



**CANADIAN UNION OF PUBLIC EMPLOYEES, Applicant v ALISON DECK, Respondent, SEIU-WEST and SASKATCHEWAN GOVERNMENT AND GENERAL EMPLOYEES' UNION, Respondent Unions, and GOVERNMENT OF SASKATCHEWAN, SASKATCHEWAN HEALTH AUTHORITY and SASKATCHEWAN ASSOCIATION OF HEALTH ORGANIZATIONS, Respondent Employers**

LRB File No. 037-21; September 3, 2021

Vice-Chairperson, Gerald Tegar; Board Members: Maurice Werezak and Gary Mearns

Counsel for the Applicant, Canadian Union of  
Public Employees:

Jake Zuk

The Respondent, Alison Deck:

Self-Represented

**Application for summary dismissal – Duty of fair representation – Employee not a member of the applicant union – Union owes no duty of fair representation to non-member employee – Summary dismissal granted.**

## **REASONS FOR DECISION**

### **Introduction:**

[1] **Gerald Tegar, Vice-Chairperson:** This is an application for summary dismissal by the Canadian Union of Public Employees (“CUPE” or “the union”) in relation to an employee-union dispute application numbered LRB File No. 089-20 (“the original application”) filed by Alison Deck. This application for summary dismissal was considered by the Board *in-camera* based on written submissions. None of the respondents filed a reply to the union’s application.

[2] This application is factually connected to LRB File No. 110-20 and LRB File No. 133-20. The former was an application for summary dismissal by SEIU-West against Ms. Deck. That application relates to the original application in the within matter as well as an earlier underlying application brought by Ms. Deck in LRB File No. 066-20.

[3] LRB File No. 133-20 was an application for summary dismissal by the Saskatchewan Government and General Employees’ Union (“SGEU”) related to the same original application.

[4] In separate decisions, the Board dismissed the SEIU-West application and granted the SGEU application. Both decisions were issued March 24, 2021.

[5] The SEIU-West decision sets out the factual context for the original application, the legislation applicable to applications for summary dismissal of applications before the Board, and the analytical framework for considering applications for summary dismissal. An understanding of each of those provides a helpful backdrop to the resolution of the instant application.

[6] The SGEU decision and the reasons contained in it are largely relevant to the resolution of the instant application. That decision also sets out the factual context, relevant legislation and analytical framework.

[7] Given the context provided by those two decisions to the resolution of the instant application, we will rely on the reasoning in those decisions in large part in providing our reasons for the Board's decision in the instant application.

[8] The original application listed SGEU, SEIU-West and CUPE as respondent unions, and the Government of Saskatchewan, the Saskatchewan Health Authority and the Saskatchewan Association of Health Organizations as respondent employers. In that application, Ms. Deck sought an order from the Board determining whether a contravention of the *Saskatchewan Employment Act* ("the Act") was being, or had been, engaged in by the unions (plural) and employer respondents and requiring the union (singular) to refrain from engaging in the contravention.

[9] The following paragraphs from the SGEU decision provide a brief summary of the facts underlying the original application:

*[5] The original application arises from Ms. Deck's employment with the Saskatoon Health Region, which, through an amalgamation with other health regions in 2017, became the Saskatchewan Health Authority (collectively "the employer"). She worked in the area of information technology from 2001 until her departure in August of 2017. She was a member of SEIU-West, which was the bargaining agent for Ms. Deck's work unit. She was at no time a member of SGEU.*

*[6] According to the facts set out in the original application, the origins of the circumstances giving rise to the original application are the establishment of a joint job evaluation mechanism in the late 1990s. This initiative was a joint endeavour by the Saskatchewan Association of Health Organizations, on behalf of employers, and three unions – SEIU-West, SGEU and CUPE. Its goal was to reduce the number of employee classifications and to ensure employees working in the health care sector were receiving equal pay for work of equal value.*

*[7] Ms. Deck became dissatisfied with the employer's application of the joint job evaluation to her circumstances and with other actions of the employer. In due course, she sought support from her union, SEIU-West. She was dissatisfied with her union's response to her requests and maintains that SEIU-West has not met its fair representation duties.*

*However, the original application also makes allegations against SGEU and CUPE, as well as the respondent employers.*

[10] After summarizing the relevant legislation and the analytical framework for summary dismissal applications, the Board moved to what it described as the primary argument of SGEU, that the Board had no jurisdiction to entertain Ms. Deck's application against SGEU because Ms. Deck was not at any material time a member of SGEU. She was a member of SEIU-West. The Board accepted SGEU's argument:

*[17] We accept the union's submission. In order for the original application to be successful against SGEU, it must allege conduct on the part of SGEU that is caught by s. 6-59 [of The Saskatchewan Employment Act]. Since SGEU was not the bargaining agent for Ms. Deck's work unit, it owed no duty to represent her and consequentially there could be no breach of any duty.*

[11] CUPE occupies a similar position to that of SGEU. There is no allegation, and Ms. Deck did not plead facts that would establish, that CUPE is, or has been, the union representing Ms. Deck's bargaining unit or that Ms. Deck is or has been a member of CUPE or has been denied membership in CUPE. In addition, CUPE's written application asserts that Ms. Deck has never been a member of CUPE or been denied membership. For the same reasons provided in the SGEU decision, we conclude that CUPE owed no duty to represent Ms. Deck, and consequently there could be no breach of any duty.

**Conclusion:**

[12] The application of CUPE for summary dismissal is granted. The original application in LRB File No. 089-20, insofar as it applies to CUPE, is dismissed.

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

**DATED** at Regina, Saskatchewan, this **3rd** day of **September, 2021**.

**LABOUR RELATIONS BOARD**

"Gerald Tegart"  
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 Gerald Tegart,  
 Vice-Chairperson