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CASE SUMMARY: COURT DID NOT INTERVENE IN SERVICE NEW BRUNSWICK'S DECISION TO CLOSE A SERVICE CENTRE

Administrative law – Decisions of administrative tribunals – Ministerial orders;
Government – Funding of programs; Judicial review – Compliance with legislation –
Procedural requirements and fairness – Natural justice

Saint-Quentin (Municipality) v. New Brunswick (Minister of Government Services)

Application for judicial review from discretionary ministerial decision to close government
office.

[2016] N.B.J. No. 65

2016 NBQB 67

New Brunswick Court of Queen's Bench

March 23, 2016

L.A. LaVigne J.

On March 31, 2015, the New Brunswick Minister of Finance tabled the 2015-2016
budget, in which a number of spending measures were announced, including closure of
Service New Brunswick Centres in various areas of the province, including
Saint-Quentin.

On April 21, 2015, the Minister of Government Services and Service New Brunswick
confirmed the closure of the Saint-Quentin service centre and identified criteria that were
used to determine which service centres would be closed.

On June 2, 2015, the Minister informed the Mayor of Saint-Quentin the last day of
operations for the service centre would be July 31, 2015.

The municipality of Saint-Quentin applied for judicial review of the Minister's decision on
two grounds:

1. the Minister's conduct breached the rules of natural justice because through the
process he followed, he created and foiled legitimate expectations regarding the criteria
that applied to the decision to close service centres; and
2. the Minister's decision was unreasonable because it was contrary to the available
objective data with respect to his criteria.

The Minister's decision was made pursuant to the *Service New Brunswick Act*, S.N.B.
1989, c. S-6.2. The *Service New Brunswick Act* authorized the Minister to do what he or
she considered appropriate in managing the affairs of Service New Brunswick. There
was no doubt the Minister had the discretionary power to close the Saint-Quentin
service centre. The challenge was to the Minister's exercise of this discretion.

With respect to procedural fairness grounds, the court held the doctrine of legitimate expectations did not apply in this case because there was no promise to consult nor similar practice on which the municipality of Saint-Quentin could have reasonably based its claim. Saint-Quentin essentially complained the Minister initially identified five criteria pertaining to the determination to close service centres, but later referred to only four criteria, allegedly deleting a criteria that favoured Saint-Quentin. Saint-Quentin argued that deleting this criteria adversely affected it and that the list of criteria was a moving target. It argued that identifying five criteria created legitimate expectations that the Minister's decision would inevitably result from these criteria. The court rejected this submission on the basis that the criteria identified by the Minister were not part of a consultation process. The decision to close the service centre had already been made by the time the Minister wrote to Saint-Quentin identifying the criteria that had guided him in exercising his discretion. The court held that to give the criteria the scope argued by Saint-Quentin would give the criteria a statutory nature that would fetter the Minister's discretion. In any case, the evidence showed the Minister took the criteria into consideration.

With respect to the merits, the court held there was no legal basis to interfere with the Minister's exercise of discretion. The municipality of Saint-Quentin argued the evidence showed a service centre in Saint-Quentin was more economically viable than a neighbouring office. The court held it was not for the court to determine if the Minister made the right decision. A court on judicial review is not to intervene solely because it would have reached another conclusion. The Minister did not explain why he decided to close the Saint-Quentin service centre, however, he was not obliged to do so. The disputed decision was a policy decision pertaining to the allocation of the province's financial resources based on public policy considerations.

The Court dismissed the application for judicial review.

This case was digested by [Joel A. Morris](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact him directly at jmorris@harpergrey.com or review his biography at <http://www.harpergrey.com>.