

**The Labour Relations Board  
Saskatchewan**

**SERVICE EMPLOYEES' INTERNATIONAL UNION, LOCAL 336, Applicant v.  
CHINOOK SCHOOL DIVISION No. 211, Respondent**

LRB File Nos. 025-08, 026-08 & 027-08; September 9, 2008

Chairperson, Kenneth Love, Q.C.; Members: Leo Lancaster and Maurice Werezak

For the Applicant:                   Keir J.M. Vallance  
For the Respondent:               James R. McLellan

**Unfair labour practice – Dismissal of Employee during organizing drive – No one involved in dismissal of employee aware of Employee's union activities – Board concludes that employer's reasons for dismissal was credible and coherent – No evidence of anti-union animus by employer – Application dismissed.**

***The Trade Union Act*, ss.3, 5(d), 11(1)(a), 11(1)(e) and 11(1)(g).**

**REASONS FOR DECISION**

**Background:**

[1]           The Applicant, Service Employees' International Union, Local 336 (the "Union"), filed an application on March 10, 2008 for an order determining whether the Respondent, Chinook School Division No. 211 (the "Employer") engaged in an unfair labour practice as defined by ss. 11(1)(a), (e) and (g) of *The Trade Union Act*, R.S.S. 1978, c. T-17 (the "*Act*") by terminating Johanne Lee ("Ms. Lee").

[2]           The Union also filed an application on March 10, 2008 for interim relief, including, *inter alia*, the reinstatement of Ms. Lee and payment of any monetary loss Ms. Lee may have suffered. That application was granted with reasons on April 8, 2008. Ms. Lee was allowed to continue on suspension with pay pending the final decision concerning her application for reinstatement.

[3]           The hearing of the unfair labour practice application commenced on May 23, 2008 and concluded on June 28, 2008.

**Facts:**

[4] Ms. Lee has been employed as an Educational Assistant for the Employer and its predecessor since 1998. At the time of her termination she was employed at Oman School in Swift Current, Saskatchewan. She has generally worked 30 hours per week.

[5] The role of an Educational Assistant within the Chinook School Division was described in detail by the witnesses for the Employer, particularly in the testimony of Ms. Carrie Frase, Ms. Arlene Adair and Ms. Peggy Drinkle. Ms. Frase is one of the Student Services Supervisors at Oman School in Swift Current. Ms. Adair is also a Student Services Supervisor and Teacher at Oman School. Ms. Peggy Drinkle is the Principal of Oman School.

[6] Student Services Supervisors and Educational Assistants work directly with exceptional children. Exceptional children were described as children that have special educational needs for a variety of reasons such as cognitive difficulties, physical impairments or other conditions requiring special assistance and support in their education. All exceptional children have a program plan which is designed especially for them by a team of support personnel working within the education system to address the unique learning needs of the individual student.

[7] In their testimony, each of Ms. Frase, Ms. Adair and Ms. Drinkle stressed the need for all members of the exceptional children's teaching team to follow the program plan and to "model" good behavior at all times, for the benefit of the exceptional child, and also for all students in the school. They also stressed that it was important for all staff members, teachers, educational assistants, administration staff and maintenance personnel to model appropriate behavior in all instances where personal interactions occurred and where there was interaction or potential interaction with students. Appropriate behavior between staff members, between staff members and students, and between staff members and parents were an important element in the educational process.

**[8]** Each of Ms Frase, Ms Adair and especially Ms. Drinkle stressed that harmonious staff relations, respect for other staff members, and a team approach were important in the workplace. This was especially important when dealing with the exceptional students at Oman School.

**[9]** Each of Ms. Frase, Ms. Adair, and Ms. Drinkle related several incidents involving Ms. Lee which did not, in their judgment, “model” good behaviour but rather showed disrespect for other staff members, or which amounted to insubordination by Ms. Lee.

**[10]** Ms. Lee was transferred to Oman School from another school within the Chinook School Division. When Ms. Lee was transferred to Oman School, the reasons for her transfer to the school were not communicated to either Ms. Lee, to her new Principal, Ms. Drinkle, nor to her then supervisor, Ms. Frase. There had been some difficulty at her previous school (which did not lead to any formal disciplinary action). The administration including Mr. Kyle McIntyre, who also testified for the Employer, felt that Ms. Lee would perform better in a school which had a stronger and more capable administrator. They determined to transfer her to Oman School.

**[11]** Ms. Lee was familiar with Oman School because her children had gone to that school. She was also familiar with Ms. Drinkle as a result of her having met her as a parent.

**[12]** Ms. Lee was assigned to Ms. Frase for her first year at Oman School. Ms. Frase in her testimony described a number of incidents that occurred during that school year.

**[13]** Ms. Frase described an incident involving getting a substitute for Ms. Lee when she was sick. The practice at Oman School (which was a different practice at Ms. Lee’s former school) was that if an Educational Assistant was ill, they were to call their supervisor (Ms. Frase) to advise them that they were ill. This was done so that in the event that one of the other exceptional children was ill and an Educational Assistant was available, that no substitute would be required.

**[14]** Ms. Lee was ill. In accordance with the procedure, she called Ms. Frase at home, reaching her late in the evening, to advise that she would be unable to work the following day. Ms. Frase told her that she would have someone replace her with her student. When Ms. Frase arrived at school the following morning, there was a problem she was required to attend to, and she then neglected to advise the school secretary that Ms. Lee would not be at work. With that failure of communication, the school secretary, as she was supposed to do when an Educational Assistant was absent, called Ms. Lee at home to find out why she wasn't at work.

**[15]** When Ms. Lee returned to work, she confronted Ms. Frase in the school staff room and expressed her displeasure (in what was described by Ms. Frase as an aggressive manner) that she had been called at home when she was sick. Ms. Frase described Ms. Lee as "yelling at her" about the incident. Ms. Frase testified that the other teachers were intimidated by Ms. Lee's aggressive behavior. She said that Ms. Lee, "made her look bad" in front of the other staff members.

**[16]** Ms. Frase testified that she apologized to Ms. Lee and explained what had occurred on the morning that she had been called. However, she also noted that she was disturbed by the incident because prior to that incident, disagreements between staff members at Oman School were usually handled in a more polite (solutions focused approach) manner, not in the confrontational manner adopted by Ms. Lee in accosting her in the staff room.

**[17]** During the incident, Ms. Lee was also reported by Ms. Frase to have said that in the future she "wasn't going to follow the 'sick' system."

**[18]** Ms. Frase also described an incident when she was meeting with a classroom teacher in March of 2006. During that meeting, Ms. Lee interrupted the meeting and requested the teacher that she had been meeting with get her car keys because Ms. Lee needed to borrow her car to return home as their bull had gotten out of its corral.

**[19]** The teacher complied with Ms. Lee's request, got her car keys, and Ms. Lee took the other teacher's car, and the exceptional student to whom she was assigned, to her home to deal with the escaped bull.

**[20]** There were two aspects of this that Ms. Frase was concerned about. Firstly, it was Ms. Lee's manner in interrupting their meeting did not "model" good behavior, and secondly, that Ms. Lee would take the exceptional student with her to deal with the bull that was "at large." In cross examination, Ms. Frase acknowledged that at the time she didn't object to the student accompanying Ms. Lee because she was so startled by the request.

**[21]** There was some conflict in Ms. Frase's testimony concerning the tone and aggressive nature of Ms. Lee's request to the other teacher to get the car keys. Ms. Frase's evidence was that Ms. Lee demanded the keys, as distinct from requesting them. She also testified that Ms. Lee used an aggressive tone rather than making a polite request. Ms. Lee, in her testimony denied that she demanded to have the other teacher's keys, but rather that she simply made a request for the keys, which was complied with by the other teacher. Given the circumstances, with an escaped bull running loose, the board accepts that Ms. Frase's testimony is more in keeping with the urgency of the situation. The fact that Ms. Lee also took her student along, as distinct from taking the time to make alternate arrangements for him, is also supportive of this view.

**[22]** At the conclusion of Ms. Lee's first year at Oman School, Ms. Drinkle asked Ms. Adair to assume responsibility for the supervision of Ms. Lee. The switch in supervision of Ms. Lee meant that she would be assigned to work with a student in a classroom or a particular teacher.

**[23]** Ms. Frase testified that she was not unhappy about the switch in supervision. She felt that Ms. Lee would not accept direction or supervision from her. She testified she was happy not to be her supervisor.

**[24]** Apparently, Ms. Lee was not happy with the student she was assigned and she refused to work in the teaching room to which she was assigned. Her objection was based on her belief that proper teaching was not being done in that room. Ms. Frase's

evidence was that there had never been a challenge by an Educational Assistant to an assignment in the past. She had never seen an Educational Assistant challenge a fellow staff member's teaching abilities.

**[25]** In the fall of 2007, the second year Ms. Lee was at Oman School, a number of the educational assistants requested that there be a staff meeting convened to deal with some issues that the assistants felt were important to them. Ms. Frase and Ms. Adair, put together an agenda for the meeting which was held in mid December of 2007. Ms Frase chaired the meeting and Ms. Adair was acting as recording secretary at the meeting.

**[26]** Ms. Frase testified that as she was going through the agenda, Ms. Lee would constantly interrupt. Her testimony was that Ms. Lee didn't seem to be satisfied with the agenda and seemed to have her own agenda.

**[27]** The meeting took approximately one hour. Ms. Adair undertook to prepare minutes of the meeting, but due to her teaching schedule and the Christmas break, she did not prepare the minutes until some time in early January of 2008. She circulated the minutes to all of those present at the meeting.

**[28]** Ms. Lee apparently took exception to the minutes insofar as, in her opinion, they appeared to suggest that she did all the talking at the meeting. She objected to being named in the minutes and what she felt were inaccurate comments attributed to her. Ms. Adair was walking through a common area of the school, adjacent to the school library, where there were teachers and students present. Ms. Lee was working with her student on computers which were also in that area. The evidence was that she confronted Ms. Adair with respect to the minutes and the remarks attributed to her.

**[29]** Ms. Frase's testimony was that Ms. Lee used the term "God damn" to describe some aspect of the minutes. Ms. Adair's testimony was not as direct and she made no mention of such term being used. Ms. Lee's description of the event in her testimony was more in keeping with Ms. Adair's recollection of the event. Nevertheless, it is common that there was a discussion of the minutes and that Ms. Lee was quite direct in her unhappiness as to how the minutes depicted her at the meeting.

**[30]** There is little doubt from the testimony of Ms. Frase, Ms. Adair and Ms. Lee that the discussion was not quiet or passive. Ms. Lee was aggressive in her conversation with Ms. Adair and made it clear to her that she was unhappy with the minutes as drafted. Ms. Adair, on reflection, thinks that she erred in having the conversation with Ms. Lee in that location at that time (in the presence of other teachers and students, and particularly in front of Ms. Lee's exceptional student). On reflection, she feels it would have been better to have dealt with the situation differently.

**[31]** All of Ms. Frase, Ms. Adair and Ms. Drinkle saw the incident as troubling from a couple of perspectives. Firstly, the aggressive manner in which Ms. Lee approached Ms. Adair was an inappropriate method of resolving differences between staff members, but more importantly, it was a violation of the requirement to "model" appropriate behavior for students.

**[32]** There was also a suggestion by Ms. Frase and Ms. Adair that in the course of the conversation, Ms. Lee made a comment regarding her student when Ms. Adair suggested that they should be having the conversation somewhere else away from her student. That comment, to the effect, that it didn't matter that the student could overhear their discussion, was that, "he wouldn't understand anyway." To Ms. Frase, and Ms. Adair, and Ms. Drinkle, this showed disrespect for the student and was a completely inappropriate comment to have been made.

**[33]** A letter was written to Ms. Lee outlining the inappropriateness of her behaviour towards Ms. Adair by Ms. Drinkle. Ms. Lee was encouraged in the letter to review the role of the Educational Assistant within the Chinook School Division. That role had been reviewed at staff meetings in both September of 2007 and again in January of 2008. Ms. Lee declined to attend either of these meetings.

**[34]** On February 8, 2008 Ms. Frase assembled the educational assistants to ensure there was no miscommunication regarding time made up for early dismissal days, a matter which had been discussed at the prior meeting in December, 2007. Ms. Frase reported to Ms. Drinkle that at that meeting Ms. Lee had again made insubordinate comments directed to Ms. Frase. Ms. Drinkle, Ms. Frase and Ms. Lee later met to

determine the reason for the comments. At that meeting Ms. Lee was reportedly insubordinate to Ms. Drinkle. As a result, she was advised that Mr. McIntyre from human resources would be contacted to meet with her and Ms. Drinkle. That meeting occurred on February 13, 2008, at which time Ms. Lee was given a letter advising she was being suspended with pay pending investigation.

**[35]** An investigation was conducted into the conduct of Ms. Lee by both Mr. McIntyre and Mr. Rod Siemens. Each of them testified as to their role in the investigation. Mr. Siemens interviewed some of the employees of Oman School, while Mr. McIntyre interviewed others. They collaborated with respect to the results of the investigation.

**[36]** On February 15, 2008 Mr. McIntyre wrote to Ms. Lee advising of the matters discussed at the February 13, 2008 meeting and advising that an investigation had been conducted into the allegations brought forward to the human resources department. The letter directed Ms. Lee to attend a meeting on Monday, February 25, 2008 “to discuss the results of the investigation and to respond to the concerns.”

**[37]** The meeting was held on January 25, 2008. At that meeting, the results of the investigation were discussed along with other matters. Following that meeting, by a letter dated February 26, 2008 Ms. Lee was advised that she was being terminated. The letter provides that:

*[A]lthough we have reason to believe there may be sufficient cause to terminate without notice, on a without prejudice basis we are prepared to pay you a severance of three months in lieu of notice....*

**[38]** Mr. Siemens and Mr. McIntyre give the following as the reasons for the termination of Ms. Lee:

- (a) *Ms. Lee was insubordinate to her supervisor, and*
- (b) *Ms. Lee refused to follow acceptable processes when, and if, she had concerns about or in respect of her fellow employees.*
- (c) *Ms. Lee did not seem to accept that she had a problem with the others at Oman School.*



**[39]** Mr. Siemens and Mr. McIntyre testified that they were “completely unaware of any union activity of Ms. Lee until she herself stated her involvement” during their meeting with her on February 25, 2008. Mr. McIntyre testified that upon his becoming aware from Ms. Lee that she had been involved in the organizing drive at Oman School that he considered that fact, but the decision to terminate Ms. Lee was, in no way resultant from any involvement of Ms. Lee with the organizing campaign.

**[40]** Each of Ms. Frase, Ms. Adair and Ms. Drinkle also testified that they were unaware of any involvement of Ms. Lee in the organizing campaign, or in fact that there was an organizing campaign in progress at Oman School during January of 2008. Ms. Frase says that she became aware of Ms. Lee’s claim to having been involved in the organizing campaign upon reading this Board’s decision in respect of the Interim Application by Ms. Lee which was posted in the school in accordance with the Board’s order. Ms. Adair and Ms. Drinkle testified that they became aware that Ms. Lee claimed to be involved in the organizing campaign only when they were asked to provide affidavits in response to the interim application by the Union in respect of this matter.

**[41]** The Union provided evidence from Ms. Barb Wotherspoon, the business agent for the Union. Ms. Wotherspoon. She testified that she had not known Ms. Lee prior to this issue arising. She outlined the efforts of the Union to organize various schools in the Chinook School Division during the years 2007 and 2008.

**[42]** Ms. Wotherspoon testified that Ms. Lee came to her on February 27, 2008 to advise that she had been terminated from her position at Oman School. This was the first time she had met Ms. Lee. She testified that at the time Ms. Lee came to her, that she was unaware that Ms. Lee had delivered support cards to Oman School. Ms. Wotherspoon also testified that the Union had had a long and peaceful involvement with the Chinook School Division and its predecessor school divisions.

**[43]** Ms. Lee also testified at the hearing. She outlined her version of the events which were outlined by the Employer witnesses and noted above. One of the documents submitted by the Union, through Ms. Lee (Exhibit U-6) was Ms. Lee’s correspondence concerning the Minutes prepared by Ms. Adair from the meeting in

December of 2007, which she objected to. At the bottom of that exhibit in bold type is the following statement "I will no longer be attending these meetings and the 9 hours I owe can be deducted from my pay cheque." The evidence was that she did not attend the meeting of Educational Assistants held on January 10, 2008.

**[44]** The meeting of Educational Assistants on January 10, 2008 was organized by Ms. Frase, Ms. Adair and Ms. Drinkle to allow Mr. McIntyre and Mr. Siemens who were part of the central administration of the Chinook School Division to meet with the Educational Assistants to explain and clarify some of the policies referenced at the meeting in December, 2007 which were outside the purview of Ms. Frase, Ms. Adair and Ms. Drinkle.

**[45]** Ms. Lee also outlined how she came to be involved with the Union's organizing campaign. She testified that she made contact with the Union in January, 2008 and arranged to have membership cards made available to her for distribution in Oman School. She also testified that she had Ms. Gail Jamieson, another member of the Union, prepare and make available for her a letter to be included with the membership cards when they were distributed. This letter was prepared by the Union, and dropped off for her at her husband's place of business, where it was subsequently picked up by another staff person at Oman School who delivered it to Ms. Lee. This letter (which was submitted as Exhibit U-8), provided some answers to questions that staff members may have had at Oman School to whom membership cards were being given.

**[46]** Ms. Lee then testified that she placed the support cards and the letter prepared by the Union into the mailboxes provided for all employees in the main office area of Oman School.

**[47]** There was some testimony concerning the location of these mailboxes and their utilization by the staff. That testimony was that these mailboxes, while being in a public area, were treated as confidential by the staff, and materials placed in these mailboxes would not be viewed by anyone other than the person for whom it was intended. Ms. Lee testified that she had no concerns about the security of the mailboxes and materials left in them.

**[48]** This was the extent of Ms. Lee's involvement in any organizing campaign at Oman School. Ms. Jamieson, who also testified for the Union outlined the steps the

Union took following Ms. Lee's termination to continue the organizing campaign at Oman School. That campaign has resulted in an application for certification to this Board.

**Relevant statutory provisions:**

**[49]** Relevant provisions of the Act are as follows:

5. *The board may make orders:*

(d) *determining whether an unfair labour practice or a violation of this Act is being or has been engaged in;*

(e) *requiring any person to do any of the following:*

(i) *to refrain from violations of this Act or from engaging in any unfair labour practice;*

(ii) *subject to section 5.1, to do any thing for the purpose of rectifying a violation of this Act, the regulations or a decision of the board;*

(f) *requiring an employer to reinstate any employee discharged under circumstances determined by the board to constitute an unfair labour practice, or otherwise in violation of this Act;*

(g) *fixing and determining the monetary loss suffered by an employee, an employer or a trade union as a result of a violation of this Act, the regulations or a decision of the board by one or more persons, and requiring those persons to pay to that employee, employer or trade union the amount of the monetary loss or any portion of the monetary loss that the board considers to be appropriate;*

...

5.3 *With respect to an application or complaint made pursuant to any provision of this Act or the regulations, the board may, after giving each party to the matter an opportunity to be heard, make an interim order pending the making of a final order or decision.*

...

11(1) *It shall be an unfair labour practice for an employer, employer's agent or any other person acting on behalf of the employer:*

(a) *in any manner, including by communication, to interfere with, restrain, intimidate, threaten or coerce an employee in the exercise of any right conferred by this Act;*

...

(e) *to discriminate in regard to hiring or tenure of employment or any term or condition of employment or to use coercion or intimidation of any kind, including discharge or suspension or threat of discharge or suspension of an employee, with a view to encouraging or discouraging membership in or activity in or for or selection of a labour organization or participation of any kind in a proceeding under this Act, and if an employer or an employer's agent discharges or suspends an employee from his employment and it is shown to the satisfaction of the board that employees of the employer or any of them had exercised or were exercising or attempting to exercise a right under this Act, there shall be a presumption in favour of the employee that he was discharged or suspended contrary to this Act, and the burden of proof that the employee was discharged or suspended for good and sufficient reason shall be upon the employer; but nothing in this Act precludes an employer from making an agreement with a trade union to require as a condition of employment membership in or maintenance of membership in the trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment, if the trade union has been designated or selected by a majority of employees in any such unit as their representative for the purpose of bargaining collectively;*

...

(g) *to interfere with the selection of a trade union as a representative of employees for the purpose of bargaining collectively;*

**Analysis and Decision:**

[50] The Board has recently outlined its jurisprudence with respect to the application of s. 11(1)(e) of the Act in *Canadian Union of Public Employees v. Del Enterprises Ltd. o/s St. Anne's Christian Centre* [2004] Sask L.R.B.R. 156, [2004] S.L.R.B.D. No 33, LRB File No. 087-04 to 092-04. That decision referenced the Board's decision in *Canadian Union of Public Employees, Local 3990 v. Core Community Group Inc.*, [2001] Sask. L.R.B.R. 131, LRB File Nos. 017-00 to 022-00, which decision referenced the Board's decision in *Saskatchewan Joint Board, Retail Wholesale and Department Store Union v. Moose Jaw Exhibition Co. Ltd.* [1996] Sask. L.R.B.R. 575, LRB File Nos. 131-96, 132-96 & 133-96.

[51] In the *Moose Jaw Exhibition* case, *supra*, the Board quoted from para. 123 of its decision in *Saskatchewan Government Employees Union v. Regina Native Youth and Community Services Inc.* [1995] 1<sup>st</sup> Quarter Sask. Labour Rep. 118, LRB File Nos. 144-94, 159-94 and 160-94 as follows:

*It is clear from the terms of Section 11(1)(e) of the Act that any decision to dismiss or suspend an employee which is influenced by the presence of trade union activity must be regarded as a very serious matter. If an employer is inclined to discourage activity in support of a trade union, there are few signals which can be sent to employees more powerful than those which suggest that their employment may be in jeopardy. The seriousness with which the legislature regards conduct of this kind is indicated by the fact that the onus rests on the employer to show that trade union activity played no part in the decision to discharge or suspend an employee.*

[52] Also, in its decision in *The Newspaper Guild v. The Leader Post*, [1994] S.L.R.B.R. No. 10, LRB File Nos. 251-93, 252-93 & 254-93, at p. 248, the Board says:

*For our purposes, however, the motivation of the Employer is the central issue, and in this connection the credibility and coherence of the explanation for the dismissal put forward by the Employer is, of course, a relevant consideration. We are not required, as an arbitrator is, to decide whether a particular cause for dismissal has been established. Nor, like a court, are we asked to assess the sufficiency of the cause or of a notice period in the context of*

*common law principles. Our task is to consider whether the explanation given by an employer holds up when the dismissal of an employee and some steps taken in exercise of rights under the act coincide. The strength or weakness of the case an employer offers in defence of the termination is one indicator of whether union activity may also have entered the mind of the Employer.*

**[53]** As noted by the Board in *Saskatchewan Government and General Employees' Union v. Saskatoon Food Bank*, [1999] Sask. L.R.B.R. 497, LRB File Nos. 225-98, 226-98 & 227-98, at para. 52a, the onus on the Employer "while extremely heavy -- the Employer must satisfy the Board that trade union activity played no part in the decision to discharge the employee -- is not impossible to satisfy."

**[54]** Also, in *Saskatoon Food Bank, supra*, the Board found from examination of the cases referenced therein that in all of those cases, "...there was at least some evidence upon which the intrusion of anti-union animus into the decision to impose discipline could be inferred."

**[55]** The Employer went to great length, and called all of the parties to the issue to give evidence and made them available to the Union for cross-examination. The evidence presented by the Employer's witnesses, Ms. Frase, Ms. Adair, Ms. Drinkle, Mr. Siemens, and Mr. McIntyre was both credible and consistent. That is not to say that the evidence provided by the Union was any less credible and consistent. Both Ms. Wotherspoon and Ms. Jamieson were candid and straight forward in the evidence that they presented. Ms. Lee's evidence, however, was less consistent, and not unexpectedly came from a different perspective than that of the Employer's witnesses. While there were not huge inconsistencies in respect of the facts presented, the view taken by the Employer regarding appropriate conduct by Educational Assistants and their responsibility to "model" good behavior and settle disputes in a non-confrontational manner was at variance to the views expressed by Ms. Lee. It was clear that Ms. Lee did not see that there was a problem with her behavior toward other staff members and her confrontational manner to resolve disputes. Nor did she seem to acknowledge that she could have handled matters in a better manner and that "modeling" good behavior for students was an important aspect of her job.

**[56]** It was this lack of acceptance that there was a problem with her behavior that Mr. McIntyre says was the final straw that determined that she would be terminated rather than some other solution found.

**[57]** The Chinook School Division and its predecessor school divisions have had a long history with the Union. The Union has been certified to represent employees in the School Division for many years. The parties have a mature and relatively unmarred relationship. Ms. Wotherspoon acknowledged in her testimony that the Union has never been involved in a strike with the Chinook School Division.

**[58]** In addition, there has been an ongoing organizational effort by the Union throughout the City of Swift Current which is a part of the Chinook School Division. Throughout that organizational drive there has been no instances where union organizers have been subjected to any discipline for their involvement in organizing activity. In short, there was no evidence of any anti-union animus by this Employer presented by the Union.

**[59]** In this case, the explanation by the Employer was both coherent and credible. The uncontradicted evidence of the Employer was that no-one involved in the process of discipline of Ms. Lee were aware of any union activity (other than Mr. Siemens and Mr. McIntyre when they were advised of it by Ms. Lee) prior to the termination of Ms. Lee. The Union was unable to provide any evidence that the termination of Ms. Lee was motivated in any way by Ms. Lee's activities in support of the Union.

**[60]** As noted in the *Newspaper Guild* decision, *supra*, the Employer's motivation is an important element in cases such as this. The Employer has satisfied the Board that it had no improper motivation in respect of its termination of Ms. Lee. Furthermore, the Board cannot find any element of anti-union animus in the explanation provided by the Employer.

[61] The application is therefore dismissed. The Board's interim order shall be of no further effect.

**DATED** at Regina, Saskatchewan, this **9th** day of **September, 2008**.

**LABOUR RELATIONS BOARD**

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Kenneth G. Love, Q.C.,  
Chairperson

**AMENDED SIGNATURE PAGE**

Board Member, Maurice Werezak, dissents from these Reasons for Decision.