

**The Labour Relations Board  
Saskatchewan**

**CANADIAN STAFF UNION, Applicant v. CANADIAN UNION OF PUBLIC EMPLOYEES,  
Respondent**

LRB File No. 077-11, September 14, 2011

Vice-Chairperson, Steven Schiefner; Members: Hugh Wagner and Ken Ahl

For Applicant Union: Ms. Shona A. Moore, Q.C.

For Respondent Employer: Mr. Ronald A. Pink, Q.C.

**UNION – Status – Applicant organization makes application to be certified to represent employees of employer – Applicant organization had long history of representing employees as a result of the employer’s voluntary recognition – Applicant not previously certified to represent employees in Saskatchewan – Board hears evidence as to history of organization, its formation, constitution and activities – Board satisfied that applicant organization is a trade union.**

*The Trade Union Act, ss. 2(k) and (l)*

**REASONS FOR DECISION**

**Background:**

**[1] Steven D. Schiefner, Vice-Chairperson:** On May 25, 2011, the Canadian Staff Union (the “Applicant”) filed an application with the Saskatchewan Labour Relations Board (the “Board”) seeking to represent a unit of employees employed by the Canadian Union of Public Employees (the “Employer”). The Employer filed a Reply on June 1, 2011. While the Employer did not dispute the Applicant’s status as a trade union, the Employer did raise certain concerns regarding the description of the bargaining unit; concerns which were ultimately resolved by the parties.

**[2]** Since the Applicant had not been previously certified to represent employees as a trade union in Saskatchewan, it was required to establish its status. By the time matters proceeded to hearing, the only issue left to be resolved was the status of the Applicant to bring the within application.

[3] The matter was heard by the Board on August 25, 2011 in Regina, Saskatchewan. The Union called Ms. Rhonda Heisler, the Applicant's Regional Vice-President for its Saskatchewan operations.

[4] After hearing from the parties, the Board determined that the Applicant had standing to bring the within application. These are the Board's reasons for that determination.

**Facts:**

[5] The Employer is a long-standing trade union representing employees across Canada in a variety of sectors. For decades, the Employer has voluntarily recognized the Applicant as the bargaining agent for its employees across Canada (subject to enumerated exceptions and exclusions).

[6] The parties have entered into numerous collective agreements over their history, with the first dating back to 1963. The collective agreements between the parties have historically been national agreements applying to all non-exempt and non-excluded employees across Canada. Of particular significance to the within application, for as long as the Employer has had offices in Saskatchewan, the Employer has voluntarily recognized the Applicant as the exclusive bargaining agent for non-exempt employees in this province and they have been covered by the national collective agreement in place between the parties.

[7] A copy of the Applicant's Constitution was provided to the Board. Article 2 of that document sets for the Objectives of the Applicant, which include, *inter alia*, "(a) the advancement of the social, economic and general welfare of staff personnel;" and "(b) the improvement of wages, salaries, working conditions, job security and other conditions of employment". In addition, Article 4 of that document sets forth the Applicant's governance model and internal structures, including its Executive Board and Regional components. In this regard, it is noted that Saskatchewan is a region and one (1) Regional Vice-President is elected from members working in this province. Finally, Article 14 of the Applicant's Constitution sets forth the Applicant's structures and processes for collective bargaining.

[8] In recent years, other labour organizations have attempted to become certified to represent certain employees of the Employer; employees who had historically been covered by the Applicant's collective agreement with the Employer. In response to this threat to its

jurisdiction, the Applicant resolved to seek certification in many of the provinces wherein it represents the employees of the Employer, including Saskatchewan.

[9] Prior to the hearing, a vote was conducted to determine the wishes of the members of the bargaining unit. However, the ballots were not tabulated. Rather, the ballot box was sealed pending further direction from the Board.

#### Relevant Statutory Provisions:

[10] The relevant provisions of *The Trade Union Act*, R.S.S. 1978, c.T-17, are as follows:

2 *In this Act:*

(j) **"labour organization"** means an organization of employees, not necessarily employees of one employer, that has bargaining collectively among its purposes;

(l) **"trade union"** means a labour organization that is not a company dominated organization;

#### Analysis and Conclusions:

[11] The jurisprudence of this Board is to compel an applicant seeking to represent a group of employees, that has not previously been certified in this Province, to establish its status and, in particular, its standing to be certified to represent employees for the purpose of collective bargaining. See: *Health Sciences Association of Saskatchewan v. University Hospital*, [1965-74] Dec. Sask. L.R.B. Volume III, LRB File No. 225-72. Simply put, an applicant organization must satisfy the Board that it is a trade union with the meaning of *The Trade Union Act*. In this regard, it should be noted that this is not an enquiry into the relative strength or tenacity of the applicant organization in terms of achieving particular collective bargaining goals or its adherence to particular ideological beliefs. In this exercise, the Board is simply concerned with whether or not the organization is dedicated to advancing the interests of its members by means of collective bargaining and that its internal structure possesses certain hallmarks of organizational legitimacy associated with a trade union. See: *Board of Education Administrative Personnel Union v. Board of Education and Regina Collegiate Institute*, [1978] June Sask. Labour Rep. 44, LRB File No. 380-77. See also: *Regina Musicians Association, Local 446 v. Saskatchewan Gaming Corporation*, [1997] Sask. L.R.B.R 273, LRB File No. 012-97.

[12] It was clear from the evidence presented in these proceedings that the Applicant had a long history of collective bargaining, albeit exclusively for employees employed by the Employer and primarily based upon the Employer's voluntary recognition of the Applicant as the bargaining agent for its employees. The Applicant's Constitution defined its structures and processes for collective bargaining. In our opinion, the Applicant's history of labour relations, including the numerous, nationally-recognized collective agreements it had negotiated, together with the Applicant's Constitution, unequivocally demonstrated that collective bargaining is among its purposes. Furthermore, the Applicant's internal structures appeared to be transparent, democratic and membership-driven. These structures operate at both a national and regional level. Saskatchewan is a Region within the Applicant's organization structure, ensuring that members within Saskatchewan can have a voice at both the local and national level through a variety of means, including the election of officers. In our opinion, the Applicant demonstrated the requisite hallmarks of organizational legitimacy anticipated by this Board. For the foregoing reasons, we were satisfied that the applicant organization was a labour organization within the meaning of *The Trade Union Act*.

[13] Finally, there was no allegation or any evidence that the Applicant was not a *bona fide* trade union by means of company domination. As a consequence, having reviewed the evidence presented in these proceedings, we were satisfied that the Applicant had standing to be certified as a trade union in the Province of Saskatchewan pursuant to *The Trade Union Act*.

[14] Having come to above determination, the Board directed that the ballot box, which had been sealed following the representation vote, be unsealed and that the ballots be counted. Following the tabulation of ballots and having determined that the majority of employees in the bargaining unit wished to be represented by the Applicant for the purpose of collective bargaining with the Employer, the Board granted the Applicant's application for certification.

**DATED** at Regina, Saskatchewan, this **14th** day of **September, 2011**.

**LABOUR RELATIONS BOARD**

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Steven D. Schiefner,  
Vice-Chairperson