



Government  
of  
Saskatchewan

Saskatchewan Labour Relations Board

1600, 1920 Broad Street  
Regina, Canada S4P 3V2

Tel - (306) 787-2406

Fax - (306) 787-2664

[www.sasklabourrelationsboard.com](http://www.sasklabourrelationsboard.com)

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Goldblatt Partners LLP  
Lawyers  
1100 – 20 Dundas Street  
Toronto, ON  
M5G 2G8

MLT Aikens LLP  
Barristers and Solicitors  
1500, 410 – 22<sup>nd</sup> Street East  
Saskatoon, Saskatchewan  
S7K 5T

**Attention: Mr. Lorne A. Richmond**

**Attention: Mr. Kevin Wilson, QC**

Dear Mr. Richmond and Mr. Wilson:

**Re: LRB File No. 017-17 – Canadian Union of Skilled Workers v Nakoda Industrial Ltd. – Application for Bargaining Rights**

[1] This application came before the Board comprised of Members Maurice Werezak; Laura Sommervill, and myself, as Vice-Chairperson on March 29, 2017. At that hearing, Mr. Joseph Mulhall, President of the Canadian Union of Skilled Workers [“CUSW”] testified on behalf of CUSW, the Applicant in this matter.

[2] Mr. Kevin Wilson, QC, counsel for Nakoda Industrial Ltd. [“Nakoda”], advised the Board that his client would not participate actively in the hearing. Rather, he was maintaining a watching brief during these proceedings. Nakoda did not oppose CUSW’s application.

[3] After receiving Mr. Mulhall’s testimony and the oral submissions of Mr. Richmond, counsel for CUSW, the Board indicated it would reserve its decision..

[4] Mr. Richmond requested that should the Board allow this application, CUSW would appreciate receiving its certification Order as soon as possible. He also requested that the Board provided written reasons for its decision but said those could be issued somewhat later.

[5] The Board acceded to his request. We have now had an opportunity to consider this application and are prepared to issue this bottom-line decision with Reasons for Decision to follow in due course. A Certification Order is attached to this letter.

### **The Application**

[6] This particular application is brought pursuant to section 6-9 of *The Saskatchewan Employment Act*, SS 2013, cS-15.1 [“SEA”]. CUSW seeks to be certified as bargaining agent for the following unit of employees:

All employees of Nakoda Industrial Ltd. in the Province of Saskatchewan save and except for supervisors, office staff and management personnel.

[7] Prior to the hearing, a certification vote of eligible employees was held by way of mail-in ballots pursuant to an Order of this Board in LRB File No. 017-17 dated February 10, 2017. That vote was completed on or before March 7, 2017.

[8] On March 7, 2017, this Board issued an Order directing that the ballots be counted. This occurred on March 9, 2017. Although Nakoda operates a small workplace comprised of eight (8) eligible potential union members, the vote revealed that support for the union was overwhelming.

[9] All that remained was for this Board to determine whether CUSW qualified as a “union” for purposes of the *SEA*. Section 6-1(1)(p) defines “union” as “a labour organization or association of employees that: (i) has as one of its purposes collective bargaining; and (ii) is not dominated by an employer”. It is this issue which this bottom-line decision addresses.

### **Analysis and Decision of the Board**

[10] This Board has considered this question in a number of its prior decisions, many of which were cited by Mr. Richmond. Our decision in *Canadian Staff Union v Canadian Union of Public Employees*, LRB File No. 077-11, 2011 CanLII 61200 (SK LRB) [“*Canadian Staff Union*”] helpfully summarizes what an labour organization that has not yet been certified as a union in Saskatchewan, must demonstrate in order to obtain certification. As Mr. Richmond candidly admitted the test is “not onerous”.

[11] This summary which found at paragraph 10 of the *Canadian Staff Union* decision reads as follows:

*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 [sic] 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 possess [sic] 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. [Emphasis added].*

[12] Applying these criteria to CUSW, the Board is satisfied that it satisfies the statutory definition of “union” and, in view of the result of the vote referred to above, a certification Order should issue.

**Order**

[13] The Board orders that CUSW be certified as the exclusive bargaining agent for Nakoda’s employees identified in the Certification Order.

[14] This is a unanimous decision of the Board.

Yours very truly,



Graeme G. Mitchell, Q.C.  
Vice-Chairperson

Attach.