearing:	Vancouver, B.C. April 21, 2026
Place and Date of Judgment:	Vancouver, B.C. May 15, 2026

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I. INTRODUCTION

[1] The petitioners, BC Teachers Against Antisemitism, seek judicial review of a decision made by a member of the respondent, the British Columbia Human Rights Tribunal ("BCHRT"). The BCHRT member denied the petitioners' request to fast track their complaint. The petitioners ask this Court to quash the July 24, 2025 decision of the BCHRT (the "Decision") and remit it back to the BCHRT for reconsideration with directions from the court.

[2] The respondent, British Columbia Teachers' Federation ("BCTF"), opposes the relief being sought and additionally submits that because the application to fast-track the hearing is interlocutory, an appeal of the Decision is premature. The BCHRT takes no position on the relief being sought except that the BCHRT reserves the right to oppose any order of costs against it. Additionally, the BCHRT does not seek costs.

[3] All parties agree that the standard of review is whether the Decision is patently unreasonable. The parties also agree that the Decision that is sought to be reviewed is not a final decision but rather is interlocutory in nature. Thus, an issue also arises about whether this review is premature and should await a final decision of the BCHRT on the merits of the original complaint.

[4] It is readily acknowledged by all parties that there is a significant backlog at the BCHRT and that it may take years before the BCHRT can hear a complaint. However, the Court was advised that there are mechanisms within the BCHRT process that can be used to move a matter along in a more expeditious manner.

[5] I find that the Decision of the BCHRT member is not patently unreasonable and therefore, I need not consider whether this application is premature.

II. BACKGROUND

[6] The petitioners allege that after the October 7, 2023 attack on Israel and presumably Israel's response to that attack, the petitioners have been subjected to

anti-Israel, anti-Zionist and antisemitic discrimination. The petitioners in their application state:

> In the Complaint, and in materials subsequently filed with the Tribunal, the Petitioners allege that the BCTF has acted in a discriminatory and antisemitic manner. Specifically, the Petitioners detail various incidents which they say demonstrate that the BCTF has tolerated, allowed, enabled, and actively promoted discrimination against its Jewish, Zionist and/or pro-Israel members (which includes the Petitioners), due to their religion, their religious and/or political beliefs, and/or their place of origin, effectively creating a culture of anti-Jewish, anti-Israel, and/or anti-Zionist discrimination (the "Antisemitic Discrimination").

[7] The petitioners are members of the BCTF. They are currently anonymous and as was explained in their submissions, they wish to remain anonymous as they fear that, if identified, they may be subject to further discrimination.

A. Chronology of the Matter before the BCHRT

[8] The chronology of the matter before the BCHRT is as follows:

1. On July 2, 2024, the petitioners filed the complaint against the BCTF.

2. On October 21, 2024, the petitioners applied to fast track the complaint process.

3. On October 29, 2024, a BCHRT member (not the same BCHRT member deciding the subsequent fast track application) issued a letter decision granting the fast-track application, stating that the decision is “limited” and that, should the case proceed beyond mediation, “a party seeking further changes to speed up the process will need to file a further fast-track application”.

4. By letter dated November 6, 2024, the BCHRT notified the parties that the complaint was proceeding. The letter identified the petitioners’ fast-track application and enclosed the BCHRT’s decision granting that application. The letter set a mediation for January 29, 2025.

5. On January 14, 2025, the BCTF filed its complaint response.

6. From January 30, 2025, through February 11, 2025, the BCTF and BCHRT corresponded about the BCTF's concerns regarding the handling of the petitioners' first fast-track application.

7. On June 2, 2025, the petitioners applied to fast track the complaint to a hearing.

8. On June 24, 2025, the BCTF responded to the fast-track application.

9. On July 3, 2025, the petitioners replied to the application.

10. On July 24, 2025, the BCHRT issued the Decision. The BCHRT member denied the application and said "this does not mean that the complaint will languish in the Tribunal's process. The [BCHRT] will continue to address any interim applications as expeditiously as possible. To that end, the [BCHRT] will schedule a case conference with the parties, to discuss next steps in the process […]".

11. On July 28, 2025, the BCTF requested correction of the Decision and noted a concern about an apparent conclusion in the Decision. The salient portion of that letter is as follows:

> Page 1 of the decision states that, in support of the application to expedite, the complainant "refer[s] to resolutions passed at the respondent's 2025 AGM [including] about ... participation in a campaign of boycott, divestment, and sanctions against Israel [BOS] ... " Page 3 of the decision also refers to "resolutions passed at the respondent's recent AGM". Respectfully, the Member misunderstood the complainant's submissions.
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> - The complainant referred to resolutions at the Representative Assembly, not the AGM. The complainant made no submissions about resolutions at the 2025 AGM.
> - The complainant did not submit that resolutions (in the plural) passed votes at the Representative Assembly. The complainant said only that 30 resolutions were proposed.
> - Counsel submitted that one resolution, the anti-Palestinian racism resolution, passed at the Representative Assembly. The complainant did not submit that other resolutions, including the BOS resolution, passed votes. In fact, the BOS resolution was not passed at the Representative Assembly.

> We request correction of the decision, pursuant to Rule 35 of the Rules of Practice and Procedure, to correct the misunderstanding of the submissions. We also wish to note our concern about the Member's apparent conclusion, at pages 2 and 3 of the decision, that the 2023 Anti-Oppression Educators' Collective (AOEC) newsletter in evidence in the application "promoted a speaker from Samidoun", Charlotte Kates. Respectfully, this conclusion - which suggests that the newsletter recommended or endorsed Ms. Kates – is not supported by the evidence. The evidence shows that the newsletter included an announcement about an event and said there would be three "main speakers". In relevant part, the text was as follows:
>
> > ... For this event, we will hear greetings from various local labour activists in different unions. We will also screen solidarity videos from both the General Union of Palestinian Workers and the World Peace Council. The main speakers for this event are Hanna Kawas from the Palestine Canada Association, Charlotte Kates from Samidoun: Palestinian Prisoner Solidarity Network, and Omri Haiven from Jews Against Genocide.
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> As the decision in the application to expedite is purely interlocutory in nature, we trust that the Member's statements on matters of fact will not be treated as findings of fact in the complaint. For certainty, we confirm to both the complainant and the Tribunal that any allegations not expressly admitted in the response to the complaint continue to be disputed in the complaint.

12. On August 7, 2025, the petitioners applied for reconsideration of the Decision.

13. On August 22, 2025, the BCHRT member issued his decision denying the reconsideration application and said, “Nothing in the Fast-track Decision or this decision precludes the parties from cooperating to move the process along expeditiously, or from revisiting the possibility of an expedited hearing once the processes described above are complete, and the parties have taken steps to ensure they are prepared for a hearing”.

[9] It should also be pointed out that the BCTF took the position that while they opposed the fast-track application, they were amenable to doing what they could to facilitate an early hearing date. The BCTF proposed to get the matter on in January

2026 but at the hearing, the petitioners insisted on September 2025, a date that could not be accommodated by the BCHRT.

[10] Additionally, I was advised that the complaint is moving forward and that there is a pending application by the BCTF to dismiss parts of the complaint. Even though they are not barred from doing so, the petitioners have not renewed their application to fast-track the hearing.

B. The Alleged Errors Made by the BCHRT Member

1. That the BCHRT member made material errors of fact

[11] The petitioners submit that the BCHRT member stated on several occasions that the petitioners made arguments with respect to "resolutions" passed at the "respondent's 2025 AGM" to which the petitioners submit they made submissions with respect to *one* resolution passed at the BCTF's 2025 *Representative Assembly* pertaining to "anti-Palestinian racism", and others that were proposed. In addition, the petitioners made submissions with respect to the events of the BCTF's 2025 AGM but did not specifically reference any resolutions passed there.

[12] The petitioners further submit that the BCHRT member stated the following:

> The complainants cite a teaching module that they say is anti-semitic, but they do not appear to dispute the respondent's submission that the module was published 10 years ago, and that teachers' decisions about what teaching materials to use, and how to use them, are subject to supervision ... not by the respondent. On this basis, I give limited weight to the teaching module as a reason to fast-track the complaint.

[13] In respect of that portion of the decision, the petitioners submit that:

> Tribunal Member Robb fundamentally mischaracterized the Petitioners' evidence and submissions on this point and applied a reductionist approach that minimized the further harms that were and are continuing to accrue by the continued use of this module, in the context of the lack of materials and resources available from the BCTF decrying antisemitism. The Petitioners' relied on the module, and the antisemitic material contained within it, as further evidence of the harms that are continuing to accrue as a result of the BCTF's failure to address the Antisemitic Discrimination - not as direct evidence of discriminatory action by the BCTF.

2. That the BCHRT member ignored admissions made by the petitioners at the hearing

[14] Specifically, the petitioners submit the following:

> […] Tribunal Member Robb did not even attempt to consider or address BCTF's admissions and/or failure to deny certain factual assertions. In fact, there is almost no substantive mention of the BCTF's position and submissions in the Second Decision at all, beyond Tribunal Member Robb's acknowledgment that the BCTF was prepared to proceed to a hearing in January 2026.

3. That the BCHRT member made clear and extricable errors of law

[15] The petitioners submit that the BCHRT member made the following clear and extricable errors of law.

a. By requiring affidavit evidence of specific harms from individual members of the BCTF where no such requirement exists at law. The petitioners cite from the Decision:

> There is no evidence before me from any individual members of the respondent union who experienced the discrimination alleged in the complaint. The application is not supported by an affidavit, and in all the complainants' submissions to the Tribunal to date, they have not identified any individual members of the group or class on whose behalf the complaint was filed. The complainants say evidence of the alleged discrimination is unnecessary at this stage because the respondent has not denied many of the facts alleged in the complaint. But without evidence about the effects the respondents' actions have had or continue to have on the individuals involved, I am not satisfied that the ongoing impact of the alleged discrimination justifies fast-tracking the process.

b. By applying a different (and incorrect) legal test to fast-track applications, dependent upon the stage of the proceedings. For this alleged error, the petitioners cite a portion of the reconsideration decisions of the BCHRT member which states as follows:

> In my view, fast-tracking a complaint to the point of mediation, based on comparatively little evidence, does not clearly or unambiguously establish that the Tribunal will fast-track a complaint through later stages in the process, without additional evidence. Fast-tracking a complaint to the point of mediation requires comparatively little

> expenditure of Tribunal resources, and the delay that it creates for other cases is minimal. Fast-tracking a complaint to the point of a hearing. by contrast. requires a significant amount of Tribunal resources, and causes more extensive delay to other complaints.

c. That the BCHRT member required the petitioners to demonstrate that a remedy would be "unavailable" rather than "ineffectual" citing the following portion of the decision:

> […] Unlike the cases cited above, the complainants do not suggest that they will be unable to participate in the complaint process if the complaint is not fast-tracked, or that a potential remedy may become unavailable if the issues arising from the complaint are not resolved promptly.

4. That the BCHRT decision breached the petitioners' right to procedural fairness

[16] Specifically, the petitioners allege the BCHRT's "clear, unambiguous and unqualified representations with respect to the legal test and procedure applicable to applications to expedite complaints, as set out in its previous jurisprudence, published guidance, and in the First Decision, created a legitimate expectation on behalf of the petitioners that the Tribunal would apply such test and procedure to the Second Application. Such test and procedure did not include the requirement for 'additional evidence' nor consideration of the expenditure of Tribunal resources required to fast-track a complaint at different stages of the proceedings".

III. LEGAL PRINCIPLES

A. The Standard of Review

1. The *Administrative Tribunals Act*

[17] Section 59 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 [*ATA*] applies to judicial review of the Decision.

[18] Section 59 of the *ATA* provides as follows:

> 59 (1) In a judicial review proceeding, the standard of review to be applied to a decision of the tribunal is correctness for all questions except those respecting the exercise of discretion, findings of fact and the application of the common law rules of natural justice and procedural fairness.

> (2) A court must not set aside a finding of fact by the tribunal unless there is no evidence to support it or if, in light of all the evidence, the finding is otherwise unreasonable.
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> (3) A court must not set aside a discretionary decision of the tribunal unless it is patently unreasonable.
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> (4) For the purposes of subsection (3), a discretionary decision is patently unreasonable if the discretion
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> (a) is exercised arbitrarily or in bad faith,
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> (b) is exercised for an improper purpose,
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> (c) is based entirely or predominantly on irrelevant factors, or
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> (d) fails to take statutory requirements into account.
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> (5) Questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly.

2. Extricable Errors of Fact

[19] As stated, the parties agree that the standard of review of the Decision is whether it is patently unreasonable. The petitioners, however, also argue that there were extricable errors of fact and law that require a different standard of review. On this point, Justice Groberman, writing for the Court, in *Morgan-Hung v. British Columbia (Human Rights Tribunal)*, 2011 BCCA 122 held:

> [29] While the decisions of this Court in *Berezoutskaia v. British Columbia (Human Rights Tribunal)*, 2006 BCCA 95 (particularly at paras. 20-22) and *Gichuru v. British Columbia (Workers Compensation Appeal Tribunal)*, 2010 BCCA 191 have been cited for the proposition that there is an "anti-parsing" doctrine applicable to discretionary decisions under the *Administrative Tribunals Act*, I consider that to be a misinterpretation of the cases. They stand merely for the proposition that the standard of review for a discretionary decision will not be altered by the existence of embedded issues of fact or law that are inextricably intertwined with the exercise of discretion.
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> [30] In the case before us, the factual error made by the Tribunal – the finding that the job in Abbotsford was a full-time one – is readily extricable from the discretionary decision – what damages were to be awarded. The factual issue, therefore, is to be reviewed on the standard set out in s. 59(2) of the *Administrative Tribunals Act*. The Tribunal's finding of fact must be overturned, as there was no evidence to support it.
>
> [31] An analysis under s. 59(2) does not end the matter. The impugned fact-finding is only important to the Tribunal's decision in that it was a factor in the making of a discretionary order. Having identified the error in fact-finding, therefore, it is necessary to analyze the effect of that error on the exercise of

discretion. This analysis must be performed under ss. 59(3) and (4) of the *Act*.

3. Procedural Fairness

[20] The standard of review regarding procedural fairness is set out in s. 59(5) of the *ATA*. In *Kinexus Bioinformatics Corporation v. Asad*, 2010 BCSC 33, the Court said that s. 59(5) reflects the common law approach to questions of fairness and natural justice:

> [24] Section 59(5) of the *ATA* provides that questions related to natural justice and procedural fairness are to be decided on the basis of whether, in all the circumstances, the Tribunal acted fairly. Section 59(5) reflects the common law approach to questions of procedural fairness and natural justice, which, as stated by the Court in *Baker v. Canada (Minister of Citizenship and Immigration),* [1999] 2 S.C.R. 817 at para. 22, is concerned with ensuring that:
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> > ... administrative decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional, and social context, with an opportunity for those affected by the decision to put forward their views and evidence fully and have them considered by the decision-maker.
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> [25] In *Prassad v. Canada (Minister of Employment and Immigration),* [1989] 1 S.C.R. 560 at p. 568, the Court described the powers of an administrative tribunal in relation to its own procedures:
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> > ... As a general rule, these tribunals are considered to be masters in their own house. In the absence of specific rules laid down by statute or regulation, they control their own procedures subject to the proviso that they comply with the rules of fairness and, where they exercise judicial or quasi-judicial functions, the rules of natural justice.
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> Human Rights Tribunal members are granted such authority by s. 27.3 of the [*Human Rights*] *Code*, R.S.B.C. 1996, c. 210.

B. Considerations for Having a Hearing Fast Tracked

[21] Rule 17 of the *BCHRT Rules of Practice and Procedure* provides as follows:

> (1) The tribunal may deal with a complaint using alternate processes or timelines to those set out in these rules to facilitate the just and timely resolution of the complaint.
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> (2) An application for an alternate process or timelines must state:
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> (a) the reason for the request;
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> (b) a description of the requested changes to the tribunal's process and timelines; and

> (c) how granting the request will further the just and timely resolution of the complaint.

[22] In *Teacher B v. Board of Education of School District No. 83*, 2024 BCHRT 160 at para.10, the BCHRT stated:

> The Tribunal may fast-track all or part of a complaint process where it is necessary to the just and timely resolution of the complaint: Rule 17. This is a fact-specific determination. Some relevant factors may include whether the allegations concern an ongoing situation or have arisen during an ongoing relationship, and whether any potential remedy may be rendered ineffectual with the passage of time: *Parents obo The Student v. The School*, 2017 BCHRT 74 at para. 28. The Tribunal must also consider how an application to fast-track one complaint may impact other parties who are also waiting for their complaints to be resolved. The Tribunal has limited resources, and so a decision to fast-track one complaint means that it will take longer to make decisions in other complaints: *Miller v. BC Housing Management Commission*, 2024 BCHRT 149 at para. 104.
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> [Emphasis added.]

C. The Effect of Reconsideration Decisions

[23] Where the Tribunal has denied reconsideration of an original decision and a petitioner only seeks judicial review of the original decision, the reviewing court can consider the subsequent reconsideration decision: *Moody v. Scott*, 2012 BCSC 657 at para. 34.

IV. ANALYSIS

A. The Factual Errors

[24] I agree with the submission of the BCHRT in that although the BCHRT member made factual errors, those errors do not go to the substance of the Decision. The BCHRT member was not making findings of fact but was only considering submissions in the context of what he was required to consider in order to fast-track a hearing.

[25] In their application, the petitioners provided evidence to the BCHRT member to emphasize the ongoing harm that the petitioner applicants were suffering or at threat of suffering. The BCHRT member did not dismiss this evidence but, in fact, he

acknowledged and therefore must have appreciated that the allegations alleged in the application were serious.

[26] As was clear from his reasons, the BCHRT member stated that he did not have information from any specific individual demonstrating how the delay was affecting them and why the delay was causing them prejudice different from that suffered by parties in other complaints.

[27] The BCHRT member stated:

> The complainants say evidence of the alleged discrimination is unnecessary at this stage because the respondent has not denied many of the facts alleged in the complaint. But without evidence about the effects the respondents' actions have had or continue to have on the individuals involved, I am not satisfied that the ongoing impact of the alleged discrimination justifies fast-tracking the process.

[28] The main thrust of the petitioners' application to fast-track was that a fast-tracked hearing decision was necessary to address the ongoing and future harms to the petitioners. The petitioners submitted evidence they say was sufficient to demonstrate that harm. The BCHRT member disagreed with that submission. The BCHRT member said that without evidence of ongoing harm from any member of the petitioners' group, the BCHRT member was not prepared to say that fast-tracking was, in the circumstances, justified.

[29] Because the BCHRT member acknowledged the seriousness of the matter, he was alive to the potential harm that could befall a member of the petitioners' group but without evidence of how that harm had manifested or may manifest itself, he was not prepared to fast-track the application. In this regard, the factual errors were of no moment.

B. The Admissions by the BCTF

[30] The BCTF acknowledged and pointed out factual errors in the Decision. For the reasons already stated, the factual errors in the context of the reasons, as a whole, were not significant. Again, the BCHRT member in his reconsideration said

as much. The acknowledgment of the errors by the BCTF does not make the errors more significant.

C. Legal Errors

1. Requiring an affidavit

[31] I disagree with the petitioners' statement that the BCHRT member stated that the petitioners were required to provide affidavit material. The member simply stated that there was no affidavit. That was an accurate statement about the application. Taken in context, the BCHRT member was stating that he did not have the evidence he felt he needed to support the fast-track application. Nothing suggests he required that evidence to be in the form of an affidavit. This criticism of the Decision is without merit.

2. Applying a different legal test

[32] The petitioners' complaint on this point again must be placed in context. The BCHRT member must consider how fast-tracking one complaint will affect other applications before the BCHRT. The first ruling to fast-track to mediation accounted for the fact that this would have a limited impact on resources and, thus, the decision to fast-track to mediation required information that satisfied the BCHRT member that the impact on other complaints was lessened. Mediations are much less complicated and require fewer resources than hearings.

[33] The BCHRT member properly recognized that fast-tracking a hearing will have a greater impact on other complaints and, therefore, required sufficient evidence to justify putting the petitioners' complaint at the front of the queue.

[34] In short, the legal test never changed. The evidence required to satisfy the BCHRT member was different for the two different applications to fast-track because the considerations for fast-tracking to mediation were different from considerations for fast-tracking a hearing.

3. Unavailable vs ineffectual

[35] I find that once again, in the context of the reasons as a whole, the BCHRT member did not impose a different legal standard by using the word "unavailable" as opposed to "ineffectual". The BCHRT member was concerned about whether or not the passage of time would leave the petitioners without a remedy and he found that it did not. In that context, unavailable and ineffectual mean the same thing. The word "unavailable" is also not without precedent and has been used by the BCHRT: *The Parents obo The Student v. The School*, 2017 BCHRT 74 para. 18. Contrary to the submission of the petitioners, the use of the word unavailable as opposed to ineffectual, in the context of the Decision is a distinction without a difference.

4. Procedural fairness

[36] The petitioners argue that the first fast-track ruling created a legitimate expectation that a subsequent application to fast-track should not have included what the petitioners describe as:

> […] the requirement for "additional evidence" nor consideration of the expenditure of Tribunal resources required to fast-track a complaint at different stages of the proceedings.

[37] Essentially, the petitioners recast the earlier arguments about a different legal test and argue that the BCHRT member violated principles of procedural fairness. For the reasons already stated, the BCHRT member did not create a different evidentiary threshold. That finding leads to the conclusion that the Decision did not violate principles of procedural fairness.

[38] I agree with the submission of the BCTF that in order for the doctrine of legitimate expectations to apply, "clear, unambiguous and unqualified" representations are required such that, "had they been made in the context of a private law contract, they would be sufficiently certain to be capable of enforcement": *Canada (Attorney General) v. Mavi*, 2011 SCC 30 at para. 68; *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at paras. 95–96.

[39] There was no clear and unambiguous statement in the first decision that created an enforceable representation binding the BCHRT member in the Decision. The BCHRT member in the Decision ultimately concluded that the evidence was insufficient, a decision that he was entitled to come to based on what he was obliged to consider and the evidence presented to him.

[40] There was no violation of the principles of procedural fairness.

V. CONCLUSION

[41] The Decision of the BCHRT member was not patently unreasonable. None of the criteria in s. 59(4) of the *ATA* are applicable to the Decision. The Decision did not violate principles of procedural fairness.

[42] The petitioners' application for review is dismissed.

[43] The respondent, BCTF, is entitled to its costs from the petitioners. The BCHRT did not seek costs and there will be no award of costs for or against the BCHRT.

"Klein J."