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I S S U E D	FEDERAL COURT COUR FÉDÉRALE		M I S
	September 14, 2026 14 septembre 2026		
	BETWEEN:		
	[REDACTED]		
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Court File No.

FEDERAL COURT

SHANNON WYLIE

Applicant

and

WESTJET AIRLINES

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Calgary, Alberta.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application, or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitors, WITHIN 10 DAYS after being served with this notice of application.

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 or at any local office.

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

Date:

Issued by:

Address of local office:

Issued on: September 17, 2026
 Issued by: [REDACTED] (Registry Officer)
 Address of Local Office: Calgary Local Office 635 8th Avenue SW Calgary,
 Alberta T2P 3M3

TO:

WestJet Airlines
c/o its solicitors of record before the Canadian Human Rights Commission:
Hicks Morley Hamilton Stewart Storie LLP
77 King Street West, 39th Floor
Box 371, TD Centre
Toronto, Ontario M5K 1K8

AND TO:

Attorney General of Canada
Department of Justice Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8

AND TO:

Canadian Human Rights Commission
344 Slater Street
Ottawa, Ontario K1A 1E1

APPLICATION

1. [REDACTED]
[REDACTED]
[REDACTED]

2. Shannon Wylie (the “Applicant”) brings this application for judicial review pursuant to section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 and rules 301 to 306 of the *Federal Courts Rules*, SOR/98-106, the relief concerning which is sought pursuant to the Federal Court’s jurisdiction under section 18 of the *Federal Courts Act*.

3. The decision under review was made August 18, 2026 and communicated to the Applicant August 21, 2026 (“Decision” or “Record of Decision”), by Julie Lassonde (the “Commissioner”) of the Canadian Human Rights Commission (“Commission”), in the matter numbered 20250379 between Shannon Wylie, the Complainant, and WestJet Airlines, the Respondent (the “Complaint”).

4. The substance of the review is the Commission’s refusal to deal with the Complaint under section 41(1)(a) of the *Canadian Human Rights Act*, RSC 1985, c H-6 on the purported basis that the Complaint could have been dealt with by a grievance or other review procedure.

Relief sought

5. The Applicant makes application for:

- a) An order setting aside the Decision;
- b) An order directing the Canadian Human Rights Commission to deal with the Complaint;
- c) In the alternative, an order remitting the matter for redetermination by a different decision maker in accordance with the Court’s reasons;
- d) Costs;

e) Such further and other relief as this Court considers just.

Grounds for the application

6. The Commission erred in law and acted contrary to sections 41(1)(a) and 42(2) of the *Canadian Human Rights Act*.

7. Section 42(2) imposed a mandatory condition before the Commission could decline to deal with the complaint for failure to exhaust a grievance or review procedure: the Commission had to satisfy itself that failure to exhaust was attributable to the Applicant and not to another person.

8. The Commission could not lawfully find that the Applicant was solely responsible for non-exhaustion under section 42(2) of the *Canadian Human Rights Act*. The record established that the Applicant's collective bargaining agent (the "Union") refused to advance the religious accommodation grievance and later withdrew the termination grievance before arbitration. The Commission's contrary conclusion rests on internally inconsistent findings, an unsupported reliance on the CIRB outcome, and a failure to address the Applicant's central submissions.

9. The Commission did not conduct the required attribution inquiry. Not only did the Commission make assumptions concerning the outcome of the CIRB inquiry absent evidence; it substituted that erroneous inquiry—whether the Union acted in bad faith, unfairly, or failed to communicate—for the correct inquiry and the question Parliament enacted: whether the failure to exhaust was attributable to the Applicant and not to another.

10. The Decision acknowledges that the grievance did not advance the Applicant's religious discrimination and religious accommodation allegations, that no arbitration occurred, that there was no final grievance decision, and that there was no settlement. The Decision nevertheless held that the Union negotiated a settlement that substantively addressed the grievance and that the Applicant was solely responsible for non-exhaustion. Those findings are internally contradictory and cannot rationally support the statutory conclusion.

11. The Commission treated an unaccepted settlement offer and the Union's unilateral withdrawal of the grievance as the equivalent of a final process that had addressed the Applicant's human rights allegations. A grievance that the Union withdrew before arbitration could not have decided whether WestJet discriminated against the Applicant nor whether it failed to accommodate her religious beliefs—even had it addressed those issues in the first place, which as the Applicant repeatedly stated, it did not.

12. The Commission failed to determine whether the grievance procedure was otherwise reasonably available in fact after the Union refused to advance the religious accommodation grievance and withdrew the termination grievance. It relied on a hypothetical possibility of further grievance access without identifying a provision allowing the Applicant to initiate or carry a grievance to arbitration without Union support, or confirmation that the Respondent would not oppose such a process.

13. The Commission failed to meaningfully grapple with the Applicant's reply dated July 3, 2026. That reply squarely submitted that the grievance did not mention religious discrimination, had never been arbitrated or resolved, and did not become unavailable through any failure by the Applicant to participate or cooperate. These were central submissions bearing directly on statutory availability and attribution under section 42(2).

14. The Commission misapprehended and unreasonably relied on the CIRB proceeding. The Applicant had identified that proceeding and its outcome but did not include the CIRB reasons within the Commission-imposed 100-page limit for documentary evidence, which had been used on other essential evidence. The Commission nevertheless treated the outcome of an unseen CIRB decision as confirming that the Union was not responsible for the grievance's non-completion.

15. The Commission's reliance on the CIRB outcome was unsupported by the record before it. The CIRB decision did not decide the merits of the Union's refusal to file a religious accommodation grievance; that aspect was dismissed as untimely. The CIRB's separate conclusion that no *prima facie* duty-of-fair-representation breach was established concerning the withdrawal of the termination grievance did not decide the distinct statutory question whether the

failure to exhaust was attributable to the Applicant and not to the Union for purposes of section 42(2), particularly with respect to the human rights issue.

16. The Commission reached material factual findings in a perverse or capricious manner and without regard for the material before it, including that the Applicant accepted the Union's decisions, that the Union negotiated a settlement which substantively addressed the grievance, that the CIRB outcome confirmed that the Union bore no responsibility for non-exhaustion, and that the Applicant alone was responsible for the grievance not reaching arbitration.

17. The Decision is unreasonable. It does not display a coherent chain of reasoning from the statutory text and the evidence to the conclusion reached; it fails to account for central submissions and contains decisive internal contradictions.

18. The Commission failed to observe procedural fairness by relying materially on the purported effect of the CIRB decision without having that decision before it, without seeking it, and without providing the Applicant a fair opportunity to answer the proposition that the Commissioner ultimately drew from it.

19. The Commission thereby acted without jurisdiction or refused to exercise its jurisdiction; failed to observe principles of natural justice, procedural fairness, and procedure required by law; erred in law; based the Decision on erroneous findings of fact made without regard for the material before it; and otherwise acted contrary to law, within the meaning of sections 18.1(4)(a), (b), (c), (d), and (f) of the *Federal Courts Act*.

Supporting material

20. This application will be supported by the following material:

- a) The affidavit of Shannon Wylie with the decision of the Canada Industrial Relations Board, *Wylie v Canadian Union of Public Employees*, 2024 CIRB LD 5413, for the limited purpose of demonstrating the asserted procedural and analytical error in the Decision;
- b) The certified tribunal record requested below;

- c) Such further and other material as the Court may permit.

Request for certified tribunal record

21. The Applicant requests that the Canadian Human Rights Commission send a certified record including the following:

- a) The decision letter dated August 21, 2026 and the Record of Decision dated August 18, 2026;
- b) The complete record before Commissioner Julie Lassonde in relation to Canadian Human Rights Commission File No. 20250379, including the Commission Package, all submissions and reply submissions received from the Applicant and WestJet Airlines, all documents and correspondence considered, and all materials provided to or considered by the Commissioner;
- c) All internal records, notes, memoranda, briefing materials, decision records, and communications that formed part of the record or were considered in making the Decision dated August 18, 2026;
- d) Any document, record, or communication recording or evidencing the Commission's consideration, receipt, request for, or reliance upon the Canada Industrial Relations Board decision referred to in the Decision.

Dated this 11th day of September, 2026.

KITCHEN WELLS LLP

Per: James SM Kitchen and Jody Wells
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Airdrie, Alberta T4B 3C3

