

Justice

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# CIAJ: 2016 National Roundtable on Administrative Justice

How Does a Tribunal Write a Reasonable Decision?

May 27<sup>th</sup> 2016



## Principles

- The same terms may be used to explain the reasons of a decision :

*Tremblay c. Québec (Ville de)*, 2012 QCTAQ 07647, par.18.

- It is not necessary to consider and comment upon every issue raised by the parties in their reasons:

*Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65, par. 3.

- It is not mandatory to discuss all of the evidence and testimonies on any given point:

*Ducas c. Québec (Ministère de la Solidarité sociale)*, 2005 QCCA 126.



## Principles

- The reasons of the decision must explain why the Court discards an expert's opinion :

*Gamboz (Succession de) c. Commission des lésions Professionnelles*, 2013 QCCS 6619.

*Société de l'assurance automobile c. S.G.*, 2013 QCTAQ 12516.

*Société de l'assurance automobile c. Tribunal administratif du Québec*, CS Montréal, 16 juillet 2014, 500-17-075225-121, j. Monast.

- The reasons of the decision must explain why the Court favours one expert's opinion instead of another :

*Auger c. Tribunal administratif du Québec*, J.E. 2001-703.



## Principles

- The Court must give reasons if it doesn't rely on an agreement between the parties :  
*Québec (Procureur général) c. Club Beauchâteau inc.*, 2011 CCQ 2970, par. 45 à 48.
  
- The lack of reasons for the opinion that differs from the jurisprudence MAY BE grounds for an appeal :  
*Québec (Procureur général) c. Cain, Lamarre, Casgrain et Wells*, 2006 QCCQ 4819, par. 25-26 (appel rejeté, 2007 QCCQ 8226).
  
- ... Or may not be grounds for an appeal :  
*CSST c. Fontaine*, 2005 QCCA 775, par. 70.



## Principles

- Reasons must be given if the Court doesn't follow a majority trend among the jurisprudence :

*Commission des normes du travail c. Hôtels Canpro inc*, 2013 QCCS 5659, par. 35.

*Croustilles Yum Yum enr. c. Roy*, 2015 QCCS 5591. par. 45, 54-57.

- Reasons must be given for reaching opposite conclusions on the same set of facts and evidence :

*Rusznjak v. Canda (Citoyenneté et Immigration)*, 2014 FC 255.



## Principles

- Reasons must be given if the Court discards a previous decision involving the same parties (absence of *stare decisis*):

*Syndicat de l'enseignement de la région de Laval c. Commission scolaire de Laval*, 2012 QCCA 827.

- It must be explained how the situation can be distinguished from a precedent (*stare decisis*) :

*Harvey c. Guerreiro*, 2005 CanLII 17603 (QC CQ).



## Principles

- The adequacy of reasons is not a stand-alone basis for quashing a decision neither is it required for a reviewing court to undertake two discrete analyses — one for the reasons and a separate one for the result;
- The reviewing court must look at the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes;
- The court must look to the record for the purpose of assessing the reasonableness of the outcome

*Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, par. 14-15.



# Principles

- The deference due to a tribunal does not disappear because its decision was implicit

*Alberta (Information and Privacy Commissioner) v. Alberta Teachers' Association*, 2011 SCC 61 .





## Conclusion

- Perfection in justice is as chimeric as perfection in any other social agency. What the law demands is not perfect justice, but fundamentally fair justice.

*R. v. O'Connor*, [1995] 4 R.C.S. 411, paragr. 193.

- This Court has strongly emphasized that administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons. For reviewing courts, the issue remains whether the decision, viewed as a whole in the context of the record, is reasonable

*Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65, par. 3

