SASKATOON CO-OPERATIVE ASSOCIATION LIMITED, Applicant v UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 1400, Respondent

LRB File Nos. 199-19 & 208-19; September 30, 2020
Vice-Chairperson, Barbara Mysko; Board Members: Bettyann Cox and Brian Barber

Counsel for the Applicant, Saskatoon Co-operative Association Limited: Robert Frost-Hinz

Counsel for the Respondent, United Food and Commercial Workers, Local 1400: Heath Smith

Application to Amend Certification Order – Director, Human Resources – Managerial and Confidentiality Exclusions – Amendment Application Granted – Position is not an Employee.

Unfair Labour Practice Application – Failure to Bargain Newly Created Position – Employer Posted and Filled Position – Application Granted – Declaration Issued – Apology Ordered.

REASONS FOR DECISION

Background:

[1] Barbara Mysko, Vice-Chairperson: These are the Board's Reasons for Decision in two related applications between the Employer, Saskatoon Co-operative Association Limited, and the Union, United Food and Commercial Workers, Local 1400.

[2] The first of these is an Application to Amend, filed by the Employer on September 6, 2019. In that Application, the Employer applies to amend the scope of the certification order, issued by the Board on November 1, 2018 in LRB File No. 081-14b, to exclude a new position, Director, Human Resources [Director].

[3] In an Unfair Labour Practice Application, filed by the Union on September 13, 2019, the Union alleges that the Employer committed an unfair labour practice by:

a. *failing to disclose material facts in bargaining;*

b. *failing to seek an exclusion of the position in bargaining;*

> *c. failing and refusing to provide the Union truthful factual information required to enable it to make reasonable conclusions in bargaining; and*
>
> *d. by filling the position, both on an interim basis and a permanent basis without bargaining or seeking an exclusion from the Board.*

[4] The Board finds that the Employer's Application to Amend should be allowed, and the requested exclusion granted. The Board also finds that the Union's Unfair Labour Practice Application should be allowed, a declaration granted, and an apology ordered.

[5] As background, the previous collective bargaining agreement [CBA] between the parties expired on November 19, 2016. In or around February 2017, the parties commenced collective bargaining to conclude a new CBA. The parties were unsuccessful in concluding a new agreement, and the Union served the Employer with strike notice, commencing strike action on November 1, 2018. The strike ended mid-April 2019, at which time the parties reached an agreement on a new CBA. The employees returned to work shortly thereafter. The position was filled in July, 2019.

Arguments:

[6] On the Application to Amend, the Employer says that the Director is properly excluded from the scope of the bargaining unit on the basis of both the managerial and confidentiality exclusions. With respect to the first basis, the Director's responsibility is to exercise authority and perform functions that are of a managerial character. With respect to the second basis, the Director is involved in activities that are of a confidential nature relating to labour relations, business strategic planning, policy advice and/or budget implementation or planning. These confidential activities will have a direct impact and influence on the bargaining unit.

[7] In its Reply to the Unfair Labour Practice Application, the Employer says that it has tried to negotiate the exclusion of this position but the Union's stance is unreasonable. There is no basis for the Union to claim that the position should not be excluded from the bargaining unit. In its brief of law, the Employer takes a different approach. It now accepts that it introduced a new out-of-scope position without agreement from the Union or an order from the Board. It explicitly accepts that it committed an unfair labour practice. It says, however, that there were mitigating circumstances, and therefore the Board's focus should be on the appropriate remedy to be imposed under the circumstances.

[8] The Union is less concerned with the exclusion of this position, on its own, than it is with the failure of the Employer to negotiate. The Employer has had ample opportunity to bring the position to the Union's direct attention. The parties were in lengthy negotiations from 2017 to 2019 and during this time, the Employer never once raised the potential exclusion of this position. Due to the Employer's neglectful handling of its obligation, it deprived the Union of any opportunity to negotiate other items in exchange for the exclusion of this position.

[9] The Employer did not even inform the Union that the position was being posted. Instead, the Union learned of the position by pure accident after it was announced, and after the close of collective bargaining. There was no attempt to negotiate. The Employer's "attempt to bargain" after the Union's inquiry was not a legitimate attempt. It was only after this inquiry, and the subsequent correspondence, that the Employer made this Application to the Board.

[10] The Employer has provided no explanation for its failure to disclose this information. It is beside the point whether the position is properly outside the bargaining unit. The Employer's actions were taken in bad faith. If the Union had been in possession of the information to which it was entitled, it may well have taken a different approach. The Union should be provided a legitimate opportunity to bargain the exclusion of this position.

Evidence:

[11] The facts are largely not in dispute.

[12] The Employer admits that it posted the Director position in October 2018 for about two to three weeks, did not fill the position at that time, but then reposted the position in February 2019. The position was filled in July, 2019, and the incumbent began working in August.

[13] Around May 2018, Jill Mierke [Mierke], a manager for Federated Co-operatives Limited [FCL], was seconded to Saskatoon Co-op to provide behind-the-scenes support and internal leadership to the HR team. The HR Manager at Saskatoon Co-op was on leave at the time. Mierke did not take leave from FCL to attend to these duties.

[14] Sometime in May, she met with Grant Wicks, the Chief Executive Officer of the Saskatoon Co-op, who explained that he was thinking of developing an HR role to provide higher level HR support at the leadership table.

[15] Mierke returned to her main role for the month of September, but in October returned to Saskatoon Co-op and resumed working in the same capacity as she had been in August. It was around this time that the position was posted for the first time. Mierke did not handle the posting. Based on the evidence, there does not appear to have been any attempt to conceal the posting from the Union.

[16] The first posting was never filled. By the end of October, Saskatoon Co-op was on the eve of a strike, and the labour disruption was Mierke's main focus.

[17] During the lead up to strike, Mierke needed to be, and did become, more visible in her role at Saskatoon Co-op. During the strike, her role became more crucial and her responsibilities "elevated". This continued throughout the strike. Due to the high number of strategy meetings and related responsibilities, Mierke had to abandon her other duties at FCL.

[18] In mid-December, it became clear that the HR Manager was not returning to the role. In the new year, Mierke was offered the new position of Director, but declined. She communicated that she was happy to remain at Saskatoon Co-op in an interim role, but was not willing to assume the role on a permanent basis. By this point, she had occasion to introduce herself as the interim Director, including at an AGM held in June 2019.

[19] The position was again posted in February, 2019, an offer was extended in July, and an announcement was made shortly thereafter. The incumbent began working in the role in August, 2019. This was after the new CBA had been ratified, in April 2019.

[20] Mierke also spoke to the many amalgamations, the expansions into new communities, the establishment of new lines of business, the growth in sales, and the increase in membership that occurred from 2010 until 2018 and 2019, and that contributed to the need for this strategic position.

[21] Lucy Flack Figueiredo [Figueiredo], the Union's representative, described the relevant events from her perspective. During the last round of collective bargaining, the Employer proposed a significant number of exclusions from the bargaining unit. The Union agreed to some of these exclusions because of a Letter of Understanding that was in place. An LOU dated September 20, 2018 increased the number of HR Representative positions allowable under the CBA to five. In the Memorandum of Understanding, signed April 14, 2019, the parties agreed to

specific changes to the expired CBA as the terms for a replaced agreement, including the scope of the new CBA. The CBA includes a Recognition Clause, as is usual.

[22] There were many bargaining dates over an extended period of time, including six after the first posting was made.

[23] The return-to-work process began at the end of April, 2019. This was a "honeymoon phase". And there was much to do to ensure that the return went smoothly.

[24] Despite the daily discussions between the parties to this end, the Employer's representative never once mentioned the creation of this position. Figueiredo had not seen either of the postings. It was when the new Director was announced that the Union became aware of the creation of a new position. And then, only after the Union reached out to the Employer to inquire, did Matt Boyko, Human Resources Manager, request an exclusion from the bargaining unit via email. That email reads:

> *Hi Lucy,*
>
> *I am sending this response to you as Marilynne is away on holidays.*
>
> *To answer the question, the Director of HR position is an FCL position deployed to Saskatoon Co-op, same as all our other Director positions at Saskatoon Co-op. Jill was assigned as the interim HR Director in November 2018. As of August 26, 2019, Patti Glowa will move into the position of HR Director, and Jill will no longer be interim director with Saskatoon Co-op and will be re-assigned responsibilities within FCL. This role and its responsibilities have existed for a significant period of time well before August 26, 2019, and as such is not a brand new position.*
>
> *The role of the HR Director is to provide the overall leadership of the HR department. The primary responsibilities for the role are to lead strategic planning for the HR department, provide policy guidance and advice, responsibilities for budget implementation and planning, and to provide leadership in the employee and labour relations part of the business. It is to provide managerial functions as well as having significant confidentiality expectations, which includes involvement with the Board of Directors. Based on the above, this position clearly has managerial character and operates in a confidential capacity, and from the employer's view is a position that is appropriately out of scope.*
>
> *Please consider this email as the Co-operative's request to have the HR Director position excluded from the bargaining unit. If the Union is not in agreement with this request, the Co-operative is prepared to make an application to amend the certification order at the Labour Relations Board.*
>
> *I trust this answers the questions [Marilynne] raised. If you have any further questions, feel free to contact me accordingly. Thank you.*

[25] Figueiredo clarified that the Union had no issue with Mierke providing assistance to the Saskatoon Co-op. However, the Union would have wanted the opportunity to make an educated

decision about whether the existing complement of HR positions was appropriate. It is impossible for the parties to turn back the clock and retroactively assess whether the existing complement is still doing out-of-scope duties, and then act on that assessment through negotiations. The Union cannot do this analysis in the absence of a real-time opportunity occasioned by the disclosure of the relevant information.

Applicable Statutory Provisions:

[26] The following provisions of the Act are applicable:

> ***6-1****(1) In this Part:*
>
> *. . .*
>
> *(h) "employee" means:*
>
> *(i) a person employed by an employer other than:*
>
> *(A) a person whose primary responsibility is to exercise authority and perform functions that are of a managerial character; or*
>
> *(B) a person whose primary duties include activities that are of a confidential nature in relation to any of the following and that have a direct impact on the bargaining unit the person would be included in as an employee but for this paragraph:*
>
> *(I) labour relations;*
>
> *(II) business strategic planning;*
>
> *(III) policy advice;*
>
> *(IV) budget implementation or planning;*
>
> *. . .*
>
> ***6-4****(1) Employees have the right to organize in and to form, join or assist unions and to engage in collective bargaining through a union of their own choosing.*
>
> *(2) No employee shall unreasonably be denied membership in a union.*
>
> *. . .*
>
> ***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:*
>
> *…*
>
> *(d) to fail or refuse to engage in collective bargaining with representatives of a union representing the employees in a bargaining unit whether or not those representatives are the employees of the employer;*

…

(r) to contravene an obligation, a prohibition or other provision of this Part imposed on or applicable to an employer.

. . .

6-103*(1) Subject to subsection 6-97(3), the board may exercise those powers that are conferred and shall perform those duties that are imposed on it by this Act or that are incidental to the attainment of the purposes of this Act.*

(2) Without limiting the generality of subsection (1), the board may do all or any of the following:

(a) conduct any investigation, inquiry or hearing that the board considers appropriate;

(b) make orders requiring compliance with:

(i) this Part;

(ii) any regulations made pursuant to this Part; or

(iii) any board decision respecting any matter before the board;

(c) make any orders that are ancillary to the relief requested if the board considers that the orders are necessary or appropriate to attain the purposes of this Act;

(d) make an interim order or decision pending the making of a final order or decision.

. . .

6-104*(2) In addition to any other powers given to the board pursuant to this Part, the board may make orders:*

. . .
(f) rescinding or amending an order or decision of the board made pursuant to clause (b), (c), (d) or (e) or subsection (3), or amending a certification order or collective bargaining order in the circumstances set out in clause (g) or (h), notwithstanding that a motion, application, appeal or other proceeding respecting or arising out of the order or decision is pending in any court;

(g) amending a board order if:

(i) the employer and the union agree to the amendment; or

(ii) in the opinion of the board, the amendment is necessary;

Analysis:

[27] In these matters, the onus of proof, on a balance of probabilities, falls to the respective Applicant.

[28] For reasons related to its determination here, the Board will address these Applications in the order they were filed.

[29] The first Application is for an amendment to the certification order excluding the position from the bargaining unit. The Board in *Saskatchewan Joint Board, Retail, Wholesale and Department Store Union, Local 496 v Beeland Co-operative Association Limited*, 2018 CanLII 91973 (SK LRB) [*Beeland*] confirmed the process to be followed by an employer that intends to create a new position:

> *[12] The process to be followed by an Employer that intends to create a new position was set out by the Board in Health Sciences Association of Saskatchewan v Unifor, Local 609, 2015 CanLII 43776 (SK LRB), at paragraph 22:*
>
> > *The required steps were clearly set out by the Board in its decision in Donovel (Re:)[2]. At paragraph 28, the Board outlined those steps as follows:*
> >
> > *1. Notify the certified union of the proposed new position;*
> > *2. If there is agreement on the assignment of the new position, then no further action is required unless the parties wish to update the certification order to include or exclude the positions in question;*
> > *3. If agreement is not reached on the proper placement of the position, the employer must apply to the Board to have the matter determined…; and*
> > *4. If the position must be filled on an urgent basis, the employer may seek an interim or provisional ruling from the Board or agreement from the union on the interim assignment of the position.*
>
> *[13] In Donovel v. Saskatchewan Joint Board, Retail, Wholesale and Department Store Union, 2006 CanLII 62948 (SK LRB), the Board also noted, in paragraph 29:*
>
> > *An employer is not entitled to act unilaterally by assigning the position as out-of-scope of the bargaining unit without obtaining the agreement of the union or, failing such agreement, without obtaining an order from the Board, or the employer will be in violation of its obligation to bargain collectively under s. 11(1)(c) of the Act: See, University of Saskatchewan, infra.*

[30] On an amendment application, the Board considers two questions, first whether there has been a material change in circumstances and second, "whether an amendment to the description in the certification order of the scope of the bargaining unit is necessary": *Beeland* at paragraph 16.

[31] The first question is whether there has been a material change in circumstances. The answer to that question is an unequivocal "yes". This is an entirely new position. Extensive organizational change has led to the creation of the position. The Employer has decided that it needs a strategic position that can address the issues that have arisen with the many amalgamations, expansions, new lines of business, and expanded membership. The Employer's

Application does not represent an attempt to appeal or circumvent a previous determination of the Board.

[32] The second question is whether an amendment to the description in the certification order of the scope of the bargaining unit is necessary. An amendment is necessary if the new position falls outside the definition of employee in Part VI. The applicable part of the definition reads:

> *(h) "employee" means:*
>
> *(i) a person employed by an employer other than:*
>
> *(A) a person whose primary responsibility is to exercise authority and perform functions that are of a managerial character; or*
>
> *(B) a person whose primary duties include activities that are of a confidential nature in relation to any of the following and that have a direct impact on the bargaining unit the person would be included in as an employee but for this paragraph:*
>
> *(I) labour relations;*
>
> *(II) business strategic planning;*
>
> *(III) policy advice;*
>
> *(IV) budget implementation or planning;*

[33] The Board in *Beeland*, at paragraph 16, summarized the purpose of the non-employee exclusion:

> • *Authority and functions of a managerial character: To promote labour relations in the workplace by preserving clear identities for the parties to collective bargaining (and to avoid muddying or blurring the lines between management and the bargaining unit).*
>
> • *Duties of a confidential nature: To assist the collective bargaining process by ensuring that the employer has sufficient internal resources to permit it to make informed and rational decisions regarding labour relations and, in particular, with respect to collective bargaining in the work place, and to permit it to do so in an atmosphere of candour and confidence.*

[34] The determination of whether an exclusion should be made depends on the facts of a given case.

[35] Managerial and confidentiality exclusions "should not be granted so liberally as to frustrate the objective of extending access to collective bargaining as widely as possible": *Saskatchewan Joint Board, Retail, Wholesale and Department Store Union, Local 544 v Battlefords and District Co-operative Limited*, 2015 CanLII 19983 (SK LRB) [*Battlefords*], paragraph 118.

[36] The Board agrees with the Employer that both the managerial and confidentiality exclusions apply. The Director does not meet the definition of employee in Part VI. This person's primary responsibility is to exercise authority and perform functions that are of a managerial character; and, this person's primary duties include activities that are of a confidential nature in relation to labour relations that will have a direct impact on the bargaining unit the person would be included in as an employee. Given the foregoing conclusions, it is unnecessary to consider whether the person's primary duties also include activities that are of a confidential nature in relation to business strategic planning, policy advice and budget implementation and planning, that will have a direct impact on the bargaining unit.

[37] The Director provides strategic HR leadership, advice, and guidance to the Saskatoon Co-op. It oversees the entire HR department at the Saskatoon Co-op, including the HR manager, and is responsible for all areas of HR including labour relations. Most of its reports (direct and indirect) are out-of-scope. One of these positions is the Manager, HR. The position may be involved in talent acquisition, especially for higher level positions, and to some extent in discipline and terminations, again, for higher level positions. The position sits on the senior leadership team and is involved in the development and monitoring of the strategic plan. It reports directly to the CEO. Parallel positions in the organizational structure include the other operations Directors, all of whom report to the CEO.

[38] The authority and duties of the position would create an insoluble conflict between that person's responsibilities to the Employer and their interests as a member of the bargaining unit. The necessity of the requested exclusion is clear. There is no question whether this person is "exercising a significant influence over the livelihood or economic destiny of" the members of the bargaining unit: see: *SK Health-Care Assn v Saskatchewan Insurance, Office & Professional Employees' Union, Local 397*, [1993] 1st Quarter Sask Lab Rep 137 at 147, citing *Ottawa General Hospital*, (1984) OLRB Reports, Sept 1199 at 1203.

[39] Next, the Board will consider the evidence and arguments in relation to the Unfair Labour Practice Application. To begin, in its Application the Union inadvertently cited certain, inapplicable provisions of the Act and drew same to the Board's attention. It also failed to cite clause 6-62(1)(d) of the Act in its Application. The Union did cite that provision in its Brief, and both parties cited extensive relevant case law in which both clause 6-62(1)(d) and the predecessor provision in *The Trade Union Act*, were relied upon.

[40] The Board finds that there was no genuine attempt to bargain on the part of the Employer. The Employer's email to the Union, after the fact, does not represent a genuine attempt to bargain. By the time the email exchange occurred, the position had been advertised and filled, and the filling of the position had been announced. In its communications with the Union, the Employer's representative suggested that the position's "role and its responsibilities have existed for a significant period of time well before August 26, 2019, and as such is not a brand new position". Yet, the Employer has relied on the newness of this position for the purpose of the within Application.

[41] The Board agrees with the Union that there were many opportunities for the Employer to raise its creation of the position with the Union, including during the negotiations of the MOA, dated April 14, 2019.

[42] The Union's failure to contest the posting in advance of a strike in October, and then in the middle of a strike in February, is of no consequence here. Figueiredo claims that she did not see the postings, and given the context of the labour disruption, the Board finds this claim credible. The suggestion that the Union remained ignorant even after Mierke's introduction at the AGM is less persuasive. However, the Employer's obligation was crystal clear. Yet the Employer proceeded to post, and then fill, the position in contravention of that obligation.

[43] The Board finds that the Employer committed an unfair labour practice by posting the position of Director, and then hiring the Director and treating the position as an out-of-scope position, prior to obtaining an agreement with the Union or a Board order.

[44] The only remaining issue is the appropriate remedy. The Union suggests that the Board should order the parties to return to bargaining, as it did in *United Steel, Local 8933 v SMI*, 2019 CanLII 43212 (SK LRB).

[45] It is well established that the Board has broad powers under the Act to grant remedies to rectify a contravention of the Act. Specifically, clause 6-104(2)(c) gives the Board the power to make orders:

> *(c) requiring any person to do any of the following:*
>
> *. . .*

> *(ii) to refrain from contravening this Part, the regulations made pursuant to this Part or an order or decision of the board or from engaging in any unfair labour practice;*
>
> *(iii) to do any thing for the purpose of rectifying a contravention of this Part, the regulations made pursuant to this Part or an order or decision of the board;*

[46] The goal of the Board in granting a remedy is to place the parties in the position they would have been in had it not been for the contravention of the Act. The remedy must also seek to achieve a labour relations purpose. As explained by the Board in *Moose Jaw Firefighters' Association Local 553 v Moose Jaw (City)*, 2016 CanLII 36502 (SK LRB):

> *[140] It is well-established that when structuring a remedy, the Board's over-arching goal "is generally to place the parties into the position they would have been but for the commission of the unfair labour practice." This means the remedy crafted must seek to achieve "a labour relations purpose, that is, generally speaking, to insure collective bargaining and foster[] a good and long term relationship between the parties to the dispute."*

[47] There must also be a rational connection between the breach, its consequences and the remedy ordered. It should not be punitive.

[48] Given the exceptionally strong case for an exclusion on the basis that the person in the position is not an employee, combined with the current state of collective bargaining over the CBA, it would not serve a labour relations purpose to return the parties to collective bargaining in relation to this position. It is time for the parties to carry on and forge a new and better relationship.

[49] Still, the Board is quite concerned about the Employer's apparent disregard for its obligation to collectively bargain. The Union suggests that a mere declaration would render the obligation to negotiate meaningless, and would encourage the Employer to take a similar approach in future cases. This is a mature bargaining relationship in which the parties should be fully aware of their respective responsibilities. The Employer seems to treat the Union as a "reactionary force infinitively crying foul" when the Employer acts unilaterally.

[50] The Board agrees that these parties should be fully aware of their responsibilities to collectively bargain. They should also be aware of the role of trust in establishing and maintaining harmonious labour relations. It would be misguided, for example, to assume that the Union would agree to the exclusion of a position, or to assume that the Board would grant an exclusion, and then rely on said assumptions to proceed to post and fill a position out-of-scope. Doing so would likely erode trust, undermine the relationship, and potentially result in conflict.

[51] The Board has the power pursuant to clause 6-103(2)(c) to make any orders that are ancillary to the relief requested if the Board considers that the orders are necessary or appropriate to attain the purposes of the Act. For these reasons, the Board finds that it is appropriate to order that the Employer provide to the Union, both verbally and in writing, an apology for its failure to comply with its obligation to collectively bargain in this case. The Employer was willing to provide an acknowledgment of its failure to collectively bargain in these proceedings. The Board is hopeful that, by extending an apology to the Union, the Employer will open a discussion with the Union about how the parties can improve their relationship in the longer term.

[52] An order to post Reasons is likewise appropriate. Related to this, the Union seeks an order that the Reasons be distributed by the same means as the "Employee letter". This request lacks the requisite clarity to justify an order of this Board. It is unclear what is meant by "Employee letter".

[53] The Union has also requested an order that all dues payable regarding the position be remitted to the Union. Clause 6-104(2)(e) of the Act gives the Board authority to order the payment of an amount representing monetary loss:

> *(e) fixing and determining the monetary loss suffered by an employee, an employer or a union as a result of a contravention of this Part, the regulations made pursuant to this Part or an order or decision of the board by one or more persons, and requiring those persons to pay to that employee, employer or union the amount of the monetary loss or any portion of the monetary loss that the board considers to be appropriate;*

[54] Given the clear exclusionary basis for this position, the Board does not agree that this request is appropriate. Here, any damages would serve only a punitive purpose.

[55] In conclusion, the Board makes the following Orders:

a. That the Certification Order issued by this Board on November 1, 2018 in LRB File No. 081-14b be amended to provide that the scope of the bargaining unit is described as follows:

> *(a) that all employees employed by Saskatoon Co-operative Association Limited, working in or from its place of business in Saskatchewan, except: General (Operations) Manager (2); Office Department Manager; Member Relations Manager; Food Merchandising Manager; Non-Food Merchandising Manager; Credit Department Manager; Accounting Department Manager; Human Resources Manager; Human Resources Officer;* ***Director, Human Resources****; Confidential*

Secretary; Corporate Travel Manager; Agro Centre Department Manager; Agro Sales Manager; Agronomist; 8th St. Pharmacy Department Manager, Grocery Department Manager, Meat Department Manager, Bakery/Deli Manager, Cafeteria Department Manager and Travel Department Manager; 33rd St. Pharmacy Department Manager, Meat Department Manager, Grocery Department Manager, Travel Department Manager, Cafeteria Department Manager and Bakery Department Manager; Attridge Dr. Grocery Department Manager, Meat Department Manager, Bakery Department Manager, Pharmacy Department Manager, and Deli/Bistro Department Manager; Avenue C Home Centre Manager, Building Materials Department Manager, Hardware Department Manager and Commercial Contractor Directors (2); 8th St. Home Centre Building Materials Department Manager and Hardware Department Manager; Department Managers at Gas Bar #1, 2, 3, 5, 6, 7, 8, 9, 10 and 11; Advertising Department Manager; Petroleum Merchandising Manager; and Pharmacists; and excepting all employees located at the 3310 - 8th Street East location as per LRB File No. 081-14a, is an appropriate unit of employees for the purpose of bargaining collectively;

b. Declaring that Saskatoon Co-operative Association Limited committed an unfair labour practice contrary to section 6-62 of the Act by posting for and hiring a Director, Human Resources and treating the position as an out-of-scope position without agreement from the Union or before the issuance of this Order;

c. That Saskatoon Co-operative Association Limited provide a written and verbal apology to the Union for failing to collectively bargain, and post the written apology, along with a copy of these Reasons and the Orders issued in conjunction with these Reasons, in a conspicuous place in each of the locations where its members are employed, for a period of at least 60 days.

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

DATED at Regina, Saskatchewan, this **30th** day of **September, 2020.**

LABOUR RELATIONS BOARD

Barbara Mysko
Vice-Chairperson