November 2, 2017

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Attention: Ms. Heather Jensen

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Attention: Mr. Robert Frost-Hinz

Dear Madam & Sir:

RE: LRB File No. 212-17

Background:

1. The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 5917 (the "Steelworkers") applied to the Board alleging that Arch Transco Ltd., operating as Regina Cabs ("Regina Cabs"), had committed an Unfair Labour Practice by refusing to permit drivers, who were within the scope of the certification Order granted by this Board[1], and who had been granted seasonal taxi licences, the ability to affiliate those licences with Regina Cabs. The Steelworkers then applied to the Board for an interim Order of the Board pending the hearing of their Unfair Labour Practice Application. This decision is with respect to that interim application.

[1] Order dated March 23, 2015

2. The City of Regina, after considerable debate and public consultation, determined to change the methodology whereby "seasonal taxi licences" were issued. Previously, these seasonal licences were issued to existing taxi brokers on a pro rata basis. The City, in 2017 determined to allocate 60% of the licences to persons not affiliated with existing taxi companies via a lottery system and allocated 40% to existing taxi brokers (including Regina Cabs). Seasonal taxi licences permit the holder to operate a taxi within the City of Regina for the period October 1, 2017 to March 31, 2018.

3. Three individuals who presently drive a taxi affiliated with Regina Cabs were successful in obtaining seasonal taxi licences via the lottery. These were Mr, Tahir Hashmi ("Hashmi"), Mr. Ashar Aleem ("Aleem") and Mr. Ahmed Arif ("Arif").

4. Seasonal taxi licences are issued by the City of Regina and are governed by the provisions of Bylaw 9635 (the "Taxi Bylaw"). The Taxi Bylaw both regulates the number of taxi licences available within the City of Regina, but also prescribes regulations and standards of operation for taxis operated in the City of Regina. Seasonal taxi licences are subject to a specific provision in section 24.4 of the Taxi Bylaw which specifies conditions that must be adhered to be the recipients of those licences. That provision reads as follows:

> *24.4 In addition to the provisions of this or any other Bylaw respecting the revocation of licences, any new temporary, seasonal, or accessible taxicab owner's licence issued after July 1, 2017, including any renewal thereof, may be revoked and reallocated or subject to non-renewal if the following conditions are not met:*
>
> > *(a) the taxicab must be operated a minimum of 260 hours in any period of eight consecutive weeks;*
> >
> > *(b) the taxicab owner must at all times hold a valid taxicab driver's licence; and,*

> *(c) the taxicab owner must be the primary driver of the vehicle which means that the taxicab owner must be the driver must be the driver of the vehicle for at least 390 hours in any 3 month period, as evidenced through trip data recorded and submitted by the broker.*

5. Each of Hashmi, Aleem and Arif provided affidavits to the Board in respect of the interim application by the Steelworkers. Mr. Hashmi deposed that prior to obtaining a seasonal taxi licence in the lottery, that he sub-leased a taxi licence from another person and was a member of the Steelworkers. Upon his being granted a seasonal taxi licence, he deposed that he purchased a vehicle, installed a camera, topsign and meter.

6. Mr. Hashmi also deposed that he asked Regina Cabs to allow him to continue to operate his taxi through Regina Cabs (as he had done with his subleased taxi licence). However, he was advised by Regina Cabs that they would not be adding any seasonal licenced vehicles to their current fleet of taxis.

7. Mr. Hashmi also deposed that he had contacted other taxi brokers operating in the City of Regina. None of those companies has agreed to permit him to operate his taxi through their dispatch facilities. He deposed, however, that he had approached an newly formed taxi brokerage, Swift Cabs who has allowed the operation of his taxi through their dispatch office. He noted, however, that this brokerage was newly established and did not have “much market share”.

8. Mr. Aleem also previously subleased a taxi licence and was a member of the Steelworkers. Upon award of the seasonal taxi licence, he also purchased a vehicle and outfitted it as a taxi. He deposed that he went to the Regina Cabs office to make arrangements to drive his taxi through Regina Cabs, but did not receive a response to his inquiries in that regard. He too has determined to

operate his taxi through Swift Cabs and to continue to drive another taxi through Regina Cabs.

9. Mr. Arif previously drove a taxi through Regina Cabs and was a member of the Steelworkers. Upon being awarded a seasonal taxi licence, he also acquired a vehicle and outfitted it for use as a taxi. He deposed that he asked the Regina Cabs dispatch office to be permitted to operate his taxi through Regina Cabs, but deposed that he was advised by telephone by Ms. Sandy Archibald, Operations Manager for Regina Cabs that she would not allow him to operated his seasonal taxi licence through Regina Cabs.

10. Ms. Archibald also provided affidavit evidence. In her affidavit she provided email correspondence between herself and Ms. Leslie McNabb, a staff representative for the Steelworkers, wherein she advised as follows:

    > *We have considered your email and under the current circumstances the company has made a business decision not to add any of the licences awarded through the seasonal lottery.*
    >
    > *As serious concern is the amendment under the bylaw that requires brokerages to collect data on the lottery winners and the consequences of collecting that data.*
    >
    > *This decision does not change the status of current drivers….*

11. Ms., McNabb also provided affidavit evidence. In her affidavit, Ms. McNabb outlined the position taken by the Union with respect to the issuance of seasonal taxi licences, which position was in opposition to the position taken by Regina Cabs. She also outlined the steps that the Steelworkers had taken in support of those persons issued seasonal taxi licences, including contact with Regina Cabs allowing those licences to be operated through Regina Cabs.

Analysis and Decision of the Board

Preliminary Matters:

12. At the opening of the hearing of the interim application, counsel for Regina Cabs raised two preliminary matters. The first related to service of documents by the Steelworkers in relation to the application and the second related to portions of the affidavits which were filed by the Steelworkers in support which were, they argued, not in compliance with the Board's regulations and its practice directive regarding interim applications and affidavits filed in support.

13. Regina Cabs argued that they were served "draft affidavits" and did not receive the sworn affidavits until two days prior to the date set for the hearing. The Steelworkers responded that the draft affidavits were served because there was a technical problem having the affidavit sworn earlier and that the draft affidavits were sufficiently similar in all respects that Regina Cabs would have been fully aware of the contents of the final affidavit. The Steelworkers also pointed to Section 6-112 of *The Saskatchewan Employment Act* (the *("SEA")*, which it argued gave the Board extensive powers to insure that technical breaches did not invalidate any proceeding before the Board. In addition, it noted that Regina Cabs did not argue that any prejudice had occurred as a result of the late service.

14. Regina Cabs also took umbrage over certain statements in the affidavits, particularly of Ms. McNabb which were not confined to "those facts that the applicant or witness is able of the applicant's or witness's own knowledge to prove"[2].

[2] See section 15(2) of *The Saskatchewan Employment (Labour Relations Board) Regulations*

15. The Steelworkers replied that the affidavits should not be struck in their entirety, and that the affidavit provided by Ms. Archibald contained similar flaws.

Procedural Ruling:

16. In *Lac LaRonge Indian and Child Services Inc.(Re)*[3], the Board reviewed a situation where applications filed with the Board were improperly sworn. The Respondent argued those applications were a nullity and the Applicant argued that the Board had the authority under section 6-112 of the *SEA* to correct that irregularity. In its decision permitting the applications to proceed, the Board quoted from *Secretary of State v. Langridge* and *Cote: The Interpretation of Legislation in Canada* (2nd ed), which had been referenced by the Saskatchewan Court of Appeal in *Regina (City) v. Newell Smelski*[4] as follows:

> *There is great deal of authority for this. By way of example, involving imperfect compliance with a time requirement, we might refer to Secretary of State v. Langridge [1991] 3 All E.R. 591 (C.A.) at p. 595. There Balcombe LJ drew upon de Smith's Judicial Review of Administrative Action (4th ed., 1980), at pages 142-143, in addressing the principles at work:*
>
> > *When Parliament prescribes the manner or form in which a duty is to be performed or a power exercised, it seldom lays down what will be the legal consequences of failure to observe its prescriptions. The court must therefore formulate their own criteria for determining whether the procedural rules are to be regarded as mandatory, in which case disobedience will render void or voidable what has been done, or as directory, in which case disobedience will be treated as an irregularity not affecting the validity of what has been done (though in some cases it has been said that there must be "substantial compliance" with the statutory provisions if the deviation is to be excused as a mere irregularity). Judges have often stressed the*

[3] [2015] CanLII 50197 (SKLRB)
[4] [1996] CanLII 5084 (SKCA)

> *impracticability of specifying exact rules for the assignment of a procedural provision to the appropriate category. The whole scope and purpose of the enactment must be considered, and one must assess "the importance of the provision that has been disregarded, and the relation of that provision to the general object intended to be secured by the Act." In assessing the importance of the provision, particular regard may be had to its significance as a protection of individual rights, the relative value that is normally attached to the rights that may be adversely affected by the decision, and the importance of the procedural requirement in the overall administrative scheme established by the statute. Furthermore, much may depend upon the particular circumstances of the case in hand. Although "nullification is the natural and usual consequence of disobedience," breach of procedural or formal rules is likely to be treated as a mere irregularity if the departure from the terms of the Act is of a trivial nature, or if no substantial prejudice has been suffered by those for whose benefit the requirements were introduced, or if serious public inconvenience would be caused by holding them to be mandatory, or if the court is for any reason disinclined to interfere with the act or decision that is impugned.*

17. In the *Newell Smelski* decision referenced above, the Saskatchewan Municipal Board determined that it had jurisdiction to hear an assessment appeal, notwithstanding that the appeal may have technically been filed late. The Court of Appeal, sitting in review of that decision, upheld the Municipal Board's determination.

18. In the Court's decision, the first factor to be considered is the "whole scope and purpose of the enactment". The *SEA* is a continuation of the Wagner Act model of industrial relations which was established to provide a summary and non-technical means of dealing with disputes principally between unions and employers.

19. As argued by the Steelworkers, there was no material difference between what was served within the time limits and what was finally delivered in sworn form. Nor was there any prejudice claimed by Regina Cabs.

20. Section 6-112 is consistent with the whole scope and purpose of the *SEA* and provides broad authority to this Board to insure that the "real question in dispute in the proceedings" is heard.

21. Additionally, Section 27 of the Regulations permits the Executive Officer of the Board (Chairperson Love), to vary the time prescribed within the regulations for the "filing of any Form or document or for doing any other thing authorized or required" to be done by the regulations. This authority to vary time may be exercised "whether or not the period at or within which a matter mentioned in that order ought to have been done has expired".

22. We are of the opinion that service of the affidavits in their final form was done as quickly as possible, in substantial compliance with the regulatory scheme, and did not prejudice Regina Cabs in their response. They were able, within the time provided to respond to and rebut allegations contained within the affidavits complained of.

23. We would excuse the technical irregularity respecting service of the affidavits pursuant to section6-112 of the *SEA* so as to insure the real question in dispute is heard. Due to the nature of these proceedings, being a request for interim relief, there is no objection taken (at least at this stage) to the Unfair Labour Practice application which has been filed which will undoubtedly be heard in any event of the decision on this interim application.

24. Furthermore, if necessary, I, as Executive Officer would exercise my authority under section 27 of the Regulations to vary the time for service of the affidavits.

25. The objection taken with respect to the sections of the affidavits not being based upon "those facts that the applicant or witness is able of the applicant's or witness's own knowledge to prove", is one which is commonly raised in interim applications. It has been most recently dealt with by the Board in *United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union v. Evraz Wasco Pipe Protection Corporation.*[5]

26. At paragraph [12] of that decision, the Board quoted from its decision in *Unifor, Local 609 v. Health Sciences Association of Saskatchewan*[6] as follows:

> ***[12]*** *Recently, in UNIFOR, Local 609 v Health Sciences Association of Saskatchewan, the Board reviewed and summarized the legal principles governing the admissibility of affidavit evidence submitted on applications for interim relief. After reviewing prior authorities as well as section 15 of The Saskatchewan Employment (Labour Relations Board) Regulations [the "Regulations"], the Board stated as follows:*
>
> > *[17] From these authorities, the following principles are applicable to the Union's objection. First, affidavits filed in support of an application for interim relief must be based on information within the personal knowledge of the affiant. This requirement has long been recognized by the Board in its' prior decisions and is now explicitly mandated by subsection 15(2) of the Regulations.*
> >
> > *[18] Second, subsection 15(3) of the Regulations contemplates that an affidavit which is sworn on information and belief, and not personal knowledge, may yet be admitted if it is demonstrated that "special circumstances" exist for its admission. The Board has not considered what might qualify as "special circumstances" for purposes of this provision. No argument was advanced before us on the point so we decline to say anything more about it. Suffice it to say this provision appears to add a nuance to applications for interim relief which had not existed previously.*

[5] [2016] CanLII 98635 (SKLRB)
[6] [2016] CanLII 74279 (SKLRB)

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[19] Third, the Board will review an affidavit which contains statements that are not, or cannot be, based on personal knowledge of the affiant to assess whether the affidavit can stand with the offending portions excised or whether the affidavit must be struck in its entirety. In Grain Services Union (ILWU-Canada) v Startek Canada Services Ltd. [LRB File No. 032-04, 2004 CanLII 65591 (SK LRB)], for example, the Board critically reviewed the supporting affidavit which contained numerous paragraphs based on hearsay or information and belief without identifying the basis for the statement. Ultimately, the Board concluded that "the impugned portions of the affidavit and application document are too extensive to selectively excise and yet support the interim application" [Startek, supra, at para. 10]. As a consequence, the application failed because there was no other evidence that the Applicant could rely upon to support its request for interim relief.

[20] Contrastingly, in United Food and Commercial Workers, Local No. 1400 v Wal-Mart Canada Corp.[LRB File No. 069-04, 2009 CanLII 2047 (SK LRB)] the Board critically assessed the supporting affidavit of the Employer's Reply. The Board concluded that three paragraphs contained information outside the personal knowledge of the affiant and, accordingly, must be struck. However, the Board went on to admit the balance of the affidavit into evidence.

[21] Fourth, it is apparent that striking an affidavit in its entirety because it contains information not founded on personal knowledge should be the remedy of last resort. The Board must be satisfied the offending paragraphs have so polluted the affidavit that it is not possible to rely upon what remains of the document. See especially: [Startek, supra]

[22] Fifth, even if an affidavit is struck in its entirety for failing to comply with the requirement of personal knowledge, it does not follow that it will result in the application being dismissed or, in the case of a respondent, the failure of its defense. A good illustration of this reality is Saskatchewan Joint Board, Retail, Wholesale and Department Store Union v Loraas Disposal Services Ltd.[[1997] Sask. L.R.B.R. 517. LRB Files No. 208-97 to 239-97]. In that Decision which related specifically to the Union's application for interim relief, the Employer challenged the sufficiency of the Union's various supporting affidavits for the reason that they were not based on the affiants' personal knowledge. The Board disposed of this objection summarily. It noted that even though the affidavits in question failed to comply with the procedural requirement, the Union could rely on admissions contained in the Employer's supporting affidavit to prove its case. The Board stated [at page 523:

> *In this instance, the Board finds that the essential evidentiary claims made by the Union were confirmed by the affidavit filed on behalf of the Employer. As such, it is not necessary for the Board to review the sufficiency of the Union's affidavit or make any rulings with respect to the credibility of the deponents.*

27. In this case, no argument raised that "special circumstances" exist to justify the inclusion of the offending paragraphs or statements. There is, therefore, no need to consider this possible exception to the rules as laid out in the Regulations.

28. This case is not similar to the *Grain Services Union (ILWU-Canada) v Startek Canada Services Ltd.*[7] which would justify the quashing of the whole of the affidavit. The paragraphs complained of are unnecessary, when considered with the whole of the evidence, to be necessary to establish the facts of the matter. Here, the facts are largely uncontested and any of the potentially offending provisions can be expunged without doing any serious damage to the factual context of the hearing.

29. There is nothing in the impugned portions of the affidavits which are critical to the fact situation leading to our conclusion in this matter.

30. Accordingly, we dismiss the preliminary motions.

The Interim Application:

31. As noted by the Board in its decision in *United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 2014 v. United Cabs Limited*[8], the Board's jurisprudence with respect to interim relief is well settled. At paragraph [5] of that decision, the Board said:

> *[5] The Board's jurisprudence with respect to granting interim relief is well established. Firstly, the issuance of any order for interim relief is*

[7] [2004] CanLII 65591 (SKLRB)
[8] [2017] CanLII 43858 (SKLRB)

> *discretionary*[9]*. Secondly, the Board needs to satisfy itself that the main application brings forth an arguable case for the relief sought.*[10] *Thirdly, the Board considers the labour relations harm to each of the parties that would flow from the granting or not granting the requested Order*[11]*. Additionally, the Interim relief must be urgent*[12]*. Finally, the interim relief sought must not essentially grant the relief sought on the main application*[13]*. Any relief granted is intended to maintain the status quo until the hearing of the main application.*[14]

Is there an Arguable Case?

32. At this stage of the proceedings, the Board does not look at the relative strength or weakness of the case as presented. All that is required to satisfy this requirement is that, "assuming the plaintiff proves everything alleged in his claim, there is nevertheless no reasonable chance of success".[15]

33. In *KBR Wabi*[16], the Board discussed what may be considered to be an arguable case. At paragraphs [98]-[99], the Board says:

> ***[98]*** *What amounts to an arguable case has been extensively reviewed by the Courts. They have used the term somewhat interchangeably with "no reasonable chance of success", having a "cause of action that might succeed," no "prima facie" case" or "a reasonable possibility of success at trial." Tied to that was a*

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[9] See *Hotel Employees and Restaurant Employees Union, Local 206 v. Canadian Hotels Income Properties Real Estate Investment Trust #19 Operations Ltd. o/a Regina Inn Hotel and Convention Centre*, [1999] Sask. L.R.B.R. 190, LRB File No. 131-99 at 194
[10] *Ibid*
[11] *Ibid*
[12] *See SJBRWDSU v. Saskatchewan Indian Gaming Authority Inc. (Painted Hand Casino)*
[13] *Tai Wan Pork Inc. (Re)* [2000] S.L.R.B.D. No. 21
[14] See *Grain Services Union Canada v. Saskatchewan Wheat Pool, Heartland Livestock Services* [2001] CanLII 32545,
[15] See Sagon v. Royal Bank of Canada [1992] CanLII 8287 SKCA
[16] *International Brotherhood of Electrical Workers, Local 529; International Union of Operating Engineers, Hoisting & Portable & Stationary, Local 870; Construction and General Workers' Union, Local No. 180; International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local 771; United Association of Journeyman & Apprentices of the Plumbing & Pipefitting Industry of the United States and Canada, Local 179; International Union of Painters and Allied Trades (AFL-CIO-CLC), Local 739; United Brotherhood of Carpenters and Joiners of America, Local 1985 and United Brotherhood of Carpenters and Joiners of America, Millwright Union, Local 1021 v. KBR Wabi Ltd., Construction Workers Union, Local 151, KBR Canada Ltd., and KBR Industrial Canada Co. [2013] CAnLII 7314 (SKLRB),, LRB File Nos. 188-12, 191-12, 192-12, 193-12, 198-12, 199-12, 200-12 & 201-12*

requirement that the Court would assume that the "plaintiff proves everything alleged in his claim" in making its determination.

[99] *In the Board's recent decision in Tercon, supra, the Board was also dealing with applications for summary dismissal of applications by various unions that alleged that the Construction Workers Union, Local 151 was a company dominated organization. In that case, quoting from the Board's jurisprudence in P.A. Bottlers Ltd o/a P.A. Beverage Sales and Sascan Beverages v. U.F.C.W., Local 1400 and the Alberta Board's decision inVikon Technical Services at paragraphs 162 and 163, the Board said:*

> *[162] In P.A. Bottlers Ltd., the Board alluded to its earlier comments in the WaterGroup case and placed those comments in the context of other factors which must also be considered by the Board, at 251:*
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> *The Board has thus made it clear that it is necessary for an applicant to state with some precision the nature of the accusations which are being made, both in terms of the specific events or instances of conduct which are considered objectionable, and of the provisions of the Ad which have allegedly been violated. The Board has linked this requirement with the capacity to provide a fair hearing to a respondent.*
>
> *On the other hand, the Board must balance the requirement for a fair hearing with other values which are also of pressing importance to the Board, including those of expedition in the hearing of applications, and maintaining relative informality in Board proceedings. Whatever might be the case in a civil court, the nature of the proceedings before this Board cannot accommodate extensive pre-hearing or discovery processes without running the risk that the ability to respond in a flexible and timely way to issues which arise in the time-sensitive context of industrial relations will be seriously impaired.*
>
> *We do not interpret the requirement for the provision of sufficient particulars, in any case, to contemplate a complete rehearsal of evidence and argument in the exchange between the parties prior to a hearing. What is necessary is that an applicant make it clear what conduct of the respondent is the subject of their complaint, and how this conduct, in the view of the applicant, falls foul of the Act. In assessing the degree to which an applicant has met this requirement, the Board must be guided not only by our desire to ensure a fair hearing, but by the demands placed upon us by the objectives of efficacy and timeliness in our proceedings.*
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> *[163] In addition, the Alberta Labour Relations Board, in the case of Vikon Technical Services supra, articulated a*

helpful policy explanation for the need for an applicant to provide reasonable particulars in support of his/her application:

Before turning to the particulars given in this case it is useful to make some general observations on the need for particulars in applications, before this Board. When a party commences an application or complaint before us they must give particulars of what they are applying for, or why they are complaining. What this means is that in their initial correspondence they should set out in plain English a set of allegations of fact which, if accepted as true, would establish that the section of the Act in question may apply, or have been violated. They are not required to prove their allegations in the initial application, they must just make them. It is not enough to recite the section in question and then say some other person has violated it. The Board, when reading a complaint, should get a clear understanding of when, how, and by whom, the Act was violated. When receiving an application the Board should get a clear understanding of how the facts alleged justify the use of the section of the Act referred to, and justify the granting of the order or remedy sought.

This requirement for particulars is not a request for a "legalistic" approach. A layman, reading a complaint or application should be able to get a clear understanding of what the matter is about and why the Board is being asked to use its powers. Most sections in the Labour Relations Act are not complex. The particulars should make it clear why the facts referred to make the section or sections of the Act applicable. This is not an onerous task. Applications that lack these basic particulars will not be accepted initially, and will not be processed further.

We insist on particulars in order to ensure fairness to all parties. We have broad powers given to us by the Legislature. The exercise of these powers may cause major inconvenience to the party complained against. Answers must be given, officer's investigations cooperated with, records that would otherwise be confidential disclosed, hearings attended, and lawyers sometimes retained. We will only enter into or continue this process when there is an allegation that, if true, would lead us to believe that the legislation might apply or have been violated. If an applicant cannot even allege facts that would, if proven, result in a Board order or remedy, then there is no justification for the process being started

34. In this case, we have a clear dispute between the parties as to whether or not the holder of a seasonal licence who was a previous member of the bargaining unit for Regina Cabs, is entitled to drive his authorized seasonal taxi through the dispatch services of Regina Cabs. The Steelworkers take the position that it can, and has alleged that Regina Cabs has committed an Unfair Labour Practice in refusing to permit those licence owners to operate their taxis through their brokerage. In support, the Steelworkers allege a breach of section 6-62(1)(g) of the *SEA*. That provision reads as follows:

> *6-62(1) It is an unfair labour practice for an employer, or any person acting on behalf of the employer, to do any of the following:*
>
> > *(g) to discriminate with respect to hiring or tenure of employment or any term or condition of employment or to use coercion or intimidation of any kind, including termination or suspension or threat of termination 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 pursuant to this part.*

35. In making its arguable case, it is not necessary for the applicant to demonstrate that it will be successful at the hearing of the matter; they need only show that there is sufficient case made out that the case is arguable.

36. That is the case here. The fact situation here is not common and there is no decided jurisprudence directly on point, albeit Regina Cabs points to this Board's decision in *United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union v. Comfort Cabs*[17] as analogous. Accordingly, we find that there is an arguable case demonstrated in the materials filed in respect of the Unfair Labour Practice application.

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[17] [2015] CanLII 19986 (SKLRB)

What is the Balance of Labour Relations Harm?

37. Both parties argued that the balance of labour relations harm fell in favour of their position. The Steelworkers alleged that there were serious economic costs to be faced by each of the licence holders if they were not permitted to drive their taxi through Regina Cabs. The affidavits outlined in detail the costs of acquisition and outfitting the cabs for use as seasonal taxis.

38. Regina Cabs argued that they did not wish to take on the administrative burden required with respect to reporting to the City of Regina in respect of the seasonal licences. They argued that they had an ongoing dispute with the City of Regina and the Office of the Saskatchewan Information and Privacy Commissioner regarding release of taxi data submitted to the City of Regina.

39. The Steelworkers, in their arguments analogized the situation to a situation where an employee had been terminated and the Board was being asked to consider re-instatement of that employee prior to the hearing of the unfair labour practice and the determination of any monetary loss.

40. There is no clear winner in respect of this issue. Any loss suffered by the seasonal taxi licence holders can be determined if and when a final determination is made. Nor has any actual loss been demonstrated by Regina Cabs. However, one factor becomes important with respect to this analysis. That is that the seasonal taxi licence holders are able to operate their taxis through the new operator, Swift Cabs. They are, therefore, not estopped by the actions of Regina Cabs from operation of their taxi licences and therefore observing the conditions imposed on them by virtue of section 24.4 of the Taxi Bylaw.

41. While the seasonal taxi operators suggest in their affidavits that Swift Taxi is a new startup and has limited market share, they nevertheless have the

opportunity to fulfill their conditions of licence issuance. Any losses they may suffer can be calculated and quantified at the hearing of this matter.

Is the matter Urgent?

42. In their application for interim relief, the Steelworkers requested an expedited hearing of this matter. At the outset of the hearing, the Board sought early dates for the hearing of this matter which was set for November 30th and December 1st, 2017, which dates are just over 4 weeks away. This reduces the urgency of this matter considerably.

43. With an expedited hearing of the matter, the Board will be able to hear *viva voce* evidence from the parties and will be able to hear full arguments from the parties as to the merit of the positions espoused. The early hearing dates remove any urgency with respect to potential losses incurred by the seasonal licence holders and will allow them to experience the operations of Swift Cabs.

44. Another element of the considerations in granting interim relief is maintenance of the *status quo*. The holding of an expedited hearing will achieve this objective. The seasonal licence holders may operate their taxis through Swift Cabs during that period and can, thus, stay in compliance with the Taxi Bylaw. Whether there will be any economic impact will become known and will not have to be speculative.

45. We can find no urgency with respect to this application such as would justify the extraordinary remedy of interim relief when early hearing dates are now established. Additionally, the seasonal licence holders may operate their taxis in compliance with the Taxi Bylaw.

Is the Exercise of our Discretion to issue an Interim Order Required?

46. Based upon the analysis above, this is not a case where we would normally exercise the discretion given to the Board to issue an Interim Order.

47. For the above noted reasons, the application by the Steelworkers for interim relief is denied.

48. This is a unanimous decision of the Board.

Yours truly,

Kenneth G. Love, Q.C.
Chairperson