

Province of New Brunswick, *Police Act*, S.N.-B., c. P-9.2

In the Matter of a Notice of Arbitration Hearing issued by Chief Paul Fiander of the Miramichi Police Force in connection with a complaint by Ms. Demning O'Reilly against Constable Todd Chadwick; and

In the Matter of allegations of breach of the *Code of Professional Conduct* by Constable Todd Chadwick:

DECISION of the ARBITRATOR

Date of hearing: July 10, 2014

Date of Decision: August 18, 2014

Counsel: For the Chief: Clarence Bennett, Esq.

For the member: Harold L. Doherty, Esq.

Tribunal: G. Robert Basque, Q.C.

Arbitrator

DECISION of the ARBITRATOR

INTRODUCTION

1. Every two years, the City of Miramichi (the “City”) offers its full time employees, Mayor and council a Computer Purchase Program (the “Program”), through payroll deduction. Each person who qualifies and wishes to participate is eligible for a \$2,500 loan at a favourable rate. The Program was again offered in 2013.

2. Ms. Demning O’Reilly (“Ms. O’Reilly”) was the City employee charged with administration of the program. Her role was to disseminate a Notice¹ of the Program to employees, answers employee’s questions, collect all the receipts and if need be pay the provider. She processed letters of authorization², titled “To Whom It May Concern”. This enabled employees to go to businesses, make their purchases of up to \$2500 and not be charged for the purchase as the seller could bill the City directly. She also insured each employee who took advantage of the program signed an agreement acknowledging the debt and authorizing payroll deductions to reimburse the purchase.³

3. The Programs’ deadlines were: 1) December 2, 2013 to register; and 2) December 16, 2013 to submit invoices⁴.

4. On December 2, 2013, at about 9:50 a.m., what should have been a benign visit by Constable Todd Chadwick, (“Cst Chadwick”) an off-duty member of the City’s Police Force, to the City’s Human Resources Department (“HR Department”) to enrol in the Program turned into a confrontation between Cst Chadwick and Ms. O’Reilly. This resulted in Ms. O’Reilly accusing Cst Chadwick of being vulgar, profane and belligerent.

5. The *Police Act, supra* (the “Act”) provides that:
25(1) If a person has a conduct complaint, the person may file his or her complaint in writing with the chair of the Commission or with the appropriate chief of police or civic authority.

6. After the confrontation, Ms. O’Reilly immediately called Mr. Paul Fiander, the City’s Police Chief (the “Chief”). By 10:10 that morning, the Chief had assigned Superintendent Randy Hanson (“Supt Hanson”) to inquire into the matter. Supt Hansen called Ms. O’Reilly and asked her to prepare a written account of the event as soon as possible as it was fresh in her mind. He advised he would be up to meet her shortly. She wrote:

¹ Exhibit C-3, page 1.

² *Ibid.*, page 2.

³ *Ibid.*, page 3.

⁴ *Ibid.*, page 1.

“December 2, 2013 at 9:50 a.m.

“Todd Chadwick came to the HR Department looking for a Computer Purchase Letter of Authorization. I printed out an authorization letter for Todd and he said he did not agree with the wording of the letter and proceeded to tell me what was wrong with it and he wanted it changed. I told him that I did not have the authority to change the letter and he would have to speak to Mary Savage regarding this. Todd became very aggressive and belligerent and started swearing at me and calling me “fucking ignorant”. He got on the elevator and was still calling me names and swearing. I told him that “it wasn’t very professional on his part”.

“This concern has been reported to the City Manager and the HR Director.”⁵

7. At 11:17 that same morning, Supt Hanson attended upon Ms. O’Reilly and asked some follow-up questions via a written question and answer statement where she added, among other things:

“He didn’t like the wording of it. He went on a tirade and said the wording should be changed. I told him Mary would be the only one who could change the wording. He kept going on and on.

...

“I checked with Paula and Glenda but both were on the phone and didn’t hear what was being said.”

...

“He got on the elevator and was still saying stuff. I think I heard the word bitch but couldn’t hear everything he was saying. I told him he wasn’t acting very professional and then the elevator doors closed.”⁶

8. *Regulation 2007-81* to the Act (the “Regulation”), includes a Code of Professional Conduct. The Chief takes the view that, if true, the allegations made by Ms. O’Reilly constitute a breach of the Code of Professional Conduct, which provides, amongst other things, that:

34 It is incumbent upon every member of a police force:

(a) to respect the rights of all persons;

(b) to maintain the integrity of the law, law enforcement and the administration of justice;

...

(g) to act at all times in a manner that will not bring discredit on his or her role as a member of a police force

36(1) A member of a police force engages in discreditable conduct if:

...

(d) the member, while on or off duty.

(i) contravenes a provision of the Act, the regulations under the Act or a rule, guideline or directive made under the Act

9. The Chief caused an investigation to be conducted.

⁵ Exhibit O-4, p.1.

⁶ *Ibid*, pp. 2-3.

10. Cst Chadwick responded in writing. His response is that it was Ms. O'Reilly who was rude and ignorant to him, and that all he did was to ask her why. On January 17, 2014, Cst Chadwick gave a statement regarding the December 2, 2013 event. He wrote, *inter alia*:

"On December 02 around nine or ten in the morning I attended City Hall to drop off a receipt for my computer purchase and to get my letter for the computer purchase program. I was not working and was running a few family errands. I announced at the front door of City Hall and was advised to attend the second floor.

"After exiting the elevator I approached the front counter where Deming O'Reily was sitting. She looked up and looked directly at me. I said hello and she looked back down to her keyboard without acknowledging me. I walked to the counter and said "I am here to pick up my letter for the computer purchase program". Ms. O'Reily said "sec, I don't wanna loose anything". I then noted she was working on computer purchase program letters. I was trying to make small talk, and said "I suppose those things have been keeping you busy". Again she said, "One second". I stood silent for an uncomfortable amount of time. Ms. O'Reily then said as she reached for the printer, "the program is only good locally and Staples is the only place you can go. It's for \$2500 and you need to bring the letter". I then asked for clarification, "Only locally? Staples only? What if you already bought something?" I was concerned as my purpose for attending City Hall was to drop off a receipt for the reimbursement. Ms. O'Reily rolled her eyes as though in frustration and said "Its only good at Staples". Her tone was sharp and scornful. I then reached in my pocket and pulled out a receipt that I wanted to submit saying, "I bought a computer on the weekend. It was on sale for Black Friday in Moncton." Ms. O'Reily then interrupted saying, "Well you gotta submit that and we'll see." It was as though I was bothering her. Her tone was confrontational and her facial expression was stern and contemptuous. Her lips were tightened, her eyes were pierced and her face cheeks were taut. In my experience as a police officer for 20 years and dealing with persons of many emotions, in my opinion Deming O'Reily was being hostile and rude. I was confused regarding her behavior as I did not do anything to antagonize her. I was careful to not set her off or be misinterpreted. Ms. O'Reily then handed me my letter restating it is only good up to \$2500.00. I knew that I would be submitting a receipt for \$1400.00 and said, "Maybe the amount on the letter needs to be changed where I am submitting this receipt?" Ms. O'Reily interrupted in a stern, loud and abrupt tone, "I'm not changing nothing! I didn't write the letter! You want something changed! You gotta go see her." Ms. O'Reily was now pointing down the hall indicating Mary Savage. There was silence for about 10-12 seconds. I took the letter she was presenting and began to fold it. I looked directly at Deming. I could tell by the look on her face she was condescending as she leered off the end of her nose. I then said, "My God you're rude. Just down right ignorant". Ms. O'Reily paused then appeared angered. I then turned and went to the elevator, which was now opening.

"Exiting the elevator was Cst Jason Lavoie. I said hello to Jason who was carrying a Christmas Food Hamper box. He said hello and walked into the hallway. As the elevator door started to close, Deming began yelling "you're the one who is Rude Mr. Chadwick! That's not very professional ... and then the

doors closed and I could not make her out as she continued to holler at me from her desk.⁷” (Sic)

PROCEDURAL HISTORY

11. On May 02, 2014, the Chief served Cst Chadwick with a Notice of Arbitration Hearing, as provided in the Act, in connection with the complaint.⁸ The allegations are the following:

“The complaint of Demning O’Reilly that on or about December 2, 2013, Constable Todd Chadwick of the Miramichi Police Force did breach the Code of Professional Conduct Regulation Police Act pursuant to section 35(a) by engaging in discreditable conduct while on or off duty as described in section 36(1)(d)(i) of the Code of Professional Conduct by contravening in provision of the Police Act the Regulations under the Police Act or rule, guideline or directive made under the Police Act, more specifically by contravening section 34(a), section 34(b) and or section 34(g) of the Code of Professional Conduct.”

12. The undersigned was appointed as Arbitrator in the matter by the parties on May 12, 2014. Notice of Hearing for June 10, 2014 in Miramichi was served on the parties by the arbitrator pursuant to the Regulation.

13. The hearing had to be delayed due to the June 5, 2013 Moncton RCMP shootings. The hearing was therefore convened by telephone conference on June 9, 2014 and adjourned to July 10, 2014, with consent of all parties. Notice of hearing was again served to the parties by the arbitrator.⁹

14. On July 10, the hearing was held at the Rodd Miramichi, 1809 Water Street, Miramichi, starting at 9:30 a.m. and concluded by 3:45 p.m. on the same day. The parties raised no preliminary or jurisdictional matters. The hearing was held entirely in the English language and was open to the public. Pursuant to sub-section 23(2) of the Regulation, the evidence was recorded in its entirety in accordance with the *Recording of Evidence Act* and by a stenographer appointed and sworn-in by the arbitrator.

15. Pursuant to sub-section 26(1) of the Regulation, at the commencement of the arbitration hearing, the arbitrator read to Cst Chadwick the alleged breach or breaches of the code contained in the Notice of Arbitration Hearing¹⁰ and immediately gave Cst Chadwick an opportunity to admit or deny each alleged breach of the code.

16. Cst Chadwick denied the allegations. The Chief’s counsel then proceeded to call five witnesses, including Ms. O’Reilly. Pursuant to section 29 of the Regulation, the

7 Exhibit C-8.

8 Exhibit 1.

9 Exhibit 2.

10 Exhibit 1.

arbitrator then determined that a *prima facie* case had been made out against Cst Chadwick. His counsel then called four witnesses, including Cst Chadwick.

17. The parties agreed on a schedule to submit written submissions, the last being due August 1, 2014. The parties agreed that the hearing would be deemed completed on that date.

18. The arbitrator has received a written submission from the Chief's counsel, a written submission from Cst Chadwick's counsel, a reply submission from the Chief's counsel and the transcript of the proceedings certified by the stenographer.

VIVA VOCE EVIDENCE OF THE COMPLAINANT AND THE OF THE MEMBER

19. Demning O'Reilly has been employed by the City since 2006, first as a temporary employee, during which time she replaced a maternity leave in the police department in '08-'09. That is when she first met Cst Chadwick with whom she describes having had normal interaction.

20. She has been in the HR Department full-time since 2009. She describes herself as "secretary for the Human Resources Department. I'm the first person that you will meet when you attend the third floor." She is in an open area.

21. Todd Chadwick has been a police officer employed by the City since 1995. After five years as a patrol officer, he became a community police officer affected to school liaison and a host of other community committees and programs, some of which he helped develop.

22. The outcome of this matter turns on the credibility of the two main antagonists, Ms. O'Reilly and Cst Chadwick. They were the only two persons present when the confrontation occurred. They both allege that the other is fabricating his or her version of events.

Ms. O'Reilly's version

23. Ms. O'Reilly states that on December 2, 2013 when Cst Chadwick went to her office on the third floor at City Hall, he expressed that he had a receipt to submit. She said "fine", and that she would take care of it. Cst Chadwick then asked for the "To Whom It May Concern" letter. She testified that she said, "sure, no trouble" and started to do up the form letter for him. She printed the letter and passed it to Cst Chadwick who looked it over. The form letter states:

"This is to certify that Todd Chadwick an employee of the City of Miramichi, is authorized to purchase a computer system, hardware, printer, and extended warranty, to a maximum expenditure of \$2500.00 (tax incl.)

"This letter is to be returned o Payroll, along with the original invoice, billed in the name of the employee making the purchase. Upon receipt of this document and the invoice, the City of Miramichi will forward

payment.

Sincerely.

Mary Savage

Director of Human Resources"

24. Cst Chadwick then expressed that he did not like what the letter said. He wanted the letter to state that he could go outside the City and make his purchase, and that it was good for outside the City. She says she told him that she didn't write the letter and had no authority to change it. He would have to see Mary Savage who was away that day ("Ms. Savage").

25. Her evidence is that at this point, Cst Chadwick's voice raised, he became very angry and belligerent and he said to her: "why do you have to be so fucking ignorant". She was taken aback that the conversation had gone from "zero to ten" so quickly. She felt threatened by his tone as there was no need of it.

26. She then told him he couldn't speak to her in that manner. Cst Chadwick then started towards the elevator, he was mumbling the word "fucking" and "bitch". He got to the elevator and got on the elevator. He was giving her dirty looks from the elevator and once again mumbling the words "fucking" and "bitch". She testifies telling him at that time that he wasn't acting very professionally. The elevator doors closed.

27. The entire incident lasted five/six minutes.

28. When the elevator closed, she went to her co-worker Glenda Underhill's ("Ms. Underhill") office just right of hers, just slightly down the hall, six feet or so away. She stood in her door and asked her if she had heard what happened. Before Ms. Underhill could respond, the elevator opened and Ms O'Reilly then immediately went out to her desk to greet whoever was on the elevator. It was Constable Jason Lavoie ("Cst Lavoie"), another police officer with Miramichi Police.

29. Cst Lavoie was bringing a box of groceries for a food drive for the Miramichi Food Bank. He asked her how her day was going. She told him it was going well "until Todd Chadwick come in and tore a strip off of me", to which he replied "well, put in a complaint, call the chief, they're always having problems with him".

30. She then went to speak to Ms. Underhill again and asked her if she had heard the events that had taken place. Her other co-worker, Paula Shaddick, who works in the other part of that open area, about twelve feet away, came over to her desk and asked her what had taken place because she had heard loud voices. She related the events.

31. At Cst Lavoie's suggestion, she called the Chief who had Supt Hanson call her and them come over to take her statement.

32. Ms. O'Reilly testified never having had a negative interaction with a police officer, other than the event concerning Cst Chadwick.

Cst Chadwick's version

33. On December 2, 2013, Cst Chadwick was running errands. One was to go to City Hall to turn in his receipt for his purchase for the Program. He went up to the third floor and as he got off the elevator, Ms. O'Reilly looked at him and made eye contact. As he approached her, he said "I'm here to pick up my letter". Ms. O'Reilly put her head down and did not acknowledge him. He describes an uncomfortable few seconds during which he noticed that she was working on the Program. He then said "I suppose those things are kind of keeping you busy this time of year". Ms. O'Reilly responded by "just a sec I don't want to lose anything" or something to that effect. Her tone was cold.

34. Ms. O'Reilly got up and made small talk regarding the slowness of the printer. Ms. O'Reilly picked up the computer purchase letter and started to recite what was on the letter. Cst Chadwick was submitting a receipt for a purchase that he had made at a "Black Friday" event in Moncton the weekend before. The receipt was for either \$1100 or \$1400 or so. He wanted the letter to reflect the balance, not the \$2500, and to be able to take the letter to an outside vendor.

35. What Ms. O'Reilly was reading sounded to him like it was for local vendors. He could only shop at the Miramichi Staples. This made him wonder whether he was going to be able to submit his receipt. He interjected to ask if that was the case. He then reached in his pocket, pulled out the receipt saying he had bought a computer on the weekend during Black Friday in Moncton. Ms. O'Reilly interrupted mid-stream saying "well, you've got to submit that and we'll see" as though he was bothering her, as if the whole thing was bothering her. He describes her tone as confrontational, her facial expression as stern and contemptuous, her lips were tightened, her eyes were pierced and her face cheeks were taut. He thought she was being hostile and rude.

36. Cst Chadwick testified that he was a bit taken back and confused. It was like he was bothering Ms. O'Reilly. He had been careful to not antagonize her. As the letter was presented Ms. O'Reilly continued on and she told him that again that the letter was for \$2500 and in a stern voice "if there's anything you want changed on this letter you have to see her down the hall", pointing to the office of Mary Savage, the director of Human Resources. Ms. O'Reilly stated that "she's the one that signed this letter". He started to fold it, and given the silence, given the confusion of it, he looked at her and said "my God, you're rude, downright ignorant. He stated it in a calm non aggressive tone, as a statement of fact.

37. Cst Chadwick denies calling Ms. O'Reilly a "fucking bitch". He describes her tone as assertive and "over the glasses".

38. He turned and walked towards the elevator. The elevator doors opened, Cst Lavoie walked off the elevator carrying a hamper of goods for donation. He got on the elevator and then heard Demning yelling to him "that's not very professional, Mr. Chadwick, you don't have the right to talk to somebody like that" and the elevator door closed.

39. The incident lasted a maximum of three minutes.

40. After the incident, Cst Chadwick went to the police station to deliver another receipt. His instinct was that there “was a stir” and that a complaint to the Chief would likely arise from the incident as he had “upset her”. So he proceeded to try to relate to Supt Hansen what had occurred. The latter put his hand up and told him to stop before he could start his story as Ms. O’Reilly was already on the phone with the Chief.

STANDARD OF PROOF

41. The Act provides:

Decision of the Arbitrator

32.6(1) If the arbitrator finds on a balance of probabilities that a member of a police force is guilty of a breach of the code, the arbitrator may impose any disciplinary or corrective measure prescribed by regulation.

42. While the facts in cases concerning discipline of professionals vary, certain principles can be derived from their review:

- i. The consequences of a finding that a professional has breached his or her code of conduct is a very serious conclusion.
- ii. Therefore, while the standard of proof is the civil standard of the balance of probabilities, the evidence must be clear, convincing and based upon cogent evidence accepted by the tribunal.
- iii. Stated otherwise, the evidence must be strong and unequivocal.¹¹

DECISION

43. The Arbitrator is not convinced that on the balance of probabilities that Cst Chadwick is guilty of a breach of the Code of Professional Conduct. The evidence is less than unequivocal. The Complaint is dismissed.

REASONS FOR DECISION

44. Seven other witnesses testified. A careful reading of the transcript of the arbitration hearing yields too many inconsistencies in the evidence.

Co-workers on the third floor

45. Glenda Underhill (“Ms. Underhill”) is a payroll and benefits officer in the HR Department. Ms. O’Reilly describes her office as six feet or so from her desk. Ms. Underhill testified that on December 2, 2013, she was on the phone with a co-worker and could hear voices that were louder than usual. One was a male voice. She could not hear what was being said and she did not interrupt her conversation to listen or to go see what was being said. The voices were not loud enough to be of concern.

¹¹ See for example: *R. v. Chapman* (1958), 121 C.C.C. 353 at p. 362, 29 C.R. 168 at p. 177, 26 W.W.R. 385; *Re Robb and Council of Dental Surgeons of B.C.* (1964), 46 D.L.R. (2d) 202; *Re Bernstein and College of Physicians and Surgeons of Ontario* 1977 CanLII 1072 (ON SC); *Jones (Re)*, 2013 IIROC 58 (CanLII); *Law Society of Upper Canada v. Yaroslav Mikitchook*, 2009 ONLSP 7 (CanLII).

46. In a statement she gave on January 17, 2014¹², Ms Underhill said:

“... the male voice was raised and it wasn't friendly but I didn't hear any yelling ...”

47. Ms. O'Reilly went to Ms. Underhill's office within a minute of her hearing the noise. Ms. Underhill was then working on payroll matters and Ms. O'Reilly advised her that she had had words with Cst Chadwick. Ms. Underhill described Ms. O'Reilly as “very upset”. She says that after this conversation, Cst Lavoie arrived on the third floor with the box for the food drive.

48. Initially, Ms. Underhill testified that at the end of the conversation she heard Ms. O'Reilly say, “... that's [not] very professional Todd”. After being shown her January 17, 2014 statement¹³, where no mention of this is made, she testified that she could not say exactly what was said and then that she could not remember, only that Ms. O'Reilly was very upset.

49. Paula Shaddick is the administrative assistant in the City's Engineering Department. She sits about twelve feet from Ms. O'Reilly. She can see the edge of Ms. O'Reilly's desk from her chair. On December 2, 2013, she was on the phone. She could hear a loud male voice. She heard Ms. O'Reilly's voice faintly. She could not hear what was being said.

50. Whatever happened the morning of December 12, 2013 can hardly be described as a “tirade” by Cst Chadwick. When two people sitting no more than 12 feet away from the event cannot make out what was being said, it is safe to conclude that while voices surely raised an octave or two, the discussion was far from being a threatening one. There was no yelling.

Constable Jason Lavoie

51. Cst Lavoie corroborated that on the morning of December 2, 2013, he met Cst Chadwick as he got off the elevator on the third floor, Cst Lavoie exiting the elevator as Cst Chadwick was entering. Ms. O'Reilly denies the two officers were on the third floor at the same time.

52. Cst Lavoie did not know who Ms. O'Reilly was until she identified herself after she greeted him. She was visibly upset and her tone was angry, as if she had been in an argument with someone. After he set down the box for the food drive, he asked Ms. O'Reilly how her day was going. She then pointed to the elevator and said: “good, until that asshole come in”.

53. Ms. O'Reilly says she does not remember saying this and that this is not the type of language that I use”. Then she said that she “could've said it” but doesn't remember saying it. She agreed it would have been rude and ignorant to call Cst Chadwick an “asshole”.

¹² Exhibit O-7.

¹³ *ibid.*

54. Cst Lavoie then testified as follows:

“So at this point I, I believe I made the comment, asked her what was going on or what had happened and she tells me that Todd had come in, made some request to have some, something changed on some documents. She explained to him that she didn't draw the papers up or, or whatnot and couldn't change them because she didn't -- something to do with the paperwork that she wasn't able to change what he was requesting. She told me that he stated that she was being ignorant or rude. Again, Todd makes the request again to have this changed, she explains to him again she can't, at this time she tells me that Todd made the comment to her 'you're being nothing but an ignorant bitch, an ignorant fucking bitch'. And then she tells me that she had said to Todd at that point that, you know, 'that's not being very professional, just because you're not in a uniform you can't talk to people that way'. And I believe at that point she may have said something to the effect like 'I don't deserve to be talked to that way' or something and I said 'well, if you're seeking to make a complaint or something of that nature, like you would need to speak with management.’”

55. Ms. O'Reilly denies saying this to Cst. Lavoie but agrees that it would have been a breach of the City's Confidentiality Policy¹⁴ to tell him what had occurred between her and Cst Chadwick.

Todd MacLean

56. In cross-examination, Ms. O'Reilly testified that she greeted Cst Chadwick by saying good morning and denied ignoring him, being dismissive or abrupt. She testified: “I treat everyone with respect.”

57. Counsel to Cst Chadwick called as a witness Todd MacLean (“Mr. MacLean”) a local independent cab driver who was involved in a confrontation November 10, 2013 with Ms. O'Reilly and her husband over a taxi fare she thought was excessive.

58. According to Mr. MacLean, after getting into an argument over the fare that was owed:

“... [Ms. O'Reilly] became extremely belligerent and excited. She started getting like really irate, like really irate, it surprised me, but -- and both of them were in the back seat... Mrs. O'Reilly became verbally abusive.

...

“She said, 'you are a fucking dirt bag cab driver'. And the more she went, the more excited she got. She got to the point where I started getting concerned about my safety. I instructed her to exit the cab, it was starting to get serious, I said, 'ma'am', I said, 'I'll ask you to exit the cab or I'll have to call the police'. She said, 'call the fucking police, I don't care, ah, you fucking dirt bag cab driver'.

...

“[her husband] took out two five dollar bills and he threw them on the front seat and whereupon she told him to take the money back and put it in his wallet 'that we aren't, not paying this fucking cab driver for driving us to Taintville 'cause the other people already fucking paid for us.

she was really, really, really, extremely irate, cursing and swearing 'this fucking dirt bag cab driver, fucking dirt bag cab driver' and she said 'you'll never drive a cab in the City of Miramichi again'. I've never met the lady before in my life, I don't know her, I don't want to ever meet her again. She -- I said 'ma'am, please pay the fare, I'm going to have to call the police and the only thing that you're going to get is arrested' and she said, 'you fucking asshole' and she reached in the window and her, she got her arm in the window be – and I didn't want to put the window up 'cause it would cut her, it would jam her, so I held back and I moved back and she tried to get me like that and I moved away from her but she caught me by the coat and hauled me forward and she shook me like a rat, she shook me like [phonetic sound] and I said 'ma'am, move away from the car, you're going to be arrested'. She pulled out her hand out of the window and she went to the door, she stood at the door, she held the door opened, she said 'fucking dirt bag cab driver' and he took her in the house physically.

59. Ms. O'Reilly denies the driver's allegations. She believes the taxi driver was rude and disrespectful towards her, and owes her an apology for overcharging on his fare. She denies reaching in the vehicle's window and grabbing him by the collar. She denies hurling profanity towards the driver and throwing money at him. She questions whether he was actually a taxi driver, although she agreed he was "acting in that role".

60. She also denies being intoxicated that evening. Mr. MacLean did report the matter to the City Police. The officer dispatched to intervene in the matter, Corporal Lorri McEachren testified that Ms. O'Reilly "was pretty full".

61. The language used by Ms. O'Reilly with both Cst Lavoie and Mr MacLean is not consistent with someone who treats everyone with respect.

Contradictions in evidence

62. Ms. O'Reilly was asked in cross-examination whether she had told Cst Chadwick that he could make an appointment with Ms. Savage to resolve his issue. The first time she testified telling him twice that he could do so. After she was shown her statements¹⁵ and it being pointed out to her that there is no mention of this in them, she responded "I don't remember." When pressed, she said "I might've".

CONCLUSION

63. No doubt, there were words exchanged between Demning O'Reilly and Todd Chadwick the morning of December 2, 2013. But on the balance of probabilities, it is just as likely that Ms. O'Reilly was being rude and ignorant towards Cst Chadwick, rather than the other way around. It is doubtful that she has a "distaste or hatred for the police" or is holding a grudge against the police as suggested by Cst Chadwick in his statement,¹⁶ but she is no wilting violet. There are too many inconsistencies between her statements¹⁷, what she told Cst Lavoie and her *viva voce* evidence.

¹⁵ Ibid.

¹⁶ Exhibit C-8.

¹⁷ Exhibit O-4.

64. As pointed out by counsel for the Chief, the standard of conduct to which police officers are held, even in their private lives, is a high one given their role within the administration of justice and the status they hold. But even police officers are allowed to tell people they are being rude and ignorant when it is a fact, provided their tone remains reasonable and non-aggressive.

Dated at Moncton, New Brunswick on August 18, 2014.

G. Robert Basque, Q.C.
Arbitrator