

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
(Civil Division)

No: 500-17-130443-248

DATE: May 26, 2026

BEFORE THE HONOURABLE ELENI YIANNAKIS, S.C.J.

CANADIAN PACIFIC KANSAS CITY RAILWAY
Plaintiff

v.

JAMES CAMERON, ARBITRATOR FOR THE CANADIAN RAILWAY OFFICE OF
ARBITRATION
Defendant

And

TEAMSTERS CANADA RAIL CONFERENCE MAINTENANCE OF WAY
EMPLOYEES DIVISION
Impleaded party

JUDGMENT¹

OVERVIEW

[1] Canadian Pacific Kansas City Railway (“CP”) seeks the intervention of the Court to quash what it qualifies as an unreasonable arbitration award rendered on May 10, 2024

¹ Conformément à l'article 10, alinéa 1 de la *Charte de la langue française*, la traduction en français de ce jugement a été effectuée et déposée au greffe. Cette version n'a pas été revue par la juge soussignée.

(the “Award”) by James Cameron, an arbitrator for the Canadian Railway Office of Arbitration & Dispute Resolution (the “Arbitrator”) in relation to a grievance filed by the Union on behalf of an employee.

[2] The Award upheld the Union’s grievance, determining that the employee’s dismissal was not warranted, finding rather that a five-month suspension was a more appropriate sanction under the circumstances.

[3] The Application for judicial review must be dismissed.

[4] It was served well beyond the 30-day delay which is generally considered to be reasonable, and CP has failed to establish exceptional circumstances to justify the additional delay. This reason alone is sufficient to warrant the dismissal of the Application.

[5] In any event, the Arbitrator’s decision is reasonable on the merits. When viewed as a whole, the Arbitrator’s analysis on the appropriateness of the sanction is internally coherent and considering the framework and objectives of the administrative process at issue here, the brevity of the reasons is consistent with the inherent expeditious and effective nature of the process.

[6] One final introductory remark: as the employee is no longer working at CP², there is now serious doubt as to the practical effect of the Application.

CONTEXT

[7] The employee who is the subject of the Award had been with CP for approximately 13 years as a machine operator. He was dismissed on April 6, 2021, for “conduct unbecoming of an employee of CP” arising from criminal charges of sexual assault and assault of his girlfriend, as well as failure to comply with conditions.³

[8] He was found guilty of assault and multiple failures to comply with conditions. He was incarcerated for approximately seven months. On July 6, 2023, he was given a twelve-month probation order.⁴

[9] The matter was heard by the Arbitrator on March 13, 2024, and the Award was issued on May 10, 2024⁵. At issue is the Arbitrator’s decision regarding the appropriateness of the dismissal as a consequence of the employee’s conduct. The Arbitrator concludes that a dismissal was not warranted and that a more appropriate sanction was a five-month suspension, with a loss of seniority.⁶

² *Procès-verbal* of May 6, 2026.

³ Exhibit E-1, par. 1.

⁴ Exhibit E-1, par. 2.

⁵ Exhibit E-1.

⁶ Exhibit E-1, par. 44.

[10] On June 21, 2024 – 42 days later – CP served and filed an Application for judicial review of the Arbitrator’s Award⁷.

ANALYSIS

[11] The Court must address the following issues:

1. Is the delay to serve the Application for judicial review unreasonable?
2. Is the decision issued by the Arbitrator unreasonable?

1. IS THE DELAY TO SERVE THE APPLICATION FOR JUDICIAL REVIEW UNREASONABLE?

1.1 Legal framework

[12] Article 529 al. 3 *C.C.P.* provides that an application for judicial review must be served within a reasonable time from the act or event giving rise to it.⁸ Thus, the applicant is required to act within a reasonable timeframe. This constitutes an essential condition for the bringing of the application.⁹ Otherwise, the application may be dismissed on that basis alone, without regards to the merits of the case.¹⁰

[13] The 30-day period, while not strict, is generally used as a benchmark of reasonableness.¹¹ It was established to promote the stability of decisions resulting from an adversarial process.¹² As a general rule, an applicant has approximately 30 days from the impugned decision to serve the application, unless exceptional circumstances are established, the burden of which rests with the applicant.¹³

⁷ Application for judicial review dated June 21, 2024 (“Application”).

⁸ It is noteworthy that the article specifies that it is the date of *service* of the application that is relevant and not the date on which the proceeding was *filed*. CP’s Application (par. 68-70, 90-91) inaccurately refers to the date it was filed, when it should be referring to the date of service. However, in this case it does not matter since the Application was served and filed on June 21, 2024.

⁹ *Dostie v. Procureur général du Canada*, 2022 QCCA 1652, par. 22-23 (Authorization to the SCC denied, file 40597).

¹⁰ *Dostie v. Procureur général du Canada*, 2022 QCCA 1652, par. 21-23 (Authorization to the SCC denied, file 40597); *Sandoval Rio De La Loza v. Commission for Environmental Cooperation*, 2024 QCCS 1595, par. 8 (Application for permission to appeal dismissed, 2024 QCCA 1097).

¹¹ Commentaires de la ministre de la Justice, *Code de procédure civile*, RLRQ, c. C-25.01, art. 529; *Deschênes v. Valeurs mobilières Banque Laurentienne*, 2010 QCCA 2137, par. 28; *Fondation pour la sauvegarde des écosystèmes du territoire de la Haute Yamaska v. Cour du Québec*, 2024 QCCS 3036, par. 34.

¹² *Sandoval Rio De La Loza v. Commission for Environmental Cooperation*, 2024 QCCS 1595, par. 10 (Application for permission to appeal dismissed, 2024 QCCA 1097).

¹³ *Deschênes v. Valeurs mobilières Banque Laurentienne*, 2010 QCCA 2137, par. 28; *Road to Home Rescue Support c. Ville de Montréal*, 2019 QCCA 2187, par. 33.

[14] The Union heavily relies on a recent decision rendered by this Court on June 10, 2025 – *Compagnie de chemin de fer Canadien Pacifique v. Garzouzi*¹⁴ - implicating the same parties and dismissing the judicial review application based on an unreasonable 52-day delay. In that case, CP attempted to justify the delay by arguing that at the same time as its internal analysis regarding the judicial review, it had to take part in the negotiation of a collective agreement and had been negotiating the acquisition of Kansas City Southern Railway. This argument was dismissed, the Court emphasizing that “organizational type arguments” are not sufficient to justify a delay in the absence of particular circumstances.¹⁵

1.2 Relevant Timeline

[15] In the present case, the Award was received by the parties on May 10, 2024¹⁶ and the Application for judicial review was served on June 21, 2024, so 42 days later.

[16] The allegations in support of CP’s position that the delay to serve its Application was reasonable are supported by an affidavit signed by Trisha Gain, a member of CP’s Legal Services Department¹⁷.

[17] The evidence reveals the following timeline with regard to CP’s internal process leading up to the filing of the Application for judicial review:

- 17.1. On May 16, 2024, CP’s Labour Relations Department decided that a judicial review of the Award was necessary and drafted a summary of the decision which it sent to Ms. Gain, legal council in CP’s Legal Services Department;¹⁸
- 17.2. On May 27, 2024, Ms. Gain completed her risk assessment and provided her draft to the Chief Legal Officer;¹⁹
- 17.3. On May 28, 2024, the Chief Legal Officer approved the judicial review assessment and sent it back to the Labour Department, and shortly thereafter to the Chief Labour Officer, who asked for certain clarifications, which Ms. Gain provided;²⁰
- 17.4. On June 17, 2024, Ms. Gain finally received her instructions to file a judicial review of the Award;²¹
- 17.5. On June 18, 2024, the file was referred to external counsel who were given the mandate to serve the Application for judicial review;²²

¹⁴ *Compagnie de chemin de fer Canadien Pacifique v. Garzouzi*, 2025 QCCS 1992 (“Garzouzi”).

¹⁵ *Garzouzi*, par. 11.

¹⁶ Exhibit E-11.

¹⁷ Application, par. 68-91.

¹⁸ Pre-trial examination of Trisha Gain on September 13, 2024, pp. 28-30 (“Pre-trial Examination”).

¹⁹ Pre-trial examination, p. 32.

²⁰ Pre-trial examination, pp. 34, 38-39.

²¹ Pre-trial examination, pp. 36, p. 49.

²² Application, par. 90.

17.6. On June 21, 2024, the Application was served.²³

1.3 Discussion

[18] CP argues that exceptional circumstances justify the additional 12 days it took to serve the Application.

[19] At the time of the issuance of the Award, CP was heavily involved in collective bargaining for the renewal of collective agreements and in a mediation process. In this context, it submits that in parallel to its internal review process regarding the Award, the company was in the mist of a Ministerial Referral Process requesting the parties' submissions on the maintenance of essential activities during a potential strike.²⁴ This process, which was a first for the company, monopolized many resources and unfortunately deviated CP's attention from the judicial review of the Award.

[20] Coincidentally, the Referral Process began on the same day the Award was received, on May 10, 2024. It required the parties to provide submissions by May 21st, 2024, and May 31st, 2024²⁵, this latter deadline ultimately being extended to June 14, 2024.²⁶ CP submits that once the referral process was finalized, it then focused its full attention on the judicial review of the Award, which is why the green light to proceed was only given to Ms. Gain on June 17, 2024.

[21] Even though the justification advanced here resembles the one argued in *Garzouzi*, CP insists that the present case must be distinguished because the Referral Process holds a public interest component, since it leads to the determination of essential train services required for the population.

[22] However, this organizational type of explanation, in and of itself does not constitute an exceptional circumstance justifying the delay. CP needed to be much more specific, especially in light of the conclusions reached in *Garzouzi*.

[23] As we can see from the timeline outlined above, the bulk of the delay occurred between May 28 and June 17, 2024. During her pre-trial examination, Ms. Gain was unable to explain why it took 20 days for her to obtain instructions to file the Application for judicial review.²⁷ Moreover, the allegations set out in the Application concerning the delay do not address this specific issue²⁸, nor was any other evidence adduced to shed light on this period.

²³ Application, par. 90.

²⁴ Application, par. 84.

²⁵ Exhibit E-10.

²⁶ Exhibit E-11.

²⁷ Pre-trial examination, p. 49.

²⁸ The allegations contained in par. 82, 88 and 89 of the Application do not specifically address the 20-day delay. They generally state that the focus of CP's executive, legal and labour teams were centered on the Referral Process, thus delaying the internal judicial review process of the Award.

[24] For clarity, the 30-day mark to serve the Application falls on June 9, 2024, so squarely within that inexplicable 20-day delay. CP's explanation is thus based on a general context that existed at the time the decision-making process regarding the judicial review but is not grounded in any actual facts which would specifically explain the 20-day delay.

[25] In the Court's view, as in *Garzouzi*, where CP was involved in collective agreement negotiations and in a significant transaction, CP's participation in the Referral Process does not constitute an "exceptional circumstance" justifying the 42-day delay in serving the Application for judicial review:

[11] Le processus d'approbation interne au Canadien Pacifique, la période d'été, les vacances de son personnel et ses autres activités ne justifient pas de signifier un pourvoi 22 jours après l'expiration du barème de 30 jours. Toute organisation a ses contraintes; la raisonnable du délai telle que la jurisprudence l'a interprétée devrait en être une, et constituer une de ses priorités. Une organisation qui dispose d'autant de ressources que le Canadien Pacifique peut sans aucun doute traiter une recommandation dans un délai beaucoup plus court que 52 jours. Cela dit, la Cour a rejeté les mêmes arguments d'une autre compagnie ferroviaire de grande taille dans une autre affaire. Même si chaque cas est un cas d'espèce, le jugement de la Cour donne une bonne indication du traitement qui devrait être réservé aux arguments organisationnels en l'absence de circonstances particulières.²⁹

[Emphasis Added]

[26] CP's argument that the Referral Process differs in some meaningful way from its acquisition of Kansas City Southern Railway is unpersuasive. The "public interest" consideration it invokes does not justify its decision to effectively set aside the Award's internal review process until completion of the Referral Process. The Court is not persuaded that the two processes could not have proceeded in parallel.

[27] CP bore the burden of demonstrating the existence of exceptional circumstances and failed to do so. The need to manage multiple files simultaneously is not, in itself, an exceptional circumstance; rather, clear and specific factual evidence explaining the delay must be provided.

[28] In light of the foregoing, the Application must be dismissed for the sole reason that the delay to serve it was unreasonable.

[29] The Court adds that the question raised by the present Application appears to be moot, since the employee is no longer working at CP.³⁰

²⁹ *Garzouzi*, par. 11.

³⁰ *Procès-verbal* of May 6, 2026.

[30] In any event, since the parties also made representations on the merits of the Application, the Court will now turn to the analysis of the reasonableness of the Award.

2. IS THE DECISION ISSUED BY THE ARBITRATOR UNREASONABLE?

2.1 General Legal Context and Applicable Standard of Review

[31] Rightfully so, both parties agree that the applicable standard of review in this case is reasonableness.³¹

[32] The burden to show the unreasonableness of the decision is on the party challenging it, which in this case would be CP.³² The reviewing court must be satisfied that there are sufficient serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency.³³

[33] *Vavilov* outlines two types of fundamental flaws that tend to render a decision unreasonable: The first is a failure of rationality internal to the reasoning process and the second is when a decision is in some respect untenable in light of the relevant factual and legal constraints that bear on it.³⁴

[34] Here, CP is primarily invoking the first type of flaw. In this regard, for the decision to be reasonable, it must be based on an internally coherent reasoning that is both rational and logical. A failure in this respect may lead a reviewing court to conclude that a decision must be set aside. Reasonableness review is not a line-by-line treasure hunt for error.³⁵ However, the reviewing court must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic.³⁶

[35] Because formal reasons should be read in light of the record and with due sensitivity to the administrative regime in which they were given, a decision will be unreasonable if the reasons for it, read holistically, fail to reveal a rational chain of analysis or if they reveal that the decision was based on an irrational chain of analysis.³⁷ A decision will also be unreasonable where the conclusion reached cannot follow from the analysis undertaken or if the reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point.³⁸

³¹ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, par. 83-94 ("Vavilov"); CP's Factum, par. 26; Union's Factum, par. 27.

³² *Vavilov*, par. 100.

³³ *Vavilov*, par. 100.

³⁴ *Vavilov*, par. 101.

³⁵ *Vavilov*, par. 102.

³⁶ *Vavilov*, par. 102, 104.

³⁷ *Vavilov*, par. 103.

³⁸ *Vavilov*, par. 103.

2.2 Institutional Context of Arbitration

[36] However, the reviewing court must also keep in mind that an administrative decision maker's reasons are driven by their institutional expertise.³⁹

[37] As such, the review of an administrative decision cannot notably be divorced from the institutional context in which the decision was made.⁴⁰ Respectful attention to a decision maker's demonstrated expertise may reveal to a reviewing court that an outcome that might be puzzling or counterintuitive on its face nevertheless accords with the purpose and practical realities of the relevant administrative regime and represents a reasonable approach given the consequences and the operational impact of the decision.⁴¹ Administrative decision makers cannot always be expected to deploy the same array of legal techniques that might be expected of a judge or a lawyer, nor is it always useful.⁴²

[38] In short, "administrative justice" will not always look like "judicial justice" and reviewing courts must remain alive to this reality.⁴³

[39] In the present matter, the Award was rendered by an arbitrator within and pursuant to the framework of the Canadian Railway Office of Arbitration & Dispute Resolution ("CROA"). This center of arbitration was created in 1965. The CROA specializes in adjudicating arbitration disputes of railway companies operating in Canada.⁴⁴

[40] Arbitrators of the CROA are governed by rules set out in a Memorandum of Agreement entered into between Canadian railway companies and the unions representing employees of those companies.⁴⁵

[41] In accordance with this Memorandum, the procedure is fast paced in order to ensure timely and expedited hearings.⁴⁶ The parties must first submit to the arbitrator a Joint Statement of Issue stating the facts of the dispute and the parties' respective positions.⁴⁷ Then, four days prior to the scheduled arbitration hearing, each party is required to submit a written statement, along with its evidence and argument.⁴⁸ Two days before the scheduled hearing, each party may also submit rebuttal submissions.⁴⁹ Finally,

³⁹ *Vavilov*, par. 93.

⁴⁰ *Vavilov*, par. 91.

⁴¹ *Vavilov*, par. 93.

⁴² *Vavilov*, par. 92.

⁴³ *Vavilov*, par. 92.

⁴⁴ *Canadian Pacific Kansas City Railway v. Cameron*, 2026 QCCS 748, par. 21.

⁴⁵ Exhibits E-3 and E-3A.

⁴⁶ Exhibit E-3A, par. 11.

⁴⁷ Exhibit E-3A, par. 10; See Application, par. 19-20.

⁴⁸ Exhibit E-3A, par. 11; Exhibits E-4 and E-5 (CP's submissions); Exhibits E-6 and E-7 (Union's submissions).

⁴⁹ Exhibit E-3A, par. 11, Exhibit E-8 (CP's rebuttal submissions); Exhibit E-9 (Union's rebuttal submissions).

the hearing itself lasts for one hour⁵⁰ and the arbitrator's decision is rendered in writing 45 days following the conclusion of the hearing.⁵¹ In this type of arbitration, the hearing proceeds on the basis of the documents filed and no witnesses are heard.

[42] In response to a question from the Court, and as outlined in *Canadian Pacific Kansas City Railway v. Cameron*⁵², the governing law of the dispute is the Canadian Common Law of labour, as applicable in all areas of federal jurisdiction governed by the *Canada Labour Code*.⁵³ As such, provincial laws, including the *Civil Code of Quebec* do not apply.

2.3 Discussion

[43] CP's main argument is that the Arbitrator's decision lacks internal coherence.⁵⁴ CP contends that although the Arbitrator accepted that there was just cause for discipline, his conclusion that the dismissal was unwarranted under the circumstances was unreasonable.

[44] CP argues that under the relevant case law – *William Scott*⁵⁵ – establishing the negative and positive factors to be considered as to whether a dismissal is appropriate or not, the Arbitrator did not identify any mitigating or positive factors which would justify his decision to substitute a five-month suspension to the employee's dismissal. CP states that the Arbitrator's reasons only identify negative factors prior to concluding that a lesser penalty was appropriate under the circumstances.⁵⁶ It concludes that the decision in this regard is not logical and is incoherent with the Arbitrator's analysis.⁵⁷

[45] The Arbitrator's decision is reasonable. Here's why.

[46] It is true that at first glance, when reading the Arbitrator's reasons, the negative factors he outlines at the beginning of his reasoning⁵⁸ seem to point to him concluding that the dismissal was warranted. However, when read more carefully and taken as a whole, the conclusion to override the dismissal, is based on the Arbitrator's overall assessment that, in the circumstances, there was not a complete breakdown of trust in

⁵⁰ Exhibit E-3A, par. 11.

⁵¹ Exhibit E-3A, par. 14.

⁵² *Canadian Pacific Kansas City Railway v. Cameron*, 2026 QCCS 748, par. 22.

⁵³ *Canada Labour Code*, R.S.C. 1985, c. L-2. The Application is presented before the Quebec Superior Court since the hearing took place in Montreal. However, the Award refers to a specific body of case law spanning from Labour Relations Boards across Canada and from the CROA.

⁵⁴ CP's Factum, par. 27-47. In its Factum, CP also argues that the Arbitrator ignored crucial contextual factors (par. 48-54), but in its oral submissions only focused on the internal lack of internal coherence.

⁵⁵ The parties agree that the Arbitrator correctly laid out the relevant factors to be considered when determining whether dismissal was an appropriate sanction: CP's Factum, par. 15; Union's Factum, par. 37.

⁵⁶ Application, par. 50-56.

⁵⁷ CP's Factum, par. 27-47.

⁵⁸ Exhibit E-1, par. 33-36.

the employment relationship.⁵⁹ In arriving at this conclusion, the Arbitrator proceeds with a comparative analysis of other cases rendered by the CROA, weighing the factual bases including the seriousness of those conducts and the sentences rendered therein.⁶⁰

[47] CP contends that the Arbitrator's analysis regarding the CROA jurisprudence dealing with similar issues is a separate analysis which goes to the appropriateness of the sanction and not as to whether the dismissal was warranted or not. It is a fair argument, but the Court must resist adopting such a compartmentalized view of the Award.

[48] Rather, as cautioned in *Vavilov*, the Court must be wary of adopting a "judicialized justice" approach to administrative decisions. The Arbitrator's conclusion that a five-month suspension is the appropriate sanction cannot be dissociated from his conclusion that the dismissal is unwarranted. They simply go together, and once the Arbitrator's reasoning regarding the sanction is read in that manner, it is cohesive, coherent and intelligible.

[49] Essentially, the Arbitrator found that the employee's misconduct - comprising of multiple criminal charges and warranting seven months of incarceration - was serious, not isolated in light of a prior suspension for "conduct unbecoming", and capable of harming the employer's reputation. Thereafter, having regard to comparable cases, outlining the gravity of the offences, the employees' records and seniority, and any incarceration, the Arbitrator concluded that a five-month suspension was the appropriate sanction.

[50] In coming to the determination that the Award is reasonable, the Court also takes into account the CROA process leading up to the Arbitrator's decision, which is designed to be expeditious and efficient, and which may explain the more concise style of the decision. Finally, the Court notes that the Arbitrator's decision must be read in light of the record, which may explain certain aspects of his reasoning process that are not apparent from the reasons themselves.⁶¹ Here, the evidentiary record submitted to the Arbitrator, outlined various aspects of the employee's rehabilitation process, while not referenced in the Award, formed part of the record relied upon by the Arbitrator to render his decision.⁶²

[51] In summary, considering that the reasons of an administrative decision-maker are not held to a standard of perfection⁶³, the Court is satisfied that the Arbitrator's reasons sufficiently outline why a five-month suspension is the appropriate sanction under the circumstances and in light of the relevant jurisprudence.

⁵⁹ Exhibit E-1, par. 37.

⁶⁰ Exhibit E-1, par. 37-43.

⁶¹ *Vavilov*, par. 94.

⁶² Union's Factum, par. 42-44.

⁶³ *Vavilov*, par. 91.

FOR THESE REASONS, THE COURT:

[52] **DISMISSES** the Application for judicial review;

[53] **UPHOLDS** the arbitral award rendered by the Arbitrator James Cameron on May 10, 2024;

[54] **THE WHOLE**, with costs.

ELENI YIANNAKIS, S.C.J.

Me Shawn Shaker

Borden Ladner Gervais LLP
Attorneys for the Applicant

Me Farhad Shayegh

Melançon Marceau Grenier Cohen s.e.n.c.
Attorneys for the Impleaded Party

Date of hearing: May 6, 2026