

PUBLIC SERVICE

LABOUR RELATIONS

Judicial review of decision by Public Service Labour Relations and Employment Board finding that while employer failing to provide harassment-free workplace, no payment of compensation to applicant warranted — Applicant employed by Canadian Border Services Agency (CBSA) — Male co-worker repeatedly making crude, vulgar comments of sexual nature to applicant — Co-worker committing act constituting sexual assault — Applicant suffering workplace injury as result of co-worker's conduct — Filing two grievances — Board finding that while employer failing to provide harassment-free workplace, no payment of compensation to applicant warranted — Main issue whether unreasonable for Board to decline to award damages — Board's decision unreasonable — Board not explaining why its findings, *inter alia*, that co-worker's actions "reprehensible" not grounding award for damages — *Canadian Human Rights Act*, R.S.C., 1985, c. H-6, s. 53(2)(e) allowing adjudicator to order that person found to have engaged in discriminatory practice "compensate" victim — Board having to determine in every case meaning of "compensate" — Required to conduct exercise in statutory interpretation, to ascertain intent of Parliament by reading s. 53(2)(e) in its entire context — Here, Board not engaging in required analysis, not explaining why harm suffered by applicant could only be compensated if co-worker's actions sole and only cause of harm — Board's interpretation of "compensate" unreasonable — Interpretation not in accordance with text of s. 53(2)(e) — Board's restrictive interpretation of "compensate" resulting in denial of compensation when degrading conduct exacerbating pre-existing condition or contributing to harm caused by another source — This is contrary to purpose of remedy, unreasonable — Board's decision contrary to principle that once pain, suffering caused by discriminatory practice established, damages should follow — Board failing to grapple meaningfully with evidentiary record — Issue of remedy remitted to Board for redetermination — Application allowed.

JANE DOE V. CANADA (ATTORNEY GENERAL) (A-200-17, 2018 FCA 183, Dawson J.A., judgment dated October 10, 2018, 16 pp.)