

FEDERAL COURT OF APPEAL

BETWEEN:

(EI Claimant)

Applicant

AND

ATTORNEY GENERAL OF CANADA

Respondent

Rule 397: Reconsideration Motion

[re:] **Rule 364: Motion Record**

Submitted: 2026-03-##

(EI Claimant)

(PII Redacted)

RULE 397: RECONSIDERATION MOTION

TABLE OF CONTENTS

BM / #	Document	Date
[2a] 2	Table of Contents (<i>Motion Record</i>)	2026-03-##
[2b] 3	Notice of Motion (<i>Reconsideration</i>)	2026-03-##
[2c] 8	Affidavit of (<i>EI Claimant</i>)	2026-03-##
[2d] (N/A)	(<i>Transcript of FCA Hearing</i>)	2026-02-##
[2e] 11	Written Representations	2026-03-##
[2f] 37	Reply Representations	2026-04-##

Court File No: #A-##-24

FEDERAL COURT OF APPEAL

BETWEEN:

(EI Claimant)

Applicant

AND

ATTORNEY GENERAL OF CANADA

Respondent

Rule 359: Notice of Motion [re:]

Rule 397: Reconsideration Motion

Submitted: 2026-03-##

(EI Claimant)

(PII Redacted)

RULE 359: NOTICE OF MOTION (RE:)

RULE 397: RECONSIDERATION MOTION

TAKE NOTICE THAT **(EI Claimant)** will make a motion to the Federal Court of Appeal under rule 369.2 of the [Federal Courts Rules](#).

THE MOTION IS FOR **Motion to Reconsider**. (Rule 397)

THE GROUNDS FOR THE MOTION ARE: (*inter alia...*)

(1) Jurisdiction Error re. the EI Act: Just Cause (Decision: ¶5-8 §397[1][a+b])

This Court ‘overlooked [or] omitted’ our **core** ‘matter’: an EI Act ‘*Rizzo Analysis*’. (§29-§33: *Just Cause, Entitlement & Disqualification*) This was based on *wilful refusal* of **required** Jurisdictional authority by the SST. By not addressing this matter, the FCA effectively endorsed it – and enshrined this into binding EI precedent.

Compare our opening ‘Introduction’ to this Honourable Court’s Decision Order.

“[§0.1: Intro]: To be clear from the outset, we are not asking this Court to assess the reasonableness of any employer’s policy. And we are **not** advancing arguments about human rights, medical issues, or scientific questions. Our objective has always remained the same: to ensure the EI Act is faithfully applied as written.”

“[¶6]: However, the Appeal Division reasonably concluded that these issues are beyond the scope of the SST’s mandate under the EI Act. They must be addressed by other decision makers and under different statutory regimes...

“...[w]ere the applicant’s submissions to be upheld, the Social Security Tribunal would become a forum to question employer policies and the validity of employment dismissals. Under any plausible reading of the legislation that governs the Tribunal, it is a forum to determine entitlement to social security benefits, not a forum to adjudicate allegations of wrongful dismissal’.” (EIA §29c by ‘other’ ADMs? Who?!)

We were clear: “we [we]re **not** asking this Court to assess the *reasonableness* of any employer’s policy.” We were **not** seeking “adjudicat[ion of] allegations of wrongful dismissal.’ We *never* alleged ‘wrongful dismissal’. We sought “to ensure the EI Act is faithfully applied as written” by doing *statutorily-required legal analysis*. *EIA: §29(c)*

Our Record provided detailed Parliamentary Hansards & SST Case History *proving Legislative Intent*: that ‘**Just Cause**’ *is required analysis* – *including* in ‘contentious separations’ (*allegations of Misconduct*). This *specifically involves* ‘contrary to law’ analysis and examining ‘significant changes’ to key terms in employment contracts.

Our Submissions listed *consistent use* of Just Cause Analysis in the 6 years prior to pandemic (*1300+ SST uses*). This specifically included 450 Misconduct-related Cases, of which 174 were Allowed. (*Plus 94 Cases of ‘Contrary to Law’ & Contract Analysis*)

This has been our ‘*primary argument*’ from the start – our first SST-GD Hearing: that the Tribunal was *erroneously* wielding Jurisdiction as a shield to **avoid** conducting **required** legal analysis. Doing so grants EI Benefits. This Court erred by ‘overlooking [or] omitting’ **all** related evidence & submissions, thereby misinterpreting §29-§30 the Act, validating this foundational error *and* effectively turning it into binding precedent.

(2) Errors in Fact & Law: Ignoring Key Facts & Arguments in Record §397(1)(b)

“[¶5]: The AD’s conclusions are **supported by the evidentiary record, respect the statutory constraints of the EI Act** and meet the *Vavilov* threshold for justification.”

The last ground only *partially* cited the authoritative evidence of **Legislative Intent** in the record – all of which was ignored in the decision. This Court erred by ‘omitting’ overwhelming evidence & arguments, and misinterpreting §29-§30 the EI Act.

(3) Procedural Fairness: Hearing Time

This was compounded by an unprecedented reduction in Hearing length compared with our unchallenged Requisition time. This prevented us from making complete Submissions on the legal foundations. We highlighted this *procedural unfairness* and were still not given sufficient time to argue “15 errors across 7 categories, including multiple matters of first impression [] and a Rizzo Analysis of the relevant provisions.”

We did make the following oral submissions after the Court opened by saying they were “**familiar with our evidence and arguments.**” However, in this Court’s Decision, this evidence was not considered – it wasn’t even mentioned. We were prepared to make detailed Oral Submissions on this specific issue but were prevented by our significant reduction in Hearing time. Otherwise, we *could have* “**[¶5] convinced [you] that this jurisprudence is manifestly wrong so as to permit [you] to depart from it.**”

“**[§1: Summary]:** Your Honours, because of time constraints I won’t be able to walk through the full Legislative Process section today. My filed [docketed] factum contains *47 paragraphs + 81 footnotes* detailing the EI Act, the [Parliamentary] Hansard record, and the documentary evidence before you – incl. our Rizzo analysis of EI Act §29–§33 on Just Cause, Entitlement & Disqualification. **(cf. p.1284-94)**

This includes the *Rule of Law & Jurisdictional* issues that arose during the pandemic, and the Private & Common Law principles that govern these cases. They are listed under **Problems #1-2, in §B-F.** (cf. Record: [Arg] p.244-54, [Hansard] p.539-722)

I respectfully ask the Court to *consider that material carefully*. It sets the foundation for what follows. Understanding **what Parliament intended** – and how E.I. adjudication *normally operated before* the pandemic – is essential to understanding the depth of the problems we are addressing today.”

Preventing us sufficient time to make submissions on these *precedential matters of first impression*, foreseeably led to the aforementioned **Jurisdictional, Legal & Factual Errors**. Since these errors impacted **~450,000 Claimants and \$13-billion** in Benefits, this amounts to **fairness problems** in matters of National Public Importance.

(4) Any other legitimate and serious Grounds.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion: **(*inter alia...*)**

- (1) Any Appellant Affidavits,**
- (2) Existing Case Record,**
- (3) Hearing Oral Arguments,**
- (4) Recent Decision Order**

Respectfully Submitted,

On: 2026-03-##

~ (EI Claimant)

FEDERAL COURT OF APPEAL

BETWEEN:

(EI Claimant)

Applicant

AND

ATTORNEY GENERAL OF CANADA

Respondent

Rule 364(2)(c): Affidavit of (EI Claimant)

[re:] Rule 397: Reconsideration Motion

Commission: 2026-03-##

Submitted: 2026-03-##

(EI Claimant)

(PII Redacted)

RULES #80 & #364(2)(C): AFFIDAVIT OF (*EI CLAIMANT*)**RE. RULE #397: RECONSIDERATION MOTION**

I, (*EI Claimant*), of (*City*) (in the (*Region*)), AFFIRM THAT:

1. [Purpose]: I make this Affidavit in support of my Motion to Reconsider the Bench Decision of the Federal Court of Appeal, dated February ##, 2026. This was a Judicial Review of (SST TM)'s Decision of the Appeal Division of the Social Security Tribunal (*SST*), rendered on January #, 2024.

2. [Evidence]: I rely on the full Record before the Federal Court of Appeal, *inter alia*, my intended **full** Oral Arguments, **half** of which I was forced to eliminate due to **procedurally unfair** Time Constraints at my Hearing. While I could not present my full Oral Submissions, they were based upon written Submissions already in the 'full Record', *inter alia*, my Affidavits, Memorandum, Documentary Evidence, and other material properly before this Court.

3. [Re-Adjudication]: This is not intended as a 'collateral attack' and **I am not** seeking to have this Honourable Court **readdress** the **significant errors** raised at my recent Hearing, which were almost completely unaddressed in its Bench Decision. While I respectfully disagree with Court's Decision to **avoid addressing these merits**, I am currently seeking Leave to Appeal at our **SCC on these specific matters**, as **it** is now the correct forum to fix **these injustices**:
(e.g. Internal Memos overriding Acts, CEIC arguably Changing Facts, Misciting Case Law 'out-of-context' ~2500 times, 'reverse-engineering' Outcomes using prewritten Decision Templates, changing tests by inserting logic errors, et al.)

4. [Reconsideration]: I **am** seeking Reconsideration of this Court on one specific issue, which has *consistently* been identified as *the most fundamental component* of my Case: the **statutory** issue of **Just Cause**, which was not

even mentioned in this Court's Decision. 'Overlooking' or otherwise not dealing with *the* 'Primary Issue' in my Case *is* statutory grounds for Reconsideration. Furthermore, this is *the* **fundamental statutory interpretation error** underlying many cited E.I. Cases. Not addressing this matter violates the basic principle of statutory interpretation, rendering all claims to 'precedent' invalid.

5. [Impact]: The E.I. Adjudication process – as defined **by Parliament** in the **E.I.** & DESDA Acts – is a **ministerial process**. The only authority ADMs possess derives from these statutes. When these **laws** are clearly, repeatedly violated by them, Judicial claims to Precedent **cannot** stand as Justification – which is the foundational premise underlying this Court's oft-cited chain of precedential Decisions. It turns **lawbreaking** into **mandatory 'precedent'**.

6. [Error]: Despite **not** being granted sufficient time to make fulsome Oral Submissions – a *procedural unfairness* already highlighted in the full Record – there *was* an abundance of evidence properly before this Court which was **completely ignored**. My detailed **Rizzo Analysis** of the relevant provisions of the E.I. Act (*§29-§33: Just Cause, Entitlement & Disqualification*) was supported by key Hansard volumes, many citations of Legislative Intent, and numerous historical SST Decisions **proving** that ADMs **understood** their legal obligations in these scenarios. **Just Cause** is *the* primary matter to consider. And **unlawfully** wielding **Jurisdiction** to avoid this test demands reasons.

7. [Therefore]: This Motion petitions this Court to Reconsider its Order – [*to wit*] specifically addressing **Just Cause** – and all my *unanswered evidence & arguments* addressing this **statutory, ministerial, foundational matter**.

Respectfully Submitted,

On: 2026-03-##

~ (EI Claimant)

FEDERAL COURT OF APPEAL

BETWEEN:

(EI Claimant)

Applicant

AND

ATTORNEY GENERAL OF CANADA

Respondent

Rule 397: Reconsideration Motion

***[re:]* Rule 364(2)(e): Motion Factum**

Submitted: 2026-03-##

(EI Claimant)

(PII Redacted)

TABLE OF CONTENTS

Contents

Table of Contents	ii
Written Representations	1
Part 1: Background.....	1
Part 2: Legal Issues.....	3
Issue #1: <i>Just Cause</i> : What the Law <i>Requires</i> in EI Adjudication	3
Issue #2: <i>Jurisdiction</i> : What the Law <i>Requires</i> of EI Adjudicators	3
Issue #3: <i>Hypocrisy</i> of ADMs in ‘ <i>C19 Mandate Misconduct</i> ’ Cases	4
Part 3: Law & Submissions.....	4
(A) Summary: <i>Just Cause</i> is <i>Required</i> Analysis <i>by Law</i>	4
(B) Evidence re. <i>Just Cause</i> Analysis <i>pre-Pandemic</i>	5
(C) Rizzo Analysis re. <i>Just Cause</i> Analysis (<i>EI Act</i>).....	5
(D) <i>Unanswered</i> Arguments re. <i>Jurisdiction</i> (<i>Just Cause</i>).....	12
(E) <i>Hypocrisy</i> re. <i>Just Cause</i> Analysis (<i>C19-MM Cases</i>).....	16
Part 4: Order Sought	24
Part 5: Authorities	24

**** Page numbers reference the Factum, not the Motion Record. (Bottom Right) ****

WRITTEN REPRESENTATIONS

PART 1: BACKGROUND

1. This Motion requests the Court to Reconsider its Decision from Feb. ##, 2026 under Rule 397. Specifically, it **overlooked** what was consistently identified as the ‘**Primary Issue**’ of my Case – the failure of *every* decision-making body to adhere to the EI Act by **refusing** to conduct **Just Cause** analysis *required* under [§29\(c\)\(xi/vii/ix\)](#).

2. The Court did *not* mention ‘Just Cause’ anywhere in its Decision, despite the fact that ~30% of my Factum and Evidence addressed this specific problem. The EI Act is **ministerial – not discretionary** – EI ADMs do *not* have the authority to avoid *statutorily-enumerated* legal analysis (*[only] when it is inconvenient*). (*Especially when this same analysis is done in hundreds of other SST EI Decisions.*)

3. I did argue many other serious procedural errors that were also largely ignored in its Decision, but the Court cited a chain of precedents to make that determination. I strongly – and respectfully – disagree with that reasoning, and I am seeking Leave to Appeal these **widespread errors** with our esteemed Supreme Court. Among them:
 - a. ADMs Relied on **Falsified Employment Records**: violating [Criminal Code §398](#).
 - b. ESDC issued an **internal memo** which overrode the EI Act. ([Vavilov ¶95](#))
 - c. The CEIC arguably **changed facts** in EI Cases *ex post facto* upon SST Appeal.
 - d. The SST uses **prewritten** Decision Templates that **determine** Case Outcomes.
 - e. The SST cited **erroneous precedents** that facially violate the EI Act. (*EI Funding*)
 - f. ADMs **miscited Case Law** ‘out-of-context’ in *thousands* of EI Decisions.
 - g. ADMs used a composite ‘4-Part Misconduct Test’ with *two* **Logical Fallacies**.
 - h. ADMs used **circular reasoning** by *dispositively* citing ongoing cases *still under Appeal*, instead of addressing arguments that *distinguished* the precedent chain.

- i. The SST ‘**reverse-engineered**’ **outcomes** by choosing Templates with reasons that *contradict their own prior Decisions*, instead of addressing the argued pleadings.
- j. Ignored errors specific to my Case that were identified in the Tribunal Decisions.

4. This Reconsideration request does *not* seek to relitigate those errors. It is specifically focused on my ‘**Primary Issue**’ – one which was **overlooked** in its Decision. EI ADMs are *refusing* to conduct **statutorily-required analysis** in *thousands* of cases – for a *specified subset* of Claimants – while properly doing so in remaining Claims. (*Erroneous reliance on ‘jurisdiction’ is often cited to ‘justify’ this violation of the Act.*)

5. I am specifically seeking to have the Court **provide Reasons** explaining **how & why** EI ADMs can *arbitrarily* refuse to conduct *required* Just Cause analysis. It was done **hundreds of times** *prior* to the pandemic – and conducted *nearly 100 times* during it. (*incl. other pandemic mandate cases: e.g. Masking: [2021 SST 377](#), ¶29-33*) When EI ADMs *break the law*, **reasons are required** to justify this injustice. Claims to precedent cannot stand – *without reasons* – especially when this Decision **ratifies lawbreaking as future precedent** (*mandating more future lawbreaking*)...

6. My FCA Affidavit (*in the Record*) documents the history of my unaddressed arguments about this egregious violation of justice (*throughout my SST History*).¹ My SST-AD written arguments contain my comprehensive Rizzo analysis of the Act.^{2, 3} Every adjudicative body has refused to conduct Just Cause Analysis – *without reasons*.

7. At my FCA Hearing, I briefly mentioned the importance of this *foundational issue* – and the Court acknowledged that they were familiar with my pleadings. I did have the time to briefly mention how & when Just Cause analysis was done in other cases.⁴ Unfortunately, this matter remained unaddressed – again – without reasons.

¹ FCA Record: p.24-76 (*Affidavit of (EI Claimant):* ¶46-48, ¶58, ¶68)

² FCA Record: p.244-253 (*[P16] ADN06 – Written Arguments [AD-23-694]*)

³ FCA Record: p.539-722 (*[D03..05] Parliamentary Hansards: C-21, C-105, C-113*)

⁴ FCA Hearing: §1: ‘Summary’ (*Somewhere between the 9-15 min mark*)

8. In its Order, after citing a list of precedents (¶5), this Court cited *Sullivan*:
[¶6]: “[w]ere the applicant’s submissions to be upheld, the Social Security Tribunal would become a forum to question employer policies and the validity of employment dismissals. Under any plausible reading of the legislation that governs the Tribunal, it is a forum to **determine entitlement to social security benefits**, *not* a forum to adjudicate allegations of wrongful dismissal.”

I did *not* seek *any* of the underlined determinations. The **only** thing I sought was to “ensure the EI Act was *applied faithfully* as written”⁵ – *or, like Sullivan*: “**determine entitlement to social security benefits**.” I am seeking the same thing as this Court: and under the EI Act, ‘disentitlement’ from Benefits *is based on* Just Cause Analysis.

PART 2: LEGAL ISSUES

Issue #1: *Just Cause: What the Law Requires in EI Adjudication*

The EI Act **requires *Just Cause Analysis*** when adjudicating EI Claims. This Test was moved into the **Interpretation** section of the Act, making it foundational. The Reason for Employment Separation & nature of the Case do *not* change this reality. Even ‘contentious separations’ when employers *allege* Misconduct requires J/C.⁶ (*A Rizzo Analysis of the Hansards underlying this amendment are unequivocal.*)

Issue #2: *Jurisdiction: What the Law Requires of EI Adjudicators*

The EI Act & DESDA [Act] grant SST TMs the Jurisdiction (*‘Powers of Tribunal’*) to examine “*any question of Law or Fact necessary*” to determine the Claim. The unbroken six-year history of SST Decisions *prior* to the Pandemic containing this Analysis **proves** that ADMs *knew* Just Cause fact-finding was **required** by Law.

⁵ FCA Hearing: §0.1: ‘Introduction’ (*Somewhere between the 1-3 min mark*)

⁶ FCA Record: p.1286-87, Factum: ¶18(g-h) & FN:24-30 (*e.g. Hansard: p.716*)

Issue #3: Hypocrisy of ADMs in ‘C19 Mandate Misconduct’ Cases

The *new* ‘jurisdictional’ excuses *and* ‘selective’ application beginning in mid-2021 violated *both* the statute *and* precedents – and it started with pandemic mandates. Neither the Law nor precedent changed, making these wilful & unlawful actions.

PART 3: LAW & SUBMISSIONS

(A) Summary: Just Cause is Required Analysis by Law

9. Both the Law – *and* the *unanimous* Hansard record developed during the EI Act’s relevant Legislative History (1988-1996) – **prove** what **Parliament Intended** for ADMs when *deciding* Claims. The *unbroken practice* of **applying Just Cause** prior to the pandemic **proves** they (ADMs) **knew** what Parliament intended under the Acts.

10. It wasn't until *unilaterally* ‘**changed contracts**’ and ‘**contrary to law**’ **Lock-Outs** (*both* statutory *Just Cause* reasons) put **~450,000 Canadians** out of work *in mere months*, did EI ADMs change this **required fact-finding process** – *in secret*. The forthcoming **\$13B drawdown** on the EI Operating Account [‘EIOA’] (**~50% of the entire pot**) would have [likely?] collapsed EI – or forced a major rise in premium rates (*from* ~3.5% to 6%+) – for which Trudeau’s government would be blamed.

11. Our evidence (*Record*) contains a **Rizzo Analysis** of the relevant sections of the Act (§29-§33). It contains *dozens* of *authoritative statements* from [Deputy] Ministers, Parliamentary Secretaries, UI & ESDC Directors, and MPs stating their **Legislative Intent**. They were **unanimous: Just Cause** was **intended** to be **the** governing basis by which to [dis]entitle Claimants from Benefits.⁷

⁷ FCA Record: p.1284-88; Factum §B: ‘Rizzo Analysis’ (+*Hansards*: p.539-722)

(B) Evidence re. Just Cause Analysis pre-Pandemic

12. Equally important, examining [modern-era] Tribunal Decisions from their *first six years (2013-2019)* **proves** that ADMs *both* understood *and* upheld this **statutory requirement**. **Just Cause Analysis was done consistently prior** to the pandemic – and **hypocritically**, during the pandemic for [Mask Mandates](#) (among others).

Before the pandemic (2013-19): [1307 Cases](#) contained general J/C. ([386 Allowed](#))

‘Misconduct’ specific (2013-19): [451 Cases](#) contained general J/C. ([174 Allowed](#))

Before the pandemic (2013-19): [542 Cases](#) contained §29(c) Analysis. ([193 Allowed](#))

‘Misconduct’ specific (2013-19): [215 Cases](#) contained §29(c) Analysis. ([79 Allowed](#))

Also: [94 Cases](#) used ‘[29\(c\)\(xi/vii/ix\)](#)’ Analysis *pre-pandemic (2013-2019)*:

[i.e.] ‘*Contrary to Law*’ or ‘*Contracts Changed*’ Analysis ([38 Misconduct](#))

Also: [93 Cases](#) used ‘[29\(c\)\(xi/vii/ix\)](#)’ Analysis *during the pandemic (2020-2024)*:

[i.e.] ‘*Contrary to Law*’ or ‘*Contracts Changed*’ Analysis ([10 C19-MM](#))

(C) Rizzo Analysis re. Just Cause Analysis (EI Act)

Issue #1: The Law (Parliament) Requires Just Cause Analysis

Problem #1 – Error #1 (History of the EI Act: Just Cause + Disentitlement)

From: Factum §B-§C – Legislative Intent & History (from: ¶28-58 & FN:13-74)

7 Points at Issue – 4 Grounds of Review – 2 Vavilov Principles

13. I opened the main section of my Oral Arguments with the following plea: ⁸

“Your Honours, because of time constraints I won’t be able to walk through the full Legislative Process section today. My filed factum contains **47 paragraphs and 81 footnotes** detailing the EI Act, the Hansard record, and the documentary evidence before you – including our Rizzo analysis of EI Act §29-§33 on **Just Cause, Entitlement & Disqualification**.”

⁸ FCA Hearing: Oral Argument, §3: ‘Solution’ (between 15-20 minute marks.)

This includes the Rule-of-Law and Jurisdictional issues that arose during the pandemic, and the private and common-law principles that govern these cases. They are listed under **Problems #1 & 2, in §B-§F**.

I respectfully ask the Court to **consider that material carefully**. *It sets the foundation for what follows.* Understanding what **Parliament intended**, – and **how EI adjudication normally operated before** the pandemic – is essential to understanding the depth of the problems we are addressing today.”

Overview & Summary

14. Applying the *modern principle of statutory interpretation* through a **Rizzo Analysis** is established in both jurisprudence and statute.^{9, 10} In my SST-AD written submissions, I spent six pages examining the EI Act’s Legislative History and Purpose, focusing on §29(c) (*‘Just Cause’*) & §30–33 (*Disentitlement & Disqualification*).

That *Rizzo Analysis* of **Parliament’s Legislative Intent** was ignored in [SST] (TM)’s Decision. Worse, the mandatory requirement to conduct Just-Cause fact-finding has been consistently avoided in ‘Mandate Misconduct’ EI Decisions, despite its routine application up until mid-2020.

15. To summarise: the EI Act identifies **fourteen** factors that ADMs *must* consider when determining whether Claimants have *Just Cause* for leaving their employment. This provision developed over three Bills: C-21 (1990), C-113 (1993) & C-12 (1996).

Section 29, defined as **‘Interpretation’** provides the framework:

§29(c): “For the purposes of §30–33 [Disqualification & Disentitlement]:

Just Cause for voluntarily leaving an employment or taking leave from an employment exists *If* the Claimant had no reasonable alternative to leaving or taking leave, having regard to **all** the circumstances, including:

⁹ 1998 SCC 837: Rizzo Shoes (Re), [¶31-35]: This holding *depended on “us[ing] Legislative History [to] determin[e] the Legislature’s Intention”* by **citing Hansards**.

¹⁰ Interpretation Act [§10]: ‘Law Always Speaking’

§29(c)(xi): Practices of an Employer are Contrary to Law [also note subs: 7/9/13]

§29(c)(vii): Significant Modification of Terms & Conditions respecting Wages or Salary,

§29(c)(ix): Significant Changes in Work Duties.

§29(c)(xiii) Undue pressure by an Employer on the Claimant to Leave their Employment.”

Note the inclusion of *both* ‘voluntary leaving’ *and* ‘taking leave’. *Just Cause* is **the test** that EI adjudicators must apply when determining eligibility. My submissions proved this, yet both Tribunal Members refused to engage with it.

Brief Legislative History of the EI Act

16. Here is the brief Legislative History of Entitlement Rules under the EI Act:

[1971] – **Bill C-229**: Parliament made the UI program *universal*, extending coverage to many special situations, including both voluntary quits and dismissals.

[1980s] Deindustrialization and free-trade produced major economic damage, high unemployment, and significant UI deficits. UI became a national political issue, prompting major institutional studies into Canada’s ‘unemployment crisis’. During the late 1980s, *both* the House and Senate undertook detailed *two-year investigations*, producing **over 4,000 pages of Hansard transcripts** across four volumes. (*Bill C-21*)

[1990] – **Bill C-21**: Parliament ended federal (*taxpayer*) contributions to UI. To offset this revenue loss, they set new Penalties for Quits, Dismissals & related Separations, which sparked extensive debate. The term ‘**Just Cause**’ appears **348 times** in the C-21 Hansards [alone]. MPs and UI Directors emphasised that penalties must *not* be imposed on workers who had *legitimate reasons* for ‘leaving or losing employment’.

[1992] – **Bill C-105**: Without federal funding, UI hemorrhaged money: **-\$1.75B in two years**. To ‘save’ UI, Bill C-105 proposed **complete Disentitlement** for workers “without Just Cause,” which some MPs claimed would save **\$1B annually** by “preventing program abuse.” This proposal was deeply unpopular and triggered Canada-wide protests, MP sit-ins, occasional arrests, etc.

Hansards from early 1993 document: (1) an MP reporting threats to his family, ¹¹ (2) Employment Canada announcing the construction of *back doors* in adjudication rooms for staff safety, ¹² and (3) Persistent public pushback over blanket denials. ¹³

MPs from all parties raised serious concerns about harsh consequences, costly appeals, and the injustice of “sentences imposed before investigation.” They insisted that *If Just Cause* was to become *the* basis for total Disentitlement, it must be **clearly defined in law** – not buried across jurisprudence.

[1993] – Bill C-113: Just Cause Defined & Claimant Benefit of Doubt

After the political and public backlash against C-105, the government re-introduced these same reforms again just five weeks later. This time, Bill C-113 codified **14 ‘Just Cause’ categories** ¹⁴ derived from the **40 reasons in case law**. (Later reflected in *EI Digest §6.8.1: ‘List of 40 Circumstances to Consider’*) ¹⁵

MPs and Employment Canada Directors testified repeatedly that **Just-Cause analysis** and the **Benefit of Doubt** principle were **intended** to govern *all* EI adjudication: **including** quits, dismissals, and **employer-alleged ‘misconduct’ cases**.

Important Hansard Quotes

17. Here are **8 key** Hansard citations on *Legislative Intent*: [from] **1** sworn witness testimony, and statements from **5** Parliamentarians + **2** Employment Directors.

Consequences of UI Changes: (3 Citations)

Canadian Labour Congress: (Hearing #5: 1993-03-05, [Record: [p.657](#)]): ¹⁶
“Never in the fifty-two year history of the UI program has a change of this magnitude been introduced **without extensive consultation** with Workers and Employers, and

¹¹ MP Vincent Della Noce (PC), Parl. Secretary (C-105 Debate: Record: [p.626f](#))

¹² Hon. Warren Allmand (MP-LPC) (C-113 Clause-by-Clause: Record: [p.712-15](#))

¹³ Public outrage cited *6+ times* in 2 months: [[1:5:62](#)], [p.657](#), [[1:7:12](#), [1:7:18](#)], [p.713](#)

¹⁴ [EI Act, §29\(c\), ‘Just Cause’](#) [Definition]: (In ‘Interpretation’ Section in the statute)

¹⁵ **Hansard:** Bill C-113, ‘Just Cause’ [[1:5A:48-51](#)] (Record: [p.663-66](#))

¹⁶ **Hansard:** Bill C-113, ‘Just Cause’ [[1:5A:42](#)] (Record: [p.657](#))

never without cross country public hearings. *Never have permanent changes to UI been made in an Omnibus Bill advertised as Temporary Restraint measures. [...] This has outraged Canadians. Employed & Unemployed across the country have tried to have their voices heard. [They] have braved the bitter cold expressing their opposition. The depth of this outrage was demonstrated in one of the largest marches in Montreal's history. 50,000 people filled city streets on Feb. 7, 1993.*"

MP Vincent Della Noce [PC: Parliamentary Secretary] (C-105 Debate: [p.626f](#)) ¹⁷

"As you know, almost all Members' offices were invaded today by unions and groups. [] I have just spoken with the police and I received confirmation that there were violence and arrests [and] there have even been threats against our homes and families. [] I must tell you that if there is no protection tomorrow, probably I will not be able to come to sit here. [] When our families are affected because of a Bill, we realize that Members are no longer free to act in the House of Commons. Groups are now dictating to the government what to do. [...] be careful not to threaten our families which have nothing to do with this, our wives who have been alone for seven or eight days and our children who are truly defenseless. To these people, I say: 'Watch out. Do Not Dare cross the threshold of my house, just in case.' One thing is sure, my family is not responsible for this bill."

MP Warren Allmand [LPC: Employment Committees] (C-113 Debate: [p.713](#)) ¹⁸

"I have one question on this. The department has announced – and I don't know whether it was the Minister or Officials – that because of this bill you expected increased violence against officials of the department... You already had occupations of MP's offices. You are going to put in certain new security measures, including back doors... To what extent have you proceeded with these new security measures, and how much will they cost?"

Legislative Intent: (5 Citations)

MP Vincent Della Noce: (Parl. Secretary) (Bill C-105, House Debate: [p.628](#)) ¹⁹

Summary: Confirmed that Benefit of Doubt is *always* given to Claimants & that Just Cause fact-finding is universal, **including in employer-alleged 'misconduct' cases.**

"When a Claim for Benefits is submitted, UI Officers give to both the Employer and the Claimant the same chance to provide the required information. The Officer must hear both sides... Moreover [...] we give the Benefit of the Doubt to the Claimant. [...]"

¹⁷ MP Vincent Della Noce (PC), Parl. Secretary (C-105 Debate: **Record:** [p.626f](#))

¹⁸ Hon. Warren Allmand (MP-LPC) (C-113 Clause-by-Clause: **Record:** [p.713](#))

¹⁹ MP Vincent Della Noce (PC), Parl. Secretary (C-105 Debate: **Record:** [p.628](#))

*The Benefit of the Doubt is **never** given to the Employer. [...] If the Employer says that the Employee went out because of Misconduct and the Employee says it is because the Employer changed his hours or because of other reasons, I can guarantee my Hon. colleague that **I will fight for this person and he will not be Penalized...***

MP Pauline Browes (Minister of State: Employment) (C-105 Debate: [p.600-02](#))²⁰

*“the Benefit of the Doubt will go to the Claimant. This policy applies not only to people who quit their jobs voluntarily but to those whose Employers claim they were **fired for misconduct.**” (p.601)*

Julie Z.-Tanner (ESDC: Chief, UI Policy): (C-113: Hearing #1; [\[p.646f\]](#))²¹

Summary: Confirmed that the new EI Act changes require objective, thorough fact-finding. Just Cause analysis must be individualised, not generalised, and Benefit of Doubt is always given to the claimants.

*“...as soon as the Claimant comes through the door; they [...] identify a situation where **there might be Just Cause for leaving the employment** []. Of course, this is where we'll be emphasizing the principles on the Benefit of the Doubt.”*

*“...It is an objective evaluation of the facts, and it must take into consideration the individual circumstances of the Claimant. It is very important that we do not label Claimants leaving situations for any particular reason. [] It is **very important** that it is **individualized and not generalized.** [] The Act, the Regulations, and the Jurisprudence essentially provide the framework for the Fact-Finding and the consideration of what could be considered as Just Cause []. The Agent assesses the credibility of the information received, weighs it and determines on a balance of probabilities whether the decision was with or without Just Cause. When the evidence from one side contradicts the other and no information is uncovered that would tip the scale, then accordingly the Agents are instructed that Benefit of the Doubt must **always** go to the Claimant.”*

Gordon McFee (ESDC Director: UI Policy & Legislation Development):

(Bill C-113: Committee Hearing #9, 1993-03-16 [\[p.716\]](#))²²

*“UI legislation is [] **a rights and obligations program.** If Claimants fulfil certain obligations, **they have the unfettered right to receive UI** – obviously [] within the*

²⁰ MP Pauline Browes (PC), State Minister: Employment (C-105: Record: [p.601](#))

²¹ Julie Z.-Tanner (ESDC: Chief, UI Policy) (C-113 Hearing: Record: [p.644-648](#))

²² Gordon McFee (ESDC Director: UI Policy & Legis.) (C-113: Record: [p.716](#))

confines of the legislation. Therefore, *in any kind of contentious claim* – voluntary quits, [and] **misconducts** [] the Agent is **obliged** by policy, **by legislation** [...], to get all the facts, to assess the facts. [...] If the decision is not clear-cut, **the Benefit of the Doubt is given to the Claimant.**”

Hon. Bernard Valcourt (Employment Minister) (C-113: Hearing #9, [[p.686f](#)])²³

Summary: The **Minister** verified that UI complies with ‘natural justice’: when **employers allege misconduct, they** have the ‘burden of proof’ to prove it. Any Canadian who has Just Cause when leaving work is protected and receives benefits.

*“The thing is that a social program such as UI [...] is a benefit system that is administered according to the principles of natural justice, and the burden of proof required [...] is ‘on the balance of probabilities’. He who claims must establish the facts supporting his claim. If the Employer claims that he fired you for Misconduct, then he has the burden; if you claim that you left because you had a big headache, then you have the burden of establishing your headache [...] You ask what will happen to the person who quits? Where will [they] go? Well, that person will not quit [their] job **without a valid reason**. And **if the[y] ha[ve] one, [] then [they are] protected**. [...] If the[y] have [just] cause, then I have no problem, because the system is there to protect [them]. **That will happen.**”*

Section Conclusion

18. When this *Legislative History*, *Legislative Intent*, and the corresponding *Parliamentary Hansards* are considered in full context, three clear conclusions emerge:

- a. These reforms were among the most **contentious** in the history of the EI program.
- b. MPs from all three political parties consistently articulated two *unanimous* legislative objectives:
 - i. Protect the financial integrity of the UI program by preventing abuse and ineligible claims; and
 - ii. Ensure that workers **with Just Cause** are **protected, not penalised**.

²³ Hon. Bernard Valcourt (*Employment Minister*) (C-113 Debate: **Record:** [p.686f](#))

- c. Parliament repeatedly clarified the meaning and operation of ‘Just Cause’:
 - i. **Just-Cause fact-finding is *universal***: it applies to quits, terminations, **and employer-alleged misconduct**;
 - ii. Claimants receive the **Benefit of the Doubt** when entitlement-related evidence is evenly balanced;
 - iii. ‘**Just Cause**’ expressly includes situations where the employer **acts contrary to law**, imposes **significant changes** to the employment contract, or **unduly pressures** workers;
 - iv. MPs & witnesses cited various examples of Canadians forced to leave work due to unlawful employer conduct, stating that, whether they quit, were forced out, or were fired, such workers ***always* have Just Cause**.

(D) Unanswered Arguments re. Jurisdiction (Just Cause)

Issue #2: EI ADMs **must Conduct** Just Cause Analysis (*Jurisdiction*)

Problem #2 – Error #3 (*Rule of Law Violations from Misuse of Jurisdiction*)

From: Factum §E – Rule of Law & Jurisdiction (*from: ¶64-93 & FN: 79-108*)

7 Points at Issue – 4 Grounds of Review – 3 Vavilov Principles

[2006 SCC 2: ¶145-146] “...*this Court held that the Employer’s Management Rights were **limited** not only by the Collective Agreement but also by mandatory Legislative provisions. [] ...CBAs may give the Employer a broad right to manage the operations of the business. However, that power is **limited** by the Employees’ Statutory Rights even where the CBA is silent on the subject. [] A CBA cannot be used to reserve the right of an Employer to manage operations and direct the work force otherwise than in accordance with its Employees’ Statutory Rights...*”

(*from: Isidore Garon v. Tremblay, **Fillion & Brothers v. SNEGO**, 2006 SCC 2*)

19. It is **unreasonable** to say that employers can *codify conduct* that **breaks multiple laws and contracts** into policy and then justify enforcing those actions

because [quote] “*we created a policy giving ourselves this right.*” Issuing policy does not grant them the authority to break the law – or contracts. This is absurd.

20. The **Rule of Law** is foundational. Under the EI Act, when employers **act contrary to law or change contracts**, claimants possess **Just Cause**. That principle is reinforced by jurisprudence. Our Supreme Court repeatedly confirmed that employers are bound by the law – both in collective bargaining and arbitration – *and* when *exercising management rights*, including policy development and enforcement.

21. In numerous workplaces, including (*Employer*), the mandate-era policies placed frontline workers and middle-management (*especially HR staff*) into positions where enforcing the policies required them to engage in unlawful conduct.

A partial list includes:

a. **Canada Labour Code (RSC 1985, c. L-2)**

- Provisions prohibiting Lock-Outs (§88.1)
- Prohibitions against breaching Collective Agreements (§166–168)

b. **Criminal Code (RSC 1985, c. C-46)**

- Offence of Falsifying Employment Records (§398)

c. **Supreme Court Jurisprudence – Management Rights**

Courts have consistently held that *all* employer policies *must* comply with *both* legislation *and* employment contracts:

- *Parry Sound* ([2003 SCC 42](#): ¶[25-32](#))
- *Garon & Fillion* ([2006 SCC 2](#): ¶[145-46](#))
- *Irving* ([2013 SCC 34](#): ¶[24-26](#))
(codifies ‘KVP’: [1965 ON-LA 1009](#) [p.85])
- *AJC* ([2017 SCC 55](#): ¶[20-21](#))

d. Supreme Court – Constructive Dismissal (or Paid Administrative Leave)

Unilaterally imposed, non-disciplinary Administrative Leaves for “ready and willing” employees must be **paid**, and constitutes Constructive Dismissal *if not*:

- *Cabiakman* ([2004 SCC 55](#): ¶61f, ¶72)

22. These authorities make one point clear: employers *cannot* override binding contracts and laws of Parliament *by issuing policies*. They *cannot* break the law, nor can they compel workers to do so. Whenever their practices are unlawful, **Just Cause** must be recognised, regardless of who initiated the separation. The Act is clear.

Responsibilities of EI Decision-Makers

23. Across all branches of law – statutory, common law, and private contractual law – the **Rule of Law** remains foundational. In the EI context, this *requires* adjudicators to identify *why* employment ended by **conducting fact-finding**. And when Claimants meet *statutorily-enumerated Just-Cause* grounds, they *cannot* be denied benefits.

24. Parliament assigned EI decision-makers **jurisdiction** to investigate this. Trying to avoid this responsibility by [wrongly] invoking jurisdiction is **unreasonable**.

DESDA §64(1): “*The Tribunal may decide any question of law or fact that is necessary for the disposition of any application made or appeal brought under this Act.*” (i.e. they can investigate whatever is ‘necessary’ to **determine** eligibility.)^{24, 25}

25. Parliament does *not* grant ADMs authority, only to permit *abdication* when it’s ‘inconvenient’. This principle is not new. For over two decades, the Federal Court has held that requisite “**contrary to law**” analysis includes conduct that violates labour law *or* employment contracts:

²⁴ [DESDA] Dept. of Employment & Social Development Act (**Authorities: p.119**)

²⁵ The conditional ‘**may**’ does not grant ‘discretion’ to avoid fact-finding. It grants discretion to *decide* whether a *specific fact or question* is *relevant* to the fact-finding. As with all discretion in Admin Law, using this delegated authority requires reasons.

(CUB 51219) 2023 SST 1886: AM v. CEIC [¶98]: “The term ‘illegal’ has a broader meaning than merely ‘contrary to the criminal law’ and can include **contraventions of employment standards and legislation (CUB 16209 [1989]), collective agreements (CUB 51219 [2001]),** and licensing board certifications.”²⁶

26. Together, the statutory text, legislative intent, and case law impose a clear duty: **EI adjudicators must investigate employer unlawfulness when determining Just Cause.** Declining this is a *Jurisdictional Error* and breaches the Rule of Law.

Section Conclusion

27. In my case, the following three legal frameworks were directly engaged:

a. Statute Law: Canada Labour Code (CLC)²⁷

Being federally regulated, (*Employer*) is bound by this. It includes *both* labour-relations *and* health-and-safety provisions. Their actions amounted to **unlawful Lock-Outs** contrary to §88.1. (*§166–68 prohibit contract breaches*)

b. Private Law: Employment Contract (CBA)²⁸

Our CBA is the private-law instrument governing my employment relationship. It establishes the **express duties** owed by both parties and defines the legal boundaries around **implied duties**. (*cf. §3.01, §5.01, §5.05, §22.02 & §4.01*)

c. [Potential] Criminal Law: Criminal Code (CC)²⁹

Falsifying Records of Employment [*with Intent*] – including *knowingly* misrepresenting Reason Codes – **can be** a Criminal Code offence under §398.

²⁶ [2023 SST 1886: AM v. CEIC, \[¶98\]](#): **Authorities: p.1581-1609** (¶98 at: p.1601)

[CUB 51219: Linda Earl v. CEIC](#): **Authorities: p.1397-99**

[CUB 16209: Steven Becker v. CEIC](#): **Authorities: p.1388-91**

²⁷ Canada Labour Code (*RSC 1985, c.L-2*) **Authorities: p.4-94**

²⁸ (*Employer*)–Teamsters Collective Agreement **Record: p.353-521**

²⁹ Criminal Code (*RSC 1985, c. C-46*) **Authorities: p.102-17**

28. Despite this clear statutory and contractual framework, the Tribunal's **mandated jurisdiction** was abandoned from the outset. *Before* I was sworn in, (SST-GD TM) restricted the scope of my General Division hearing to a single issue (@16:15), rejecting my statutory arguments about **Just Cause** – and my other submissions.

(E) Hypocrisy re. Just Cause Analysis (C19-MM Cases)

Issue #3: For *these* Cases only, ADMs Refused Just Cause Analysis

Problem #2 – Error #4 (Legal Issues ‘Selectively’ Citing Contracts & Case Law)

Factum §F – Private Law & Common Law (from: ¶94-133 & FN: 109-125)

4 Points at Issue – 4 Grounds of Review – 4 Vavilov Principles

(Vavilov ¶111): “It is evident that *both* Statutory *and* Common Law will impose constraints on How & What an ADM can Lawfully Decide... [They] **cannot adopt an interpretation** that is inconsistent with applicable Common Law principles regarding the nature of Statutory Powers... Where a relationship is governed by Private Law {i.e. Contracts}, it would be unreasonable for [them] to ignore that Law in adjudicating the parties’ rights...” (cit. Dunsmuir ¶74: 2008 SCC 9)

Overview & Summary

29. I am *not* asking this Court to evaluate the **reasonableness** of (Employer)’s policy. Nor am I challenging the “**validity of [my] dismissal.**” (Sullivan) I *am* asking you to confirm that EI ADMs *must* conduct **statutorily mandated ‘Just Cause’ fact-finding.**

30. *Vavilov* reaffirms that **private-law frameworks** apply (i.e. contracts) when interpreting and applying the law. Our SCC *holds* that **management rights** are limited: all policies must comply with both **legislation** and the **contract** from which they derive.

31. Canadian Law recognizes a *long-settled* hierarchy: **Law → Contract → Policy**

This hierarchy governs *every* employment relationship – & **EI Benefits adjudication**. The fundamental question here is whether (*Employer*)’s actions were *contrary to law* or constituted *significant changes* to the employment contract. (*i.e. Just Cause*)

32. In this section, I will briefly address *four* independent problems: Lock-Outs, Contracts, Management Rights & KVP. Having already **proven** the *legal requirement* to conduct *Just Cause Analysis* – and the jurisprudential definition of ‘*contrary to law*’ – all four analyses clearly fall within the *statutory definition* of ‘Just Cause’.

*(This is **not** an appeal for ‘remedy’ under ‘other legal frameworks.’ I am **not** seeking backpay, reinstatement, or other compensation. I am **proving** whether I have ‘**Just Cause**’ for **entitlement** to **EI Benefits**, based on [EIA §29\(c\)\(xi/vii/ix\)](#) [*Interpretation*]. As cited above, this process was done hundreds of times prior to the pandemic.)³⁰*

(Just Cause: #1) (Employer) Lock-Outs: Compelling Compliance ([EIA §29\(c\)\(xi\)](#))

33. Our CBA contains *four* clauses requiring that **all** contractual provisions & workplace policies comply with *both* the contract & applicable laws (§3.01, §5.01, §5.05, §22.02). This includes a **nullity (severability) clause** that renders ‘**null & void**’ *any* policy or practice that breaks the CBA or governing law – **including Lock-Outs**.

34. Both the **Canada Labour Code (CLC §88.1)** & our **CBA prohibit Lock-Outs (CBA §4.01)**. The CLC defines this as:³¹

CLC §3(1) [*Interpretation*]: **Lock-Out**: “...a refusal by an employer to continue to employ a number of their employees, **done to compel the[m] [...] to agree to terms or conditions of employment.**”

35. The same (*Employer*) execs who owned the mandate policy also sent out written letters confirming that their vaccination requirement constituted a **new condition of**

³⁰ [¶12] above: for SST Decisions using this Analysis (<https://decisions.sst-tss.gc.ca>)

³¹ CLC §3(1) & §88.1 (*Authorities: p.9 & p.11*) || CBC §4.01 (*Record: p.358*)

employment.³² Preventing us from working *and* withholding our pay, to **compel our compliance** with *new* employment conditions meets the definition of a **Lock-Out**.

36. (SST-AD TM) acknowledged this *fact* in his Appeal Division Decision:³³

[2024 SST 26: ¶16]: “Evidence shows that the Employer prevented the Claimant from working even though there was work. The Claimant acknowledged that Leave was imposed on him and that he would have continued to work but for the Policy.”

37. This **proves** that my employer’s conduct was **contrary to law**. It breached *both* the Labour Code *and* our CBA. This *alone* establishes **Just Cause** under §29(c)(xi).

*(And this does **not** require any appeal to ‘other legislative frameworks.’ It only requires finding the statutory definition of ‘Just Cause’ using **binding fact-finding & analysis**.)*

(Just Cause: #2) Breached Employment Contracts (EIA §29(c)(xi/vii/ix))

38. In the ~7 years *before* the pandemic (2013–2019), 349 SST Cases examined contracts (or CBAs) – and 141 Cases were ‘Misconduct’-related. 94 Cases specifically engaged in §29(c)(xi/vii/ix) Analysis. (*‘Contrary to Law’ & Unilaterally ‘Changed Contracts’ Fact-Finding*) This *proves* that TMs understood their legal obligations...

39. Here is the governing legislation *re.* Employment Contracts under EI Law:

a. The EI Act §51 [‘Information’] provides specific instructions for when:³⁴

[§51]: “*the Commission finds an indication from the documents relating to the claim that the loss of employment resulted from the claimant’s Misconduct.*”

They are **required** to “*give the[m] [] an opportunity to provide information & [...] take it into account in determining the claim.*”

³² Final Warning Letter: ‘Authorized Leave’ + ‘Empl. Condition’ (Record: p.331-32)

³³ 2024 SST 26: DA v. CEIC [¶16]: TM finding of Lock-Out (Record: p.280)

³⁴ Employment Insurance Act (SC 1996, c.23): (Authorities: p.152 [p.144-213])

- b. The [DBEP §21.2.2](#) requirement for ‘*Gathering All Available Evidence*’ states: ³⁵
- “*employment contracts*” & “*CBAs*” are among the “*evidence necessary to prove facts of a particular case.*” (2x in 5 ¶ EI ADMs are told to **consider contracts.**)
- c. The [DBEP §7.2.1.1](#) governs ‘*Fact-Finding [Misconduct] with the Employer*’: ³⁶
- “To determine whether or not a claimant was dismissed for **reasons of misconduct**, the **employer** is asked to provide [...] whether such action or omission violated a provision of the contract of employment....”
- (So employers are **required** to cite contract violations – but we cannot?)
- d. This coincides with Vavilov’s **requirement** that ‘*Reasonable Decisions*’ involving employment matters **requires examining contracts:** ³⁷
- [\[Vavilov ¶111\]](#): “Where a relationship is governed by private law [e.g. *employment contracts*], it would be **unreasonable** for the ADM to ignore that law in adjudicating the parties’ rights...”

40. These all **prove** the *necessity* of **considering contracts** when *determining EI Eligibility*. Failing to do so is **unreasonable**, yet *both* Members **refused** to conduct this *required* analysis. This refusal violates the EI Act, EI Benefits Principles (*Policy*), and Vavilov requirements about justification, intelligibility & faithfulness to the Law.

(Just Cause: #3) Contracts: Management Rights (EIA §29(c)(xi/vii/ix))

(‘AJC’ [¶20-21](#)): “Management’s residual right to unilaterally impose workplace rules is **not unlimited**. Management Rights **must be exercised reasonably and consistently with the Collective Agreement**. [] Any unilaterally imposed workplace policy must comply with these limitations.”

(from: [Association of Justice Counsel v. Canada \(AG\), 2017 SCC 55](#))

³⁵ Digest of Benefit Entitlement Principles, [§21.2 \[Evidence\]](#): **Authorities: p.1729f**

³⁶ Digest of Benefit Entitlement Principles, [§7.2 \[Misconduct\]](#): **Authorities: p.1696f**

³⁷ [2019 SCC 65: Vavilov v. Canada \(MC&I\)](#), [[¶111](#)]: **Authorities: p.379f**

41. *Management Rights* originate from the contract. They establish the employer’s *authority* (‘*right*’) to implement policies – *and* they bind workers to comply with them. Management Rights do **not** exist independently. Without the employment contract, *there are no rights* to invoke or enforce.

42. Our Supreme Court confirms that Management Rights must operate **within applicable legislation**. They *cannot* authorise *unlawful conduct*, just as corporate policies *cannot* override the *laws* of Parliament & Provincial Legislatures.

43. The Supreme Court’s decision in [Parry Sound](#) confirms this.³⁸ At ¶25–29, the Court **held** that an employees’ **statutory rights** – which includes *labour-standards*, *employment-standards*, and *human-rights protections* – form a **minimum legal floor** *beneath* which *neither* management rights *nor* contracts may fall. While contracts may be *less* restrictive than legislation, they cannot be *more* – and *cannot override* them. They further held that an employee’s statutory “*bundle of rights*” is **incorporated into the employment contract** implicitly, even when not explicitly stated.

44. In short, the following three legal conclusions are binding:

- **Management Rights flow from the Contract**
- **The Contract is constrained by Legislation**
- **Policies are constrained by both**

Any Decision that ignores this hierarchy – or ‘selectively’ cites from it (*out-of-context*) – is *both* **unreasonable** (*per Vavilov*) and **contrary to law** (under [EIA §29\(c\)\(xi/vii/ix\)](#)).

45. It is concerning that, while *refusing* to consider my CBA, (*GD-TM*) *relied on* a single phrase in it: Article §3.01 (“*the exclusive right of the Company to [] manage its undertakings as it sees fit*”) to **justify** incorporating (*Employer*)’s nullified Policy into

³⁸ [2003 SCC 42: Parry Sound \(DSSAB\) v. OPSEU #324](#), [¶25-29] Authority: p.586f

her decision – yet *ignored* the *immediately following clause*, from the *same sentence*, which limits that right [saying] “*subject only to the restrictions imposed by law.*” *Selectively citing half a sentence* while ignoring the rest of it (*its legal qualifier*) violates basic **natural justice and fairness**. And *relying on Management Rights after ruling the Contract ‘inadmissible’* into her decision-making process is **unreasonable**.

(Just Cause: #4) KVP: Conditions for Imposing Policy ([EIA §29\(c\)\(xi/vii/ix\)](#))

(Irving ¶24-26): “*The scope of management’s unilateral rule-making authority under a CBA is persuasively set out in ... the ‘KVP Test’. [...] Any rule or policy unilaterally imposed by an employer and not subsequently agreed to by the Union, must be consistent with the collective agreement and be reasonable... ‘the Employer cannot, by exercising its Management functions, issue unreasonable rules and then discipline employees for failure to follow them.’ Subsequent appellate decisions have accepted that rules unilaterally made in the exercise of management discretion under a collective agreement must not only be consistent with the agreement, but must also be reasonable” (CEPU Canada, Local #30 v. Irving Pulp & Paper, 2013 SCC 34)*

46. The KVP Test – originating in 1965 Labour Arbitration – governs an employer’s ability to **unilaterally impose workplace policies**. It sets out *six requirements* that must **all** be satisfied *before* they can impose that *new rule*.

The first two principles are foundational: ³⁹

1. The policy “**must not be inconsistent with the CBA.**”
2. The policy “**must not be unreasonable.**” (*which includes facially unlawful*)

47. These same principles have been applied in non-unionised settings by provincial appellate courts without naming *KVP*. ⁴⁰

48. In 2013, our Supreme Court confirmed *KVP* as binding precedent in *Irving*. ⁴¹

³⁹ [1965 ON-LA 1009: LSWU Local #2537 v. KVP, \[p.85\]](#): **Authorities: p.1009f**

⁴⁰ [2013 NBCA 13: Asurion Canada v. Brown & Cormier, \[¶28\]](#): **Authorities: p.877f**

⁴¹ [2013 SCC 34: CEPU Canada #30 v. Irving Pulp & Paper, \[¶24-26\]](#): **Auth: p.751f**

49. This was recognised in SST Decisions, like *KM v. CEIC (2023 SST 99)*, where [AD] TM Janet Lew stated: ⁴²

[KM: ¶29]: “The *Supreme Court of Canada* has *endorsed* the **KVP Test** which means **it is good law that should be applied.**”

50. The legal framework for determining EI Benefits Eligibility is clear:

- Employer Policies *must comply* with **the Contract**,
- they *must comply* with **applicable law**, and
- The KVP criteria determine whether *unilateral* policies can be enforced at all.

And this is *required analysis* under EIA §29(c) – Just Cause *determines* Entitlement.

Section Conclusion

51. (*Employer*) is federally regulated, unionised, and governed by the **Canada Labour Code (CLC: §88.1)** and our **CBA (§4.01)**, which *both prohibit Lock-Outs*. This policy was also **Nullified** by our CBA (§5.05). By breaching **both** requirements, it failed the **KVP** criteria and could *not* legally be **imposed** *without union ratification*. (*Or amendment, removing the lock-out.*) Using Lock-Outs to **compel compliance** with a new, **unratified** employment condition, is clearly acting **contrary to law**. [§29\(c\)\(xi\)](#)

52. Despite this, both TMs effectively held that this *new, non-union-approved, nullified* corporate policy **superseded** both *federal law* and *our contract*. And they reached this conclusion by invoking **Management Rights** – while *refusing to consider* the same contract *from which those rights derive*.

Making *this* the foundation for finding me *guilty of misconduct* is **unreasonable**.

53. (*Employer*) has broad discretion when designing policy with *only two* constraints:

1. Policies **must be lawful**, and
2. Policies **must comply with the CBA**.

⁴² [2023 SST 99: KM v. CEIC, \[¶29\]](#): **Authorities: p.1576**

These self-evident limits have been codified into jurisprudence for decades – and by our Supreme Court since 2013 (*in Irving*). They also follow under the *Rule of Law*.

54. I am *not* asking this Court to overturn established doctrine. I am simply asking you to recognize what the Rule of Law and our CBA already require: **no policy can override legislation or our contract**. Here, the policy violates both. Their excuse – that *‘our policy says we can do this’* – is *both* **absurd** and **unreasonable**.

55. This decision-making process contains many defects, each warranting **quashal**.

1. **Lock-Outs: [are] Contrary to Law (CLC & CBA)**
2. **Employment Contracts: Refusing to examine them**
3. **Management Rights: Invoking them Despite Defect #2**
4. **KVP: Applying an unlawful policy that violated KVP #1-2**

Jurisdiction – FCA §18.1(4)(a):

Relying on Management Rights while declaring the CBA *ultra vires* (*outside jurisdiction*) raises Jurisdictional concerns.

Procedural Fairness – FCA §18.1(4)(b):

Alleging my policy violations, while excluding evidence that *they* committed more serious violations (*law + contract*), undermines Procedural Fairness.

Errors of Law – FCA §18.1(4)(c):

This Decision misapplies CBA terms, relies on nullified policies, and elevates Management Rights *above* both our employment contract (*CBA*) and *the laws of Parliament*. Each constitutes a distinct Error of Law.

Errors of Fact – FCA §18.1(4)(d):

Incorrect factual findings about *alleged* contract and policy violations constitute Errors of Fact.

56. For all these reasons, we respectfully ask this Court to **Quash** (SST TM)'s Decision, as the legal, jurisdictional, factual & fairness errors render it **unreasonable**.

PART 4: ORDER SOUGHT

57. Reconsideration of my EI Case *specifically* addressing what the Law Requires: '**Just Cause**' Analysis addressing the *specific* facts of my Case within the framework **intended** by Parliament – using *all required* Jurisdiction. (*Applying Law to All Facts*)

58. Respectfully, this **requires** Granting my Appeal & Quashing the SST Decision. *If* this Court **Decides** otherwise, please **provide Reasons** – as *required* by Vavilov.

59. I do not request any costs *for* – *or against* – *me* as I am self-represented.

Respectfully Submitted,

On: 2026-03-##

~ (EI Claimant)

PART 5: AUTHORITIES

60. I rely on my Book of Authorities from my Applicant's Record. (*Rule 309*)

FEDERAL COURT OF APPEAL

BETWEEN:

(EI Claimant)

Applicant

AND

ATTORNEY GENERAL OF CANADA

Respondent

Rule 369.2(3): Reply Brief *[re:]*
Rule 397: Reconsideration Motion

Submitted: 2026-04-##

(EI Claimant)

(Contact Info Redacted)

RULE 369.2(3): REPLY BRIEF (RE:)**RULE 397: RECONSIDERATION MOTION****Case History**

1. The Attorney General’s Responding Motion relies on citing Case History while overlooking that those same citations *support* this Reconsideration Application. Although their cited excerpts accurately quote portions of the Record, the conclusions drawn from them are legally and factually incorrect – precisely the error I have consistently identified since the outset of my SST proceedings in 2022.

- a. [Factum ¶1]: The CEIC & SST “considered the record, applied the applicable laws, and reached a decision that is justified, transparent, and intelligible.”

Reality: They did *not* “appl[y] the applicable law.” They **omitted** the *primary* legal analysis *required* by the Act. This was **proven** by my **Rizzo Analysis** – arguments which *every* ADM has *refused* to engage. **This is not Justified.**

Reality: The entire chain of pandemic-era Decisions is based upon ESDC’s BE-Memo (‘21/10) – an *internal policy* that led Service Canada & EI Commission ADMs to **override the Act**. **This is not Transparent.** (Vav. ¶95)

- b. [¶4]: The SST GD ‘determined’ that “knowingly refus[ing] his employer’s mandatory COVID-19 vaccination policy [] amounted to Misconduct under subsection 30(1) of the EI Act.”

Reality: Under the EI Act §29(c), Employers “acting **Contrary to Law**” or *unilaterally* ‘**changing**’ the Employment Contract **constitutes ‘Just Cause**’, which *grants Benefits*. My Motion cites **over 100 SST Decisions** where this analysis *was conducted* – including in Cases of *alleged* worker ‘Misconduct’.

- c. ¶5: The SST AD ‘upheld’ that “deliberate[ly] breach[ing] the COVID-19 policy met the test for Misconduct.” They cited *inter alia* “Bellavance & Mishibinijima” which I *already* distinguished from my Case.

Specifically, it “focused on his conduct, **not the employer’s** policy, and maintained that accommodation or rights claims belong in another forum.”

Reality: I will *not* address arguments *already rejected* at my FCA Hearing, however, this ‘Misconduct Test’ was **engineered** during the pandemic to **avoid Just Cause Analysis**. While I am appealing the **process engineering** to our Supreme Court, *this* esteemed Court did **not** address my Just Cause arguments.

- d. ¶6: This FCA ‘held’ that my SST Decisions were “reasonable under Vavilov” because [*inter alia*] they “fit the evidentiary record, respected the Act, and aligned with recent cases [] including *Lance, Cecchetto, Kuk, Francis, [et al].*”

Reality: My Decisions did **not** “respect the Act” – their ADMs *all refused to conduct statutorily-mandated* ‘Just Cause’ legal analysis. *Merely repeating* this sentence **again does not make it true** – either factually or legally. *If* this statement is *wrong*, then their citation of it **proves** my Case.

Argumentation

2. Throughout its Responding Motion, the Attorney General effectively affirms the core of this case by its citations. Where a **statute has been misapplied** [*en masse*] (*i.e. when* “*Court[s] overlook relevant statutory provision[s]*” [Miller ¶10]) – in ways that depart from long-standing pre-2020 practice *across hundreds of cases* – this is *exactly* what Rule 397 addresses. **Reconsideration is warranted** where the Court “*omits a matter that should have been dealt with*” – the *very deficiency* identified here.

- a. [¶8]: “Rule 397 motions arise only in very narrow circumstances.” The AG then *affirms* that this *specifically* includes circumstances where “the Court overlooked [] an issue that required determination.”

Reality: It did. It did *not* address my *statutory arguments* about Just Cause.

- b. [¶9]: “The Applicant is effectively asking the Court to re-adjudicate his case. Rule 397 is not meant to be an appeal in disguise, allowing the Applicant to re-argue an issue a second time in the hopes that the Court will change its mind.”

Reality: I have *explicitly agreed* with this principle – while arguing that **I am not doing this**. (*Motion Affidavit*: ¶3-4; *Factum*: ¶4-5, ¶57-58, *cf.* ¶13)

- c. [¶10]: The AG *cited* my request: “[The] Applicant said the Court ‘*overlooked or omitted*’ a mandatory ‘*Rizzo/Just Cause*’ analysis under §29-33 of the Act and failed to engage with his Hansard and case-usage materials.”

Reality: This is true. “Overlook[ing a] relevant statutory provision” *is* grounds for *both* Reconsideration *and* **overturning Decisions**. The AG cited *both* the analysis name (‘*Just Cause*’) and statutory sections (§29-33). Meanwhile, my ‘Rizzo Analysis’ *proves Legislative Intent* by **citing Parliamentary Hansards**. This is how *both* citizens *and* the Courts **know** what Parliament *meant* by the statutory language they successfully passed into law. This ‘modern principle of statutory interpretation’ was made *binding* SCC precedent in *Rizzo*.

Reconsideration

3. The same fundamental problem persists: each adjudicator simply cites the record *by assertion* and declines to engage with my submissions. No substantive legal reasons are provided, and my arguments remain unaddressed.

4. *Where* Decisions are ‘manifestly wrong’ – *when* “Court[s] *overlook* relevant statutory provision[s]” and “matter[s] that should have been dealt with [are] *omitted*” (*despite being conducted* hundreds of times in the six years preceding the pandemic) – **reasons must be provided**. Merely re-quoting statements from previous Decisions *asserting* that the ‘Decision *is reasonable*’ is **not sufficient** under Vavilov ([¶102](#)).

[\[Vavilov ¶102\]](#): To be **reasonable**, a Decision *must be* based on reasoning that is *both rational and logical*. [] The *reviewing* Court must be able to trace the ADM’s reasoning *without* encountering any *fatal flaws in its overarching logic*. [] Reasons that “*simply repeat* statutory *language, summarize arguments made, and then state a peremptory conclusion*” will *rarely assist* [] in **understanding the rationale** underlying Decisions and “*are no substitute* for statements of fact, **analysis, inference, and judgment**. ([Irving \[¶54\]](#), *cit.* [Newfoundland Nurses \[¶14\]](#); [Gonzalez \[¶57-59\]](#))

5. Refusing to provide reasons makes the purported rationale *impossible* to challenge. Repeating this error again would be an obvious attempt to avoid legal scrutiny. From the outset, neither the Respondents *nor* the Adjudicators have engaged with or refuted my written submissions about Just Cause. Instead, they rely on erroneous precedent and sidestep the arguments – even *after* those cases have been distinguished. **This is patently unreasonable**. It also *fails* to produce a Decision “**that is justified, transparent, and intelligible**” – which is **required** under Vavilov.

6. This repeated ‘**omission**’ is telling. This pattern persists because any attempt to *provide proper reasons* – to engage in *meaningful* legal analysis – would *confirm* my case, and many others like it. Continued failure to address these arguments suggests an awareness of that consequence. I respectfully ask this Court to disprove that inference and, in doing so, help restore Canadians’ confidence in the legal system, which has been significantly strained since the onset of the pandemic.

7. Why is *Just Cause* analysis – *and reasons* – omitted when the statute (*EI Act*), EI Policies (*DBEP*), and long-standing adjudicative practice (*pre-2020*) all require it? This omission is ‘manifestly wrong’. Reliance on *erroneous precedent* cannot cure this defect – especially when those cited prior cases suffered from the *same legal error* (*despite never being raised or addressed*). **I am raising it now: clearly & expressly.**

8. Based on this Court’s *own* Decision & Jurisprudence, **Reasons are required:** ‘Manifestly wrong’ *includes* when “Court[s] overlook a relevant statutory provision.” (*FCA Decision [¶5]: [2002 FCA 370: Miller \[¶10\]](#) & [2022 FCA 190: Feeney \[¶16\]](#)*)

9. I respectfully ask this Court to **explain why** *statutorily mandated analysis* has been *refused wholesale* – but only for a clearly defined subset of cases – *despite* that same analysis having been conducted *hundreds of times* prior to the pandemic. **Please provide reasons** that can be assessed for “*justification & intelligibility*” under *Vavilov*.

Thank you for your time and attention to this matter of *National Public Importance*.

Respectfully Submitted,

On: 2026-04-##

~ (*EI Claimant*)