

IN THE MATTER OF AN ADJUDICATION  
PURSUANT TO SECTION 3-54 OF *THE SASKATCHEWAN EMPLOYMENT ACT*

BETWEEN:

S.C.



Appellant/Employee

- and -

**Mamawetan Churchill River Regional Health Authority**

Respondent/Employer

For the Appellant: self-represented/with counsel Michael Krawchuk

For the Respondent: Evert van Olst, Q.C., Counsel, Saskatoon Regional Health Authority

**Corrigendum**

**INTRODUCTION**

[1] In my decision dated June 14/15, 2015, I considered, but did not fully address the question of causal connection between the Appellant's complaint against TN and the termination of the Appellant's employment.

[2] Pursuant to the direction of The Labour Relations Board, I therefore amend my decision by the insertion of the following between Paragraph [97] and Paragraph [98]:

[97.1] To re-cap, TN managed the Region's health centre in the northern community of Sandy Bay, under the Appellant's direct management. The evidence reflects that during the Appellant's post-hire orientation by the out-going CEO, in June, 2011, the Appellant was informed that the progressive worsening of the Sandy Bay budget deficit and Manager TN's questionable spending habits were to be given her top priority. The Appellant testified that she didn't know TN, but while she worked on an analysis of the Sandy Bay budget deficit during the summer, she began to receive complaints about TN from the community and Sandy Bay staff giving rise to further performance concerns including significant absenteeism and interpersonal (staff) issues. The Appellant took steps to monitor and manage what she described in testimony as TN's "*gross performance issues*". Notably, the Appellant re-assigned supervision of one of TN's staff to another manager, and revoked TN's signing authority pending further inquiry into the Sandy Bay budget deficit. The latter action was taken in conjunction with a disciplinary meeting as well as an

Expectation Letter and Learning Plan delivered to TN on November 15 and 30, 2011, respectively. On December 20, 2011, the Appellant made her first site visit to Sandy Bay where she had an extended meeting with TN. The Appellant subsequently learned in January, 2012, that TN had filed a complaint of harassment against her which was, according to the Appellant, “*to get her signing authority back*”. The Appellant subsequently filed a counter-complaint of harassment against TN.

[97.2] The Appellant concluded her own testimony by stating that her employment had been terminated due to her “*persistence in solving the TN issue and the [HR Director] issue*”. However, the Appellant initially testified that she “*thinks what led to [her] termination was her issues with [the HR Director]*”. Throughout the hearing, the Appellant’s case, both in her own testimony and that of her witnesses, the Appellant’s focus was largely on establishing her own managerial competence (in general and, specifically with regard to her effectiveness in managing ‘the TN issue’) in contrast to the alleged incompetence of the HR Director whom the Appellant believes engineered her dismissal. Comparatively, there was scant focus on the counter-complaint against TN and the employer’s response to it. That being said, I have no difficulty accepting that the Appellant’s “persistence in solving TN’s...gross performance issues” triggered TN’s complaint of harassment against the Appellant which led, in turn, to the Appellant’s concerns with regard to her physical safety arising therefrom and her counter-complaint of harassment against TN.

[97.3] Though there is a clear connection between the Appellant’s “persistence” in managing TN’s performance and both the complaint and counter-complaint, the requisite nexus that must be established by the Appellant is a causal connection between the protected health and safety activity—the Appellant’s counter-complaint of harassment—and the employer’s action to terminate the Appellant’s employment. The bare assertion of a causal connection made by the Appellant in Argument (page 13, para. i) is not, in itself, sufficient to establish the requisite causal connection. The Appellant did not advance further evidence or argument to support a causal connection.

[97.4] Though a temporal connection was not asserted by the Appellant, the timeline between the complaint filed February 3, 2012 and the Appellant’s dismissal in May 2, 2012 is evident on the face of the material before me. Though a temporal connection is a factor to consider, more is required than the mere fact the employer’s actions followed the complain chronologically. In this instance, the temporal connection is not a striking one.

[97.5] On a review of the evidence, I find that the Appellant’s right to raise a complaint or counter-complaint of harassment against TN was never questioned or challenged by the employer, nor did the Appellant suggest that it was. The employer responded promptly and reasonably by enlarging the scope of the independent third party investigators’ mandate to investigate TN’s complaint to include investigation of the Appellant’s counter-complaint. As a preventative measure pending the conclusion of the investigation, the employer took the reasonable interim step of modifying the Appellant and TN’s reporting relationship. During the investigative process,

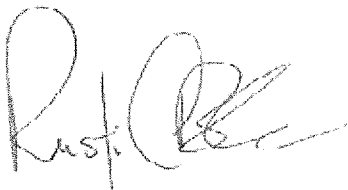
the Appellant raised concerns about her physical safety which appear to have precipitated by the speculative comments of an unidentified third party. On cross-examination, the Appellant acknowledged that the CEO advised her to engage the RCMP and other safety precautions. While the Appellant may not have been satisfied thereby, there is no evidence as to her expectations. There being no expectation of perfection on the part of the Respondent employer, I find that the employer acted reasonably in response to the Appellant's inchoate concern. There was no evidence of an anti-safety *animus*.

[97.6] Both TN's complaint and the Appellant's counter-complaint were found to be unsubstantiated. In the opinion of the investigators, both TN and the Appellant had contributed to a dysfunctional working relationship, but neither complaint was made in bad faith. The Respondent's witness testified that following the receipt of the investigator's reports, the employer took positive steps to initiate the restorative recommendations therein, which included the recommendation for a mandatory mediated non-punitive plan of action to restore the parties' working relationship and seeking targeted professional development training for each party. Though recommended restorative steps did not come to full fruition, the Respondent's testimony was unchallenged in cross-examination. For that reason, I am not prepared to draw the inference that the restorative steps did not come to fruition due to an anti-safety *animus* in relation to the Appellant's complaint.

[97.7] As stated above, beyond the bare assertion of a causal connection, the Appellant did not advance argument or adduce further evidence, through her own or witness testimony or through cross-examination or in Argument, to support a causal connection between the protected health and safety activity and the employer's actions. I find no anti-safety *animus* on the part of the employer.

[3] Paragraph [98] is amended to read: Based on the foregoing, I find that the Appellant has not established *prima facie*, a causal connection between her issue with the HR Director or her counter complaint of harassment against TN and the termination of her employment on May 2, 2012.

Dated at Regina, Saskatchewan this 28<sup>th</sup> day of December, 2015



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Rusti-Ann Blanke  
Special Adjudicator