Summary of Atkinson (No. 2) v. IBRD (Preliminary Objection), Decision No. 711 [2024]

The Applicant challenged (i) "the [2023] decision of […] EBC [Ethics and Business Conduct Department] to close [her] complaint" and (ii) "the decision of [the] [HRVP] [Vice-President, Human Resources] to deny her due process rights and access to information."

The Bank submitted preliminary objections challenging the admissibility of the Applicant's EBC claim on the grounds of *res judicata* and her HRVP claim on the grounds of failure to provide sufficient information to state an actual claim and failure to exhaust internal remedies.

The Tribunal first considered whether the doctrine of *res judicata* applied to bar the Applicant's challenge to EBC's 2023 decision to close its investigation into her 2022 sexual harassment claim against her colleague, Ms. Y, in the Applicant's second Application before the Tribunal. The Tribunal noted that, for its purposes, "[t]he two conditions that must be met for the application of *res judicata* are 'that the parties are the same in both cases and that the substance of the claim is essentially the same in both applications.'"

The Tribunal was satisfied that the first prong of the test for *res judicata* had been satisfied based on its observance that, in the present case, both the Applicant and the Bank were the same parties that appeared in *Atkinson (Merits)*, Decision No. 641 [2020]. The Tribunal was also satisfied that the second prong of the principle of *res judicata* was met. The Tribunal noted that, in reviewing the record – including the Applicant's two Tribunal applications (2019 and 2024) containing nearly identical sexual harassment allegations against Ms. Y, the two EBC closing memos (2018 and 2023) containing the same sexual harassment allegations against Ms. Y, and EBC's 12 June 2023 email to the Applicant (noting the Tribunal's judgment on the Applicant's sexual harassment claim) – it was clear that the Applicant was attempting to re-assert the same claim that was dismissed due to untimeliness in *Atkinson (Merits)* [2020].

Based on the foregoing, the Tribunal found that the doctrine of *res judicata* applied to bar the Applicant's challenge to EBC's 2023 decision to close its investigation into her sexual harassment claim.

The Tribunal next considered whether the Applicant failed to timely exhaust internal remedies with respect to her HRVP claim. The Tribunal found that it was not necessary to decide on this issue in view of the Applicant's clarification that she was not making a separate claim regarding an "[HRVP] decision."

Decision: The Application was dismissed.