

GFS INDUSTRIAL SOLUTIONS INC., Appellant v MICHAEL DAVIS, LANE TOMOLAK, RYAN BERETI, JAMES DUPUIS and CODI KADLER-KLEMENZ, Respondents and GOVERNMENT OF SASKATCHEWAN, DIRECTOR OF EMPLOYMENT STANDARDS, Respondent

LRB File No. 037-24 and 159-23; October 8, 2025

Vice-Chairperson, Carol L. Kraft (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act*)

Citation: *GFS Industrial Solutions v Davis, Tomolak, Bereti, Dupuis & Kadler-Klemenz*, 2025 SKLRB 49

For the Appellant, GFS Industrial Solutions Inc.: Doreen Fefchuck

For the Respondents, Michael Davis, Lane Tomolak,
Ryan Bereti, James Dupuis and Codi Kadler-Klemenz: No one appearing

For the Respondent, Government of Saskatchewan,
The Director of Employment Standards: Justin Stevenson

Appeal from Wage Assessment Adjudicator's decision – Board applies correctness standard under section 4-8(1) of The Saskatchewan Employment Act – Adjudicator's decision issued after Employer withdrew appeal.

Board finds adjudicator erred in law by proceeding without jurisdiction – Statutory scheme requires a live dispute – Adjudicator lacked jurisdiction to proceed once the appeal was withdrawn. The statutory scheme does not contemplate adjudicative action in the absence of a live dispute.

Procedural fairness breached by issuing decision without notice or opportunity to be heard.

Decision cancelled – Employer's application granted.

REASONS FOR DECISION

Background:

[1] **Carol L. Kraft, Vice-Chairperson:** GFS Industrial Solutions Inc. (the "Employer") appeals a decision of an adjudicator dated February 13, 2024, (the "Decision") pursuant to *The Saskatchewan Employment Act*, S.S. 2013, c S-15.1 (the "Act"). The adjudicator upheld the wage assessment.

[2] The Employer's position is that the adjudicator erred in rendering a decision after the Employer had withdrawn its appeal.

Summary of Facts:

[3] On October 20, 2023, a Wage Assessment was issued to the Employer pursuant to the *Act*.

[4] On November 7, 2023, within the 15 business days stipulated by the *Act*, the Employer filed a notice of appeal and submitted the required deposit.

[5] An adjudicator was appointed and canvassed dates for a hearing. A hearing was scheduled for February 16, 2024.

[6] On February 8, 2024, the adjudicator received an email from the Employer advising that it was withdrawing its appeal.

[7] Despite the withdrawal, the adjudicator issued a decision on February 13, 2024, upholding the wage assessment.

[8] No evidence was submitted and no documentation was filed by either the Employer or the employees in relation to the hearing.

[9] The parties were not given notice or an opportunity to be heard prior to the adjudicator rendering his decision.

Argument on behalf of the Employer:

a) The Employer argues that the adjudicator erred in law by rendering a decision after the appeal had been withdrawn. It submits that the adjudicator lacked jurisdiction to proceed, and that the decision should be cancelled. The Employer's position is based on the following statutory provisions:

a. Section 4-6(1)(b) of the *Act* requires adjudicators to provide written reasons only when they dismiss, allow, or vary a decision. The Employer contends that none of these outcomes were possible, as no hearing occurred and the appeal was withdrawn.

- b. Section 4-7(1) requires reasons to be issued within 60 days of the completion of a hearing. The Employer argues that no hearing took place, and therefore the adjudicator's decision was procedurally invalid.
- c. The adjudicator's decision refers to GFS Industrial Solutions Inc. as the "appellant," despite the fact that the appeal had been withdrawn and no longer existed.
- d. The adjudicator relied on section 2-75(9), which treats the wage assessment as proof in the absence of contrary evidence. The Employer argues this provision was misapplied, as no hearing occurred and no evidence was presented.
- e. Finally, the Employer notes that the Board registrar acknowledged that decisions are not typically written following a withdrawal, and indicated he would look into the matter.

Argument on behalf of the Director:

[10] The Government of Saskatchewan, Director of Employment Standards ("the Director") concurs with the Employer's position that the adjudicator erred in law by issuing a decision after the appeal had been withdrawn. In support, the Director cites *Can-Euro Investments Ltd. v. Ollive Properties Ltd.*, 2013 NSCA 80, ("*Can-Euro*") where the Nova Scotia Court of Appeal declined to decide an appeal on the basis that the tribunal was *functus officio* or without jurisdiction once the matter was no longer live.

[11] In *Can-Euro*, the Nova Scotia Court of Appeal quashed a tribunal's decision issued after an appeal had been withdrawn. The Utility and Review Board had terminated the hearing following the appellant's withdrawal, but later released a decision containing adverse findings unrelated to the withdrawal. The Court held that the Board's actions violated fundamental principles of administrative law and procedural fairness, particularly by making findings without notice or an opportunity to be heard, and by impugning the integrity of the appellant without a full evidentiary record. The case illustrates that a tribunal loses jurisdiction once a matter is withdrawn and must not proceed to adjudicate the merits in the absence of a live dispute.

[12] While the adjudicator's conduct in this case may not rise to the level of concern seen in *Can-Euro*, the Director submits that the same legal principles apply. As a matter of procedural fairness, the adjudicator should have provided notice to the parties and an opportunity to be heard before issuing a decision following the withdrawal. The Director further argues that, under section

4-6 of the Act, the adjudicator's authority is limited to dismissing, allowing, or varying a decision, none of which were applicable once the appeal was withdrawn.

Relevant Statutory Provisions:

[13] The Director issues wage assessments pursuant to s. 2-74 of the Act:

Wage assessments

2-74(1) *In this Division, "adjudicator" means an adjudicator selected pursuant to subsection 4-3(3).*

(2) If the director of employment standards has knowledge or has reasonable grounds to believe or suspects that an employer has failed or is likely to fail to pay wages as required pursuant to this Part, the director may issue a wage assessment against either or both of the following:

(a) the employer;

(b) subject to subsection (3), a corporate director.

(3) The director of employment standards may only issue a wage assessment against a corporate director if the director has knowledge or has reasonable grounds to believe or suspects that the corporate director is liable for wages in accordance with section 2-68.

(4) Repealed. [2020, c 12, s.5.](#)

(5) Repealed. [2020, c 12, s.5.](#)

(6) If the director of employment standards has issued a wage assessment pursuant to subsection (2), the director shall cause a copy of the wage assessment to be served on:

(a) the employer or corporate director named in the wage assessment; and

(b) each employee who is affected by the wage assessment.

(7) A wage assessment must:

(a) indicate the amount claimed against the employer or corporate director;

(b) direct the employer or corporate director to, within 15 business days after the date of service of the wage assessment:

(i) pay the amount claimed; or

(ii) commence an appeal pursuant to section 2-75; and

(c) in the case of a wage assessment issued after money has been received from a third party pursuant to a demand issued pursuant to Division 4, set out the amount paid to the director of employment standards by the third party.

(8) The director of employment standards may, at any time, amend or revoke a wage assessment.

[14] Appeals of wage assessments to adjudicators are pursuant to s. 2-75:

Commencement of appeal to adjudicator

2-75(1) Any of the following may appeal a wage assessment:

(a) an employer or corporate director who disputes liability or the amount set out in the wage assessment;

(b) an employee who disputes the amount set out in the wage assessment.

(2) An appeal pursuant to this section must be commenced by filing a written notice of appeal with the director of employment standards within 15 business days after the date of service of a wage assessment.

(3) The written notice of appeal filed pursuant to subsection (2) must:

(a) set out the grounds of the appeal; and

(b) set out the relief requested.

(4) If the appellant is an employer or a corporate director, the employer or corporate director shall, as a condition of being eligible to appeal the wage assessment, deposit with the director of employment standards the amount set out in the wage assessment or any other prescribed amount.

(5) The amount mentioned in subsection (4) must be deposited before the expiry of the period during which an appeal may be commenced.

(6) Subsections (4) and (5) do not apply if moneys that meet the amount of the wage assessment or the prescribed amount have been paid to the director of employment standards pursuant to a demand mentioned in section 2-70.

(7) An appeal filed pursuant to subsection (2) is to be heard by an adjudicator in accordance with Part IV.

(8) On receipt of the notice of appeal and deposit required pursuant to subsection (4), the director of employment standards shall forward to the adjudicator:

(a) a copy of the wage assessment; and

(b) a copy of the written notice of appeal.

(9) The copy of the wage assessment provided to the adjudicator in accordance with subsection (8) is proof, in the absence of evidence to the contrary, that the amount stated in the wage assessment is due and owing, without proof of the signature or official position of the person appearing to have signed the wage assessment.

(10) On the final determination of an appeal, the amount deposited pursuant to subsection (4):

(a) must be returned if the employer or corporate director is found not to be liable for the wages; or

(b) must be applied to the wage claims of the employees if the determination is in favour of the employees in whole or in part and, if there is any part of the amount

remaining after being applied to those wage claims, the remaining amount must be returned to the employer or corporate director.

...

[15] The adjudicator's duties are set out in s. 4-2 of the Act:

Adjudicator's duties

4-2 An adjudicator shall:

(a) hear and decide appeals pursuant to Part II and conduct hearings pursuant to Division 5 of Part II;

(b) hear and decide appeals pursuant to Division 8 of Part III;

(c) hear and decide any appeals pursuant to Division 6 of Part V; and

(d) carry out any other prescribed duties.

...

[16] The procedure on appeals is set out in s. 4-4:

Procedures on appeals

4-4(1) After selecting an adjudicator pursuant to section 4-3 and in accordance with any regulations made pursuant to this Part, the registrar shall:

(a) in consultation with the adjudicator and the parties, set a time, day and place for the hearing of the appeal or the hearing; and

(b) give written notice of the time, day and place for the appeal or the hearing to:

(i) in the case of an appeal or hearing pursuant to Part II:

(A) the director of employment standards;

(B) the employer;

(C) each employee listed in the wage assessment or hearing notice; and

(D) if a claim is made against any corporate directors, those corporate directors;

(ii) in the case of an appeal or hearing pursuant to Part III:

(A) the director of occupational health and safety; and

(B) all persons who are directly affected by the decision being appealed; and

(iii) in the case of an appeal or hearing pursuant to Part V:

(A) the director of occupational health and safety; and

(B) all persons who are directly affected by the decision being appealed.

(2) Subject to the regulations, an adjudicator may determine the procedures by which the appeal or hearing is to be conducted.

(3) An adjudicator is not bound by the rules of law concerning evidence and may accept any evidence that the adjudicator considers appropriate.

(4) An adjudicator may determine any question of fact that is necessary to the adjudicator's jurisdiction.

(5) A technical irregularity does not invalidate a proceeding before or by an adjudicator.

(6) Notwithstanding that a person who is directly affected by an appeal or a hearing is neither present nor represented, if notice of the appeal or hearing has been given to the person pursuant to subsection (1), the adjudicator may proceed with the appeal or the hearing and make any decision as if that person were present.

(7) The Arbitration Act, 1992 does not apply to adjudications conducted pursuant to this Part.

[17] The authority of an adjudicator when hearing an appeal are set out in [s. 4-6](#) of the [Act](#):

Decision of adjudicator

4-6(1) Subject to subsections (4) and (5), the adjudicator shall:

(a) do one of the following:

- (i) dismiss the appeal;
- (ii) allow the appeal;
- (iii) vary the decision being appealed; and

(b) provide written reasons for the decision to the board, the director of employment standards or the director of occupational health and safety, as the case may be, and any other party to the appeal.

(2) Repealed. [2020, c 12, s.12.](#)

(3) Repealed. [2020, c 12, s.12.](#)

(4) If, after conducting a hearing concerned with section 2-21, the adjudicator concludes that the employer has breached section 2-21, the adjudicator may exercise the powers given to the Court of King's Bench pursuant to sections 38 to 41 of The Saskatchewan Human Rights Code, 2018 and those sections apply, with any necessary modification, to the adjudicator and the hearing.

(5) If, after conducting a hearing concerned with section 2-42, the adjudicator concludes that the employer has breached section 2-42, the adjudicator may issue an order requiring the employer to do any or all of the following:

(a) to comply with section 2-42;

(b) to pay any wages that the employee has lost as a result of the employer's failure to comply with section 2-42;

- (c) *to restore the employee to his or her former position;*
- (d) *to post the order in the workplace;*
- (e) *to do any other thing that the adjudicator considers reasonable and necessary in the circumstances.*

[18] The Board's authority to hear appeals is pursuant to s. 4-8 of the [Act](#):

Right to appeal adjudicator's decision to board

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.*

(4) The record of an appeal is to consist of the following:

- (a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or the notice of hearing;*
- (b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;*
- (b.1) in the case of an appeal pursuant to Part V, any written decision of a radiation health officer or the director of occupational health and safety, respecting the matter that is the subject of the appeal;*
- (c) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III or Part V, as the case may be;*
- (d) any exhibits filed before the adjudicator;*
- (e) the written decision of the adjudicator;*
- (f) the notice of appeal to the board;*
- (g) any other material that the board may require to properly consider the appeal.*

(5) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order being appealed unless the board orders otherwise.

(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.*

Issue:

[19] The central issue is whether the adjudicator erred in law by rendering a decision after the Employer withdrew its appeal. This raises two legal questions: whether the adjudicator retained jurisdiction, and whether procedural fairness was breached.

Analysis:

Standard of Review

[20] The Board's jurisdiction to hear appeals under Part IV is appellate in nature and restricted to questions of law: *Tysdal v Cameron*, 2025 SKLRB 1. The issues that arise in this appeal concern questions of jurisdiction and procedural fairness, both of which are questions of law for which the appropriate standard of review is correctness.

Principles of Statutory Interpretation

[21] The *Act* does not expressly address the effect of a withdrawal of an appeal before a hearing. In the absence of express guidance, the issue must be resolved by interpreting the relevant provisions in accordance with established principles of statutory interpretation.

[22] Section 2-10 of *The Legislation Act*, SS 2019, c L-10.2 codifies the modern rule of statutory interpretation in Saskatchewan:

2-10(1) The words of an Act and regulations authorized pursuant to an Act are to be read in their entire context, and in their grammatical and ordinary sense, harmoniously with the scheme of the Act, the object of the Act and the intention of the Legislature.

(2) Every Act and regulation is to be construed as being remedial and is to be given the fair, large and liberal interpretation that best ensures the attainment of its objects.

[23] The Supreme Court of Canada reaffirmed the modern rule in *Krayzel Corporation v. Equitable Trust Co.*, [2016] 1 SCR 273, 2016 SCC 18, citing *Re Rizzo & Rizzo Shoes Ltd.*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27. The Court emphasized that statutory interpretation requires reading provisions in their full context, harmonizing their grammatical meaning with the statute's scheme and purpose, and ensuring a fair, large, and liberal construction to achieve legislative objectives.

[24] The Saskatchewan Court of Appeal has consistently applied these principles in cases such as *Ballantyne v Saskatchewan Government Insurance*, 2015 SKCA 38, and *Holtby-York v Saskatchewan Government Insurance*, 2016 SKCA 95. These decisions underscore the importance of avoiding absurd results and interpreting benefit-conferring legislation generously.

[25] In *Arslan v Şekerbank T.A.Ş.*, 2016 SKCA 77, the Court of Appeal provided further guidance on applying the modern rule. It explained that decision-makers must begin with the ordinary meaning of the text but are required to consider the broader context, including legislative purpose, scheme, and intent, before reaching a conclusion. Even where the text appears clear, the inquiry does not end there.

[26] In summary, statutory interpretation requires a contextual and purposive approach. Provisions must be read in harmony with the overall scheme and objectives of the legislation. Benefit-conferring statutes, such as the *Act*, are to be interpreted broadly and generously. Ambiguities should be resolved in favour of claimants, and absurd results must be avoided.

[27] Applying these principles, the relevant provisions must be interpreted in a way that respects the legislative scheme, avoids absurdity, and ensures procedural fairness. While procedural fairness is not always explicitly referenced in statutory interpretation, it is a foundational principle of administrative law and is particularly relevant where statutory silence may affect the rights or expectations of parties. In this case, the adjudicator's authority must be understood within a framework that protects parties from decisions made without notice, participation, or a live dispute.

[28] The structure and function of Part II, Division 5 of the *Act* suggest its purpose is to provide a fair, accessible, and efficient mechanism for resolving disputes over wage assessments. It is designed to ensure that employees can recover unpaid wages without undue delay or procedural complexity, while also affording employers a clear and time-limited opportunity to challenge assessments. This remedial and benefit-conferring framework reflects the Legislature's intent to prioritize timely resolution and procedural fairness.

[29] Interpreting the *Act* to permit adjudication after an appeal has been withdrawn would undermine these objectives by introducing unnecessary process and potential prejudice.

[30] The statutory provisions governing adjudicators under Part II, Division 5 of the *Act*, further support this interpretation. That Division sets out a structured process for appealing wage assessments. Section 2-75(1) allows an employer to appeal a wage assessment, and subsection

(7) provides that such an appeal “is to be heard by an adjudicator.” This language presupposes the existence of a live appeal and confirms that the adjudicator’s authority is contingent on an active dispute.

[31] Once the employer withdrew its appeal, the statutory mechanism was no longer engaged. Without an active appeal, there was no dispute for the adjudicator to “hear,” and thus no jurisdiction to proceed. The adjudicator’s role under the *Act* is not inquisitorial or supervisory in the abstract; rather, it is contingent on the existence of a live dispute between the Director and an appellant.

[32] Further, interpreting the *Act* to permit adjudicators to render decisions after an appeal has been withdrawn leads to absurd results. It wastes administrative resources, creates unnecessary legal consequences, and undermines the efficiency objective of Division 5.

[33] The Saskatchewan Court of Appeal in *Ballantyne* and *Holtby-York* emphasized that statutes should not be interpreted to produce illogical or incoherent outcomes. The adjudicator’s insistence on issuing a decision post-withdrawal is incompatible with the *Act*’s purpose and scheme.

[34] While the *Act* is silent on “withdrawal,” this silence should not be interpreted as conferring residual jurisdiction. The scheme of the *Act* is clear: adjudicators are empowered to hear and determine appeals. If no appeal remains, there is nothing to determine.

[35] Section 4-6(1)(a) requires adjudicators to “dismiss,” “allow,” or “vary” a decision. These are dispositive actions that presuppose a contested matter. A withdrawn appeal is not a contested matter. The adjudicator cannot “dismiss” or “allow” something that no longer exists procedurally. Once the appeal was withdrawn, the adjudicator’s mandate ended.

[36] The adjudicator’s jurisdiction is contingent on the existence of a live appeal. Once the appeal was withdrawn, the statutory mechanism was no longer engaged, and the adjudicator lacked authority to proceed. The *Act* does not contemplate adjudicative action in the absence of a dispute. To interpret the *Act* otherwise would be to read into it a power that is neither expressed nor implied, contrary to established principles of statutory interpretation.

[37] Further, as discussed in *Can-Euro*, rendering a decision after withdrawal, without notice or an opportunity to be heard, raises serious concerns about procedural fairness. The

adjudicator's actions risk prejudicing parties who have opted out of the process and undermine the integrity of the statutory scheme.

Conclusion:

[38] In light of the foregoing, the adjudicator erred in law by issuing a decision after the Employer had withdrawn its appeal. The statutory scheme does not permit adjudication in the absence of a live dispute, and proceeding in such circumstances undermines the remedial and efficient objectives of the Act. Moreover, rendering a decision without notice or an opportunity to be heard contravenes fundamental principles of procedural fairness. The adjudicator's actions risked prejudicing parties who had disengaged from the process and compromised the integrity of the adjudicative function.

[39] Accordingly, the Employer's application is granted. The Decision is hereby cancelled.

[40] As a result, with these Reasons, an Order will issue that the Notice of Appeal in LRB File No. 037-24 is granted with the result that the adjudicator's decision in LRB File No. 159-23 is cancelled.

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

DATED at Regina, Saskatchewan, this **8th** day of **October, 2025**.

LABOUR RELATIONS BOARD

Carol L. Kraft
Vice-Chairperson