SAMANTHA VELDMAN, Appellant v RURAL MUNICIPALITY OF HAZEL DELL #335, Respondent and GOVERNMENT OF SASKATCHEWAN, (DIRECTOR, OCCUPATIONAL HEALTH & SAFETY DIVISION), Respondent

LRB File Nos.: 253-24 & 042-24; April 15, 2025
Vice-Chairperson, Carol L. Kraft (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act)*
Citation: *Veldman v RM of Hazel Dell #335,* 2025 SKLRB 19

The Appellant, Samantha Veldman:	Self-Represented
For the Respondent, Rural Municipality of Hazel Dell #335:	Michelle Bednarz
For the Respondent, Government of Saskatchewan, Director, Occupational Health & Safety Division:	No one appearing

Appeal from Decision of Adjudicator – Section 4-8 of *The Saskatchewan Employment Act* – Termination of Employment – Complaint of discriminatory action – Retaliation for alleging harassment – Allegations did not meet definition of harassment – Appellant not engaged in a protected activity – Adjudicator's decision affirmed

REASONS FOR DECISION

Introduction:

[1] **Carol L. Kraft, Vice-Chairperson:** These are the Board's Reasons for Decision in relation to an appeal of an adjudicator's decision, dated December 2, 2024, (the "Decision") pursuant to Section 4-8 of *The Saskatchewan Employment Act, SS 2013, c S-15.1* (the "Act").

Background:

[2] The Appellant, Samantha Veldman (the "Appellant") was employed by the Rural Municipality of Hazel Dell #335 (the "Respondent") for three seasons, 2021, 2022 and 2023.

[3] On September 13, 2023, the Respondent issued a documented verbal warning to the Appellant stating:

> *This meeting is to advise Samantha Veldman that she shall follow the direction of the intern administrator, Michelle Bednarz as well as have better communication between herself and the Administrator when she will be absent work. This will be treated as a Verbal Notice*

regarding the RM's Disciplinary Action Leading to Cause and this Verbal Notice may be waived in the near future.

[4] The Appellant's co-worker received a similar verbal warning.

[5] The verbal warning related to the following circumstances: On Thursday, August 31, 2023, after lunch, Ms. Bednarz instructed the Appellant and another employee to put up detour signs at a certain location where a bridge was to be taken out of service for construction to start that Saturday. The Appellant and her co-worker decided to attend to that task on Friday morning rather than Thursday afternoon. However, the Appellant started to become ill after work on Thursday and was absent from work on Friday. She did not inform Ms. Bednarz of the absence but did call or text at least one of the other outside employees. Ms. Bednarz ended up placing the detour signs herself, assisted by her husband, on Friday.

[6] Following delivery of the September 13, 2023 disciplinary notice, the Appellant submitted three documents, all on September 18, 2023, described as (i) grievance of the verbal warning received on September 13, 2023, (ii) harassment complaint against the HR Committee of Hazel Dell, and (iii) harassment complaint against the administrator, Ms. Bednarz.

[7] The adjudicator sets out the contents of each of the three documents at paras 15 to 17 of his Decision.

[8] In summary, the harassment complaint against the HR Committee alleged that she was given the verbal warning without any investigation and without giving her an opportunity to defend herself. She said she tried to explain her side but that they did not take anything she said into consideration. She said she felt this was harassment as she was now on her third season with the RM and had never done anything, or been told that she had ever done anything wrong. She alleged they found her at fault for something she did not do and before they even heard her side of the story.

[9] With respect to her harassment complaint against Ms. Bednarz, the Appellant claims that Ms. Bednarz is not being fair with her. As examples, the Appellant referred to the following:

a. having to wait to be paid by Ms. Bednarz;

b. being singled out by Ms. Bednarz and accused of throwing out oil samples;

c. Ms. Bednarz unexpectedly showing up at the Appellant's work site claiming she could not get ahold of the Appellant and was concerned for her safety. The Appellant claims Ms. Bednarz shut her truck off and coasted down the hill to her location;

d. Ms. Bednarz stopped her from working longer hours and on weekends, falsely claiming that OH&S would not allow her to work by herself; and

e. Ms. Bednarz gave her a warning for failing to obey her superior, when that was not true.

[10] The Appellant concluded her harassment complaint saying:

> *With all these things together, there is no reason for me to not feel the Michelle (Bednarz) is harassing me and I do not know why but she is making it very difficult for me to do my job and it is making me question as whether or not I will be wanting to do another season at the RM if the harassment keeps forward. I have been here almost three full seasons now without incident!*

[11] The grievance and harassment complaints came forward at a meeting of Council of the RM on October 18, 2023. In all cases, Council found the complaints to be "unsubstantiated".

[12] With the 2023 season drawing to a close, the RM by letter dated October 20, 2023, provided the Appellant with notice of layoff. In the same letter, the RM also advised that Council had decided to withdraw the verbal warning and that her employment record would not show this verbal warning.

[13] The Appellant's last day of work was November 9, 2023.

[14] On November 16, 2023, the RM issued a Record of Employment (ROE). It indicated the reason for issuing the ROE was "Shortage of work/end of contract season. Regarding "Expected Date of Recall", the ROE indicated "not returning" as opposed to "unknown".

[15] By letter dated December 1, 2023, from the "R.M. of Hazel Dell council", the Appellant was advised as follows:

> *Please be advised that the R.M. of Hazel Dell No. 335 hereby serves notice to yourself of no return for the 2024 season.*
>
> *We are also required to inform you that with a no return to work your SARM benefits will be terminated immediately.*
>
> *With this letter you will also receive one weeks wages per labor standards.*

[16] On November 30, 2023, the Appellant submitted a complaint of discriminatory action to the Harassment and Discriminatory Action Prevention Unit of the Occupational Health and Safety Branch ("OH&S").

[17] The Appellant alleged in her complaint that she was "fired for filing a harassment complaint against the HR committee as well as the intern administrator, Ms. Bednarz."

[18] In a decision dated January 25, 2024, OH&S Officers found that the Appellant had engaged in a protected activity by making a complaint of harassment but that the RM had provided good and sufficient other reason for the termination.

[19] The Appellant appealed to the adjudicator, and in her Notice of Appeal stated "I feel the officers did not investigate this thoroughly" and that "I have other documents as well as people I believe should have been questioned during the investigation."

[20] On appeal, the adjudicator considered the following issues:

(i) Did the Appellant engage in a protected activity within s. 3-35 of the *Act*; and

(ii) If so, was the Respondent's termination of the Appellant's employment taken for good and sufficient other reason within the meaning of s. 3-36(4) of the *Act*.

[21] After hearing the evidence, the adjudicator dismissed the discriminatory action complaint, not for the reason provided by the OH&S officers, but on the basis that the Appellant had not engaged in a protected activity falling within the ambit of section 3.35 of the *Act*.

Argument on behalf of the Appellant:

[22] On appeal to the Board, the Appellant argued that the RM did not perform a proper investigation of her harassment complaints and that her version of the facts was not taken into account.

[23] Secondly, the Appellant argues that the adjudicator stated in his own words that the Respondent's action was a discriminatory action. The Appellant argues she was at the appeal to prove the reasons she was fired were lies. She says she did not understand that she had to prove that she was harassed. She says: "According to the Adjudicator in his decision if there was

harassment then this was a discriminatory action. He claims there was not harassment, yet he never investigated the harassment complaint or the harassment details, no one has."

Relevant Statutory Provisions:

[24] The following provisions of the *Act* are applicable:

> ***3-1****(1) In this Part and in Part IV:*
>
> *. . .*
>
> *(i)**"discriminatory action"** means any action or threat of action by an employer that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty, but does not include:*
>
> *(i) the temporary assignment of a worker to alternative work, pursuant to section 3-44, without loss of pay to the worker; or*
>
> *(ii) the temporary assignment of a worker to alternative work, without loss of pay to the worker, while:*
>
> *. . .*
>
> *(l) **"harassment"** means any inappropriate conduct, comment, display, action or gesture by a person:*
>
> *(i) that either:*
>
> *(A) is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or*
>
> *(B) subject to subsections (4) and (5), adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated; and*
>
> *(ii) that constitutes a threat to the health or safety of the worker;*
>
> *. . .*
>
> *(4) To constitute harassment for the purposes of paragraph (1)(l)(i)(B), either of the following must be established:*
>
> *(a) repeated conduct, comments, displays, actions or gestures;*
>
> *(b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker.*
>
> *(5) For the purposes of paragraph (1)(l)(i)(B), harassment does not include any reasonable action that is taken by an employer, or a manager or supervisor*

employed or engaged by an employer, relating to the management and direction of the employer's workers or the place of employment.

3-35 *No employer shall take discriminatory action against a worker because the worker:*

(a) acts or has acted in compliance with:

(i) this Part or the regulations made pursuant to this Part;

(ii) Part V or the regulations made pursuant to that Part;

(iii) a code of practice issued pursuant to section 3-84; or

(iv) a notice of contravention or a requirement or prohibition contained in a notice of contravention;

(b) seeks or has sought the enforcement of:

(i) this Part or the regulations made pursuant to this Part; or

(ii) Part V or the regulations made pursuant to that Part;

…

3-36*(1) A worker who, on reasonable grounds, believes that the employer has taken discriminatory action against him or her for a reason mentioned in section 3-35 may refer the matter to an occupational health officer.*

(2) If an occupational health officer decides that an employer has taken discriminatory action against a worker for a reason mentioned in section 3-35, the occupational health officer shall serve a notice of contravention requiring the employer to:

(a) cease the discriminatory action;

(b) reinstate the worker to his or her former employment on the same terms and conditions under which the worker was formerly employed;

(c) subject to subsection (5), pay to the worker any wages that the worker would have earned if the worker had not been wrongfully discriminated against; and

(d) remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to that worker.

. . .

(4) If discriminatory action has been taken against a worker who has acted or participated in an activity described in section 3-35:

(a) in any prosecution or other proceeding taken pursuant to this Part, there is a presumption in favour of the worker that the discriminatory action was taken against the worker because the worker acted or participated in an activity described in section 3-35; and

(b) the onus is on the employer to establish that the discriminatory action was taken against the worker for good and sufficient other reason.

. . .

> ***4-8****(1) An employer, employee or corporate director who is directly affected by a decision of an adjudicator on an appeal or hearing pursuant to Part II may appeal the decision to the board on a question of law.*
>
> *(2) A person who is directly affected by a decision of an adjudicator on an appeal pursuant to Part III or Part V may appeal the decision to the board on a question of law.*
>
> *(3) A person who intends to appeal pursuant to this section shall:*
>
> *(a) file a notice of appeal with the board within 15 business days after the date of service of the decision of the adjudicator; and*
>
> *(b) serve the notice of appeal on all parties to the appeal.*
>
> *…*
>
> *(6) The board may:*
>
> *(a) affirm, amend or cancel the decision or order of the adjudicator; or*
>
> *(b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board considers appropriate.*

Analysis and Decision:

Standard of Review

[25] Section 4-8(1) of the *Act* states that an employee may appeal a decision of an adjudicator to the Board "on a question of law". The standard of review applied by the Board on such appeals is "correctness".[1] This means that the Board will independently assess the decision of the adjudicator to ensure that the legal principles were applied correctly. The correctness standard is used when the Board reviews the adjudicator's interpretation of provisions in the legislation. In this case, the legislation reviewed and applied by the adjudicator is *The Saskatchewan Employment Act.* The relevant provisions of the Act are set out in paragraph 24 above.

[26] The "correctness standard" also means that the Board will not interfere with the findings of fact made by the adjudicator unless the adjudicator's findings of fact were based on no evidence, on irrelevant evidence, in disregard of relevant evidence or based on an irrational inference of fact.[2]

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[1] *Saskatchewan v Martell*, 2021 CanLII 122408 (SK LRB), *Christine Ireland v Nu Line Auto Sales & Service Inc.*, 2021 CanLII 97414 (SK LRB).

[2] *Canadian Natural Resources Limited v Campbell*, 2016 SKCA 87 (CanLII), at para 12; *P.S.S. Professional Salon Services Inc. v Saskatchewan (Human Rights Commission)*, 2007 SKCA 149, at paras 60–65.

[27] The appeal before the adjudicator proceeded by way of a *de novo* hearing. This means the adjudicator considered Ms. Veldman's appeal "from scratch". The adjudicator heard evidence from several witnesses, including Ms. Veldman. The adjudicator also received various documents in evidence. The Decision of the adjudicator provides a detailed summary of the evidence from the hearing.

[28] The adjudicator found that Ms. Veldman's two harassment complaints, although labelled as such, did not, on their face, contain allegations that if established could qualify as "harassment" as defined. At para 47 of the Decision, the adjudicator explains:

> *47. To constitute "harassment" in the present context there would need to be inappropriate conduct, comment, display, action or gesture by a person (HR committee member or Ms. Bednarz) towards a worker (Ms. Veldman) that:*
>
> - ***adversely affects the worker's psychological or physical well-being, or ought reasonably to have been know to cause the worker to be humiliated or intimidate;***
>
> - ***constitutes a threat to the health or safety of the worker; and***
>
> - ***involves repeated conduct, comments, displays, actions or gestures, or a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker;***
>
> *subject to a qualification that is carved out regarding reasonable action relating to management and direction of the workplace.*
>
> *48. The action of which the Appellant complains in the present case are not alleged to fall within these criteria, in my view.*

[29] It is important to note that according to the definition of "harassment", the conduct complained of must not only be "inappropriate" it must also meet all three of the criteria set out above, and which are emphasized in **bold.**

[30] The Board finds that the adjudicator correctly set out the criteria for "harassment" in the context of the case. He then applied the definition of harassment to the conduct about which Ms. Veldman complained and found that the conduct did not meet the legal definition of harassment. The adjudicator's assessment of the harassment complaints can be found, in particular, at paragraphs 49 to 51 of the Decision:

> *49. On September 13, 2023 the Appellant received a documented verbal warning from the HR Committee of the RM. This led to three filings by the Appellant on September 18, 2023 as previously noted, consisting of a grievance against the verbal warning, a "harassment complaint against the HR Committee of Hazel Dell (Reeve Donnie*

> *Holowachuk, councillor Allen Kreshewski, and councillor Collin Redman)" and "a Harassment complaint against the Intern Administrator Michelle Bednarz".*
>
> *50. In the complaint against the HR Committee, the Appellant states "I am writing this harassment complaint because the HR committee did not properly investigate the incident on August 31st, and September 1st, 2023". Carrying on in that vein, the Appellant states, "I feel this is harassment as I have been here now on my third season and have never done anything or had been told that I have done anything wrong in my entire employment here". On my reading, there is nothing here to suggest employer action causing a health or safety concern let alone an action-that would satisfy the elements of the definition of harassment.*
>
> *51. The complaint against the Intern Administrator begins with an overall statement that "Since starting work this spring Michelle has given me the impression that she is not being fair with me". The complaint then proceeds to refer to the following occurrences over the course of the season: an administrative delay on a salary payment; an issue of missing oil samples in respect of which Ms. Bednarz "tried accusing me of throwing them out"; an occasion on which the Appellant was working at a location beyond service and was checked on by Ms. Bednarz as no one could contact her during the day; a disagreement over working longer hours and related OHS rules on working alone. The complaint after that discusses circumstances giving rise to the verbal warning, as well as events following Ms. Veldman's return to work on the following Tuesday, during which Ms. Veldman states she was still in pain from her illness but did her job and had discussions about being allowed to put in longer hours as she had in the past ("as many hours as I'd like"). The complaint concludes with a paragraph beginning "With all these things together, there is no reason for me not to feel that Michelle is harassing me ... ". Again, on my reading, there is nothing to suggest employer action causing a health or safety concern let alone an action that would satisfy the elements of the definition of harassment.*

[31] As stated by the adjudicator at para 52 of his Decision: "The addition of the word 'harassment' to complaints of this nature is insufficient to engage a status reserved for protected activities under occupational health and safety legislation." In support of his opinion, the adjudicator cited *I.G. v. International Women of Saskatoon and Government of Saskatchewan, Executive Director, Occupational Health and Safety,* 2021 CanLII 24719 (SK LRB). This was a decision by the Board on appeal from the decision of an adjudicator. In that case, the Board stated:

> ***[46]*** *The appellant's argument reveals a misunderstanding of the test before the adjudicator and the approach taken by the adjudicator in applying that test. The issue was not whether the appellant had experienced harassment in the workplace. The issue was whether the appellant had exercised a protected right. Contrary to the appellant's assertions, the adjudicator did not decide whether she had experienced harassment; rather, he considered the appellant's communications and assessed whether those communications were complaints of harassment.*
>
> ***[47]*** *At paragraphs 47 to 51 of the decision, the adjudicator correctly outlined the test on an appeal to an adjudicator from a decision of an occupational health officer based on sections 3-35 and 3-36 of the Act. He listed the three elements that must be established – "that the employer took the discriminatory action, that the employee engaged in protected activities, and that the discriminatory action was taken because the employee engaged in those activities". He then described the presumption and reverse onus, the three issues to be determined, and the onus of proof.*

> ***[48]*** *As he identified, the first question was whether the appellant had engaged in protected activities, that is, activities that fell within the scope of section 3-35. For the appellant to complain of harassment, she would be seeking enforcement of the Act and the regulations, and in doing so she would be exercising an activity protected by section 3-35.*
>
> ***[49]*** *The adjudicator found that there were two communications that had the potential to form the basis for protected action. The first communication was a complaint of harassment, and therefore the appellant can take no issue with this specific finding. The focus of the appeal, instead, is and should be on the appellant's second communication – the email to the executive director on December 22.*
>
> ***[50]*** *The adjudicator applied the definition of harassment to the conduct about which the appellant complained - an exercise that was not only within his jurisdiction but necessary. In performing this analysis, he was limited to the contents of the complaint; this is because he was required to consider whether the appellant was terminated because she was seeking the enforcement of Part III of the Act, not whether she was terminated after experiencing harassment. The adjudicator's assessment of the complaints can be found, in particular, at paragraphs 59 and 61 of the decision.*
>
> ***[51]*** *The adjudicator assessed the contents of the email against the definition of harassment contained in clause 3-1(1)(l), as qualified by subsections (4) and (5), and concluded that the email did not contain a complaint of harassment. He assessed the email against both categories of harassment, outlined in clauses (4)(a) and (b). The appellant does not raise specific issues with respect to the relevant tests under clauses (a) and (b).*
>
> ***[52]*** *Given his conclusion, it was not necessary to consider whether the action was reasonable, relating to the management and direction of the employer's workers, pursuant to subsection (5). In concluding that the email did not constitute a complaint of harassment, the adjudicator was not making a comment about whether harassment had occurred. He was simply stating that the contents of the complaint did not describe harassment.*

[32] The adjudicator properly set out the definitions he was to consider. What the adjudicator determined was that the actions described by the Appellant in her complaints did not fall within the definition of harassment. The term "harassment" is specifically defined in s. 3-1(l) of the Act. If the actions complained of do not fall within that definition, then those actions are not considered to be "harassment". Whether those actions as described by the Appellant actually took place is not what the adjudicator was tasked with determining. For the purposes of his analysis, he essentially assumed that the facts as described by the Appellant were true. The question he had to determine was, if he assumed those facts to be true, do they constitute "harassment" as that term is defined in the Act.

[33] As noted, the Appellant argues: "According to the Adjudicator in his decision if there was harassment then this was a discriminatory action. He claims there was not harassment, yet he never investigated the harassment complaint or the harassment details, no one has."

[34] The adjudicator's role is not to investigate whether harassment took place. The Act protects employees from being terminated for complaining about harassment. What was described by Ms. Veldman in her complaints was not harassment. Therefore, the protection provided by the Act (i.e. that an employer shall not take discriminatory action against an employee, such as terminating an employee when an employee files a harassment complaint) was not triggered.

[35] As noted, the adjudicator must rely upon the allegations set out in Ms. Veldman's complaints of harassment in completing his assessment. What he determined was that the actions described in the complaints of harassment did not meet the legal definition of harassment. In the Board's opinion, the adjudicator did not err in law in his interpretation of the Act. Further, the adjudicator correctly considered the harassment complaints as the basis for applying the harassment criteria. He assessed the allegations in the harassment complaints against the harassment criteria, and correctly concluded that the allegations did not fall within the definition of harassment.

Conclusion:

[36] For the above reasons, the decision of the adjudicator is affirmed. The Appellant's appeal is dismissed.

[37] As a result, with these Reasons, an Order will issue that the Notice of Appeal in LRB File No. 253-24 is dismissed.

[38] The Board thanks the parties for the helpful submissions they provided, all of which were considered in making a determination in this matter.

DATED at Regina, Saskatchewan, this **15th** day of **April, 2025.**

LABOUR RELATIONS BOARD

Carol L. Kraft
Vice-Chairperson