Saskatchewan
Labour Relations Board

DARIO JURESKIN, Applicant v UNIFOR LOCAL 4050, Respondent and GFL ENVIRONMENTAL SFS INC., Respondent

LRB File No. 170-24; February 28, 2025
Chairperson, Kyle McCreary; Board Members: Al Parenteau and Hugh Wagner
Citation: *Jureskin v UNIFOR*, 2025 SKLRB 8

For the Applicant, Dario Jureskin:	Self-represented
For the Respondent, Unifor Local 4050:	Laura Sullivan
Counsel for the Respondent, GFL Environmental SFS Inc.:	Christopher Lane, KC

Decertification – Objection on basis of alleged de facto raid – Objection dismissed as de facto raid allegation not substantiated – Unions are permitted to assist decertification applications – Board has the discretion to dismiss a decertification application if a de facto raid occurs

REASONS FOR DECISION

Background:

[1] **Kyle McCreary, Chairperson:** Dario Jureskin has applied under Section 6-17 of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 ("the SEA"), for an order decertifying Unifor Local 4050 ("Unifor") as the bargaining agent for all employees north of the 51st parallel of GFL Environmental SFS Inc. ("the Employer"). Unifor is certified as the bargaining agent of the Employer for an all-employee unit, subject to certain exceptions, for north of the 51st parallel pursuant to the Board's order in LRB File No. 139-21.

[2] Unifor opposes Mr. Jureskin's application on the basis that it is a *de facto* application for change in union representation under Section 6-10, more commonly referred to as a raid, brought outside of the open period. As the other union was not made a party to this proceeding, it will be referred to in these reasons as Union B.

[3] The Board finds for the reasons below that Unifor's objection is dismissed.

Evidence:

[4] Mr. Jureskin testified in support of the application. Mr. Jureskin has been an employee of the Employer and its predecessor for about 15 years. Before that, Mr. Jureskin was a member of Union B at an employer in British Columbia.

[5] Mr. Jureskin traces his dissatisfaction with Unifor to when Waste Management sold the business to the Employer and the bargaining unit went from Alberta and Saskatchewan to just 18 employees in Saskatchewan. Mr. Jureskin had various representational complaints about Unifor, most of them centred around their lack of presence in the province. Mr. Jureskin collected the support evidence for this application.

[6] As it relates to Unifor's allegation, Mr. Jureskin testified to having a meeting with a representative of Union B at their union hall along with Mr. Berger and Mr. Ford. He denied that he received assistance from Union B in preparing his application or in organizing the decertification drive.

[7] Unifor called three witnesses, Lawrence Ford, Michael Dirk and Tyler Berger.

[8] Mr. Ford is a long term employee of the Employer. In his testimony, he identified a business card of a representative of Union B. Mr. Ford also testified to attending the meeting at Union B's union hall in May 2024. Mr. Ford asked a question about benefits of Union B and whether the Collective Bargaining Agreement would carry over.

[9] Mr. Dirk is a long term employee of the Employer. Mr. Dirk used to be the Unifor Shop Steward and has actively been involved in bargaining with Unifor over the years. Mr. Dirk is strongly opposed to this application and testified to various conversations he had with Mr. Berger as to the possibility of decertifying with Unifor and moving to Union B.

[10] Mr. Berger is a mechanic with the Employer. Mr. Berger was somewhat evasive in his testimony and referred to many issues as being rumor rather than issues he had first hand knowledge of. Mr. Berger attended the meeting with Union B with Mr. Jureskin and Mr. Ford and had a similar recollection of the meeting. Mr. Berger identified various text message exchanges he was a part of that, on a plain reading of the text, would imply continuing contact with Union B. However, Mr. Berger denied there was further contact.

[11] To the extent that Mr. Berger's and Mr. Jureskin's testimony conflicts with the content of the text messages, the Board prefers the content of the text messages.

Relevant Statutory Provisions:

[12] An application by a Union to change union representation is pursuant to s. 6-10:

> ***Change in union representation***
> ***6-10****(1) If a union has been certified as the bargaining agent for a bargaining unit, another union may apply to the board to be certified as bargaining agent:*
>
> *(a) for the bargaining unit; or*
>
> *(b) for a portion of the bargaining unit:*
>
> *(i) if the applicant union establishes to the satisfaction of the board that the portion of the bargaining unit that is the subject of the application should be separately certified as a unit appropriate for collective bargaining; or*
>
> *(ii) if the applicant union is certified as the bargaining agent in another bargaining unit with the same employer or, in circumstances addressed in Division 14, with two or more health sector employers as defined in section 6-82 and the applicant union establishes to the satisfaction of the board that the portion of the bargaining unit that is the subject of the application should be moved into the other bargaining unit.*
>
> *(2) When making an application pursuant to subsection (1), a union shall:*
>
> *(a) establish that:*
>
> *(i) for an application made in accordance with clause (1)(a), 45% or more of the employees in the bargaining unit have within the 90 days preceding the date of the application indicated that the applicant union is their choice of bargaining agent; or*
>
> *(ii) for an application made in accordance with clause (1)(b), 45% or more of the employees in the unit of employees proposed to be established or proposed to be moved from one bargaining unit to another have within the 90 days preceding the date of the application indicated that the applicant union is their choice of bargaining agent; and*
>
> *(b) file with the board evidence of each employee's support that meets the prescribed requirements.*
>
> *(3) Subject to subsection (4), an application pursuant to subsection (1) must be made not less than 60 days and not more than 120 days before:*
>
> *(a) the anniversary date of the effective date of the collective agreement; or*
>
> *(b) if a collective agreement has not been concluded, the anniversary date of the certification order.*
>
> *(4) With respect to an application made pursuant to subclause (1)(b)(ii), the application must be made not less than 60 days and not more than 120 days before:*
>
> *(a) the anniversary date of the effective date of any of the collective agreements with an employer mentioned in that subclause; or*

(b) the anniversary date of the effective date of any of the certification orders governing an employer mentioned in that subclause.

[13] This application is pursuant to s. 6-17:

Application to cancel certification order – loss of support
6-17*(1) An employee within a bargaining unit may apply to the board to cancel a certification order if the employee:*

(a) establishes that 45% or more of the employees in the bargaining unit have within the 90 days preceding the date of the application indicated support for removing the union as bargaining agent; and

(b) files with the board evidence of each employee's support that meets the prescribed requirements.

(2) On receipt of an application pursuant to subsection (1), the board shall direct that a vote be taken of the employees in the bargaining unit.

(3) If a majority of the votes cast in a vote directed in accordance with subsection (2) favour removing the union as bargaining agent, the board shall cancel the certification order.

(4) An application must not be made pursuant to this section:

(a) during the two years following the issuance of the first certification order; or
(b) during the 12 months following a refusal pursuant to this section to cancel the certification order.

[14] Section 6-63 sets out unfair labour practices by Unions:

Unfair labour practices – unions, employees
6-63*(1) It is an unfair labour practice for an employee, union or any other person to do any of the following:*

(a) subject to subsection (2), to interfere with, restrain, intimidate, threaten or coerce an employee with a view to encouraging or discouraging membership in or activity in or for a labour organization;

(b) to commence to take part in or persuade an employee to take part in a strike while any matter is pending before a labour relations officer or special mediator who is appointed pursuant to this Part or a conciliation board established pursuant to this Part;

(c) to fail or refuse to engage in collective bargaining with the employer respecting employees in a bargaining unit if a certification order has been issued for that unit;

(d) to declare, authorize or take part in a strike unless:

(i) a strike vote is taken; and

(ii) a majority of the employees who vote do vote in favour of a strike;

(e) notwithstanding that membership in the union is a condition of employment, to seek or take steps to have an employee terminated for failure to acquire or maintain membership in a union if the employee complies with subsections 6-42(5) and (6);

(f) to use coercion or intimidation of any kind against an employee with a view to discouraging activity that might lead to the cancellation of a certification order;

(g) if the union is replaced as the bargaining agent or if a certification order is cancelled:

(i) to fail or refuse to facilitate the orderly transfer or transition of any benefit plan, program or trust that is administered or controlled by the union to the new union or to the employees; or

(ii) to fail to ensure so far as is practicable, that the benefits that an employee is receiving under a plan, program or trust mentioned in subclause (i) are continued by facilitating the transfer, assignment, joint administration or division of any contract, fund, asset or liability that relates to the benefits of those employees;

(h) to contravene an obligation, a prohibition or other provision of this Part imposed on or applicable to a union or an employee.

(2) If a certification order has been issued, nothing in this Part precludes a person acting on behalf of the union from attempting to persuade an employer to make an agreement with the union that requires as a condition of employment:

(a) membership in or maintenance of membership in the union; or

(b) the selection of employees by or with the advice of a union.

[15] The Board's general powers in all hearings are set out in s. 6-103

General powers and duties of board
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.*

[16] The Board's power to dismiss for employer influence is in s. 6-106:

> ***Power to dismiss certain applications – influence, etc., of employers***
> ***6-106*** *The board may reject or dismiss any application made to it by an employee or employees if it is satisfied that the application is made in whole or in part on the advice of, or as a result of influence of or interference or intimidation by, the employer or employer's agent.*

Analysis and Decision:

Jurisdiction

[17] The Board at the outset of the hearing raised the issue of what jurisdiction it had to grant the relief sought by Unifor. If s. 6-17 is complied with on its face, does the Board have the authority to dismiss an application. The Board finds that it does have jurisdiction pursuant to ss. 6-17 and 6-103 to grant relief if it can be shown that an application is an abuse of process.

[18] Section 6-17 of the SEA is a mandatory provision. If the perquisites are satisfied, the Board shall direct a vote. The Board under its general authority and investigative authority has the power to determine whether the perquisites are satisfied: *Purchase v CUPE*, 2024 CanLII 87159 (SK LRB). Following a vote, if the majority votes in favor of decertification, the Board shall decertify.

[19] Despite these mandatory provisions, the Board maintains discretion and jurisdiction to dismiss applications. The primary authority the Board relies on to dismiss applications is s. 6-106 related to employer influence: *Kousar v UFCW*, 2025 SKLRB 6; and *Scarla Gould v SEIU-WEST and Ventas Canada Retirement III*, 2024 CanLII 74885 (SK LRB).

[20] Less frequently used in relation to decertification applications is the Board's discretion pursuant to s. 6-103 of the SEA. This section authorizes the Board to make orders necessary for the attainment of the purposes of the Act. This would include the discretion to dismiss a decertification that is brought during an ongoing work stoppage: *Mayer v. L.L. Lawson Enterprises Ltd.*, 2001 CarswellSask 913, [2001] Sask. L.R.B.R. 485, [2001] S.L.R.B.D. No. 45, 73 C.L.R.B.R.

(2d) 200. Section 6-103 also authorizes the Board to dismiss an application that is an abuse of process.

[21] The Board has recognized its jurisdiction to dismiss applications for abuse of process: *Metz v. Saskatchewan Government and General Employees' Union*, 2007 CanLII 68747 (SK LRB); *Brady v United Steelworkers Local 5917*, 2024 CanLII 55066 (SK LRB).

[22] In *Lapchuk v. Saskatchewan*, 2021 CanLII 143202 (SK LRB), the Board recognized the application of the doctrine of abuse of process to adjudicators under Part VI of the SEA.

[23] The allegation in this case is that the decertification application is actually a *de facto* raid brought on behalf of Union B. The Board has jurisdiction to consider it under s. 6-17 in terms of whether the application is properly brought by an employee, but also pursuant to s. 6-103 as subversion of the restrictions in s. 6-10 is arguably an abuse of process contrary to the purposes of the SEA.

Open Periods Under the Act

[24] Unifor's primary argument is that a decertification application cannot be used by a union to circumvent the open period for a raid application. As noted above, the Board accepts this general proposition, that the Board can dismiss a decertification if it is an abuse of the Board's process or the dismissal is necessary to the attainment of the purposes of the SEA. However, the SEA also permits different open periods for unions under s. 6-10 than it does for individual employees under s. 6-17. If an application under s. 6-17 is brought by an employee, even if that employee's express intention is to subsequently seek other union representation, the open periods applicable to unions under s. 6-10 are irrelevant.

[25] Under s. 6-10, a Union may apply to represent individuals represented by another Union. The SEA limits Unions from making these applications to only be able to seek them during the open period. The open period is the time period of not more than 120 days and not less than 60 days from the anniversary date of the effective date of the collective agreement, or if a collective agreement has not been concluded, the anniversary date of the certification Order. A union cannot make an application under s. 6-10 other than during the open period.

[26] Under s. 6-17, the SEA limits employees seeking to decertify a union to an open period as well, it is just a much broader period of time. An employee can bring an application to decertify

at any time as long as it is two years after the certification order was issued, or one year after the last unsuccessful vote to decertify.

[27] Under s. 5 of *The Trade Union Act*, R.S.S. 1978, c. T-17 decertification and raid applications had the same open period. The legislature created different open periods with the passage of the SEA.

[28] The Union asks the Board to read in the additional time constraints in s. 6-10 into s. 6-17 where a s. 6-17 application is brought with the express intention of seeking to certify with another union after the decertification application. The Board rejects this argument because as stated by the Court of Appeal in *605499 Saskatchewan Ltd. v Rifle Shot Oil Corp*., 2019 SKCA 133 (CanLII) at para 75:

> *…the Legislature is presumed to be competent in drafting legislation, presumed to know whatever information is relevant to the law it enacts, presumed to know the law in existence at the time of enactment, and presumed to be able to communicate the meaning it intends legislation to have.*

The legislature is presumed to know that raids and decertifications had the same open periods under the *Trade Union Act.* The change to substantially different open periods is presumed to be an intentional change. The legislature intended individual employees acting on their own behalf to have greater freedom in changing representation than when a change in representation is by a union. This is a policy change that the legislature has made, and the Board cannot interpret the *SEA* contrary to the clear legislative intent.

[29] This interpretation is supported by the Hansard, as stated by the Honourable Minister Morgan at Saskatchewan Legislative Assembly, Standing Committee on Humans Services (Hansard), 27th Leg, 2nd Sess (10 May 2013) at 551:

> *So if there's a new application, a union comes in, certifies, gets a contract, there's a two-year window where there would be no decertification. So if it was a marginal vote or whatever the reasons were, you would want to have the stability that's there. Beyond that period of time, if the employees are dissatisfied, instead of having that narrow window, they would be able to bring the application when they chose to. And we also added another provision so that, you know, somebody doesn't go back the day after they lose the vote, that you can't bring an application, that the window again closes for another year.*
>
> *….*
>
> *But we think that the right of the employees to certify is important. But the right of them to bring their application, if they choose to either be represented by someone else or whatever, that right should not be compressed into that same window. And I appreciate that there may be people that don't agree with that.*

[30] Under s. 6-17, an employee can bring an application to decertify where there has been a loss of support for a union. The Board has discretion to dismiss the application under s. 6-106 where the application was brought in whole or in part as a result of employer interference. The SEA does not contain a similar prohibition against the loss of support being caused by another union.

[31] The Board finds that as long as other sections of the SEA are not contravened, for example the unfair labour practices under s. 6-63, a union may support and assist an employee in bringing a decertification application under s. 6-17 without the application being at risk of dismissal under s. 6-103.

[32] However, a union cannot bring an application under s. 6-17, an application under s. 6-17 must be brought by an employee. It would be an abuse of process for a union to use s. 6-17 as a method of circumventing the open period under s. 6-10. Who an application is truly brought on behalf of is a question of fact and it will depend on the circumstances of each case to determine whether s. 6-17 has been complied with. If the Board finds that the s. 6-17 application is in fact brought by a union, the Board may dismiss the application as an abuse of process.

Is this application a de facto raid?

[33] The Board finds that the application is not a de facto raid. Mr. Jureskin, Mr. Berger and Mr. Ford met with Union B in May of 2024, months prior to the application to the Board. All three were clear that Union B expressed the position that they could not be involved in the decertification application. Despite these comments, the Board also finds that it is more likely than not that Union B provided further assistance to Mr. Jureskin in pursuing his application.

[34] However, the Board finds that any assistance provided was minimal. Mr. Jureskin was acting on his own behalf and was not acting on behalf of Union B. Mr. Jureskin had long standing issues with how Unifor represented the employees, especially since the sale of the business from the previous owner. Mr. Jureskin was not acting at the direction of Union B, although he clearly intends to seek to have Union B to organize the workplace if the decertification application is successful. This is not a *de facto* raid, this is an application for decertification brought by employees with the goal of seeking alternative representation if the application is successful. The Board declines to exercise its discretion to dismiss this application.

Allegations of voter Confusion raised at the hearing

[35] Unifor and the Employer raised the issue of whether voters were confused as to what they were voting for at the hearing. However, Union B was not on the ballot. The direction to vote only asked a question related to representation by Unifor. Both parties had an opportunity to campaign during the voting period and the evidence established that both sides did campaign. There have been no unfair labour practice applications filed in relation to campaigning and no objections to the vote filed. The Board declines to consider this issue in the absence of an application on the issue.

Conclusion:

[36] The Board finds it has jurisdiction to consider Unifor's objection, but on the facts of this case dismisses the objection. The application was brought by employees, it was not brought by Union B.

[37] As a result, with these Reasons, an Order will issue that:

(a) The ballots held in the possession of the Board Registrar pursuant to the Direction for Vote issued in this matter on September 26, 2024, be tabulated in accordance with *The Saskatchewan Employment (Labour Relations Board) Regulations, 2021,* RRS c S-15.1 Reg 11; and

(b) The results of the vote be placed in Form 24 and advanced to a panel of the Board for its review and consideration.

[38] 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 **28th** day of **February, 2024.**

LABOUR RELATIONS BOARD

Kyle McCreary
Chairperson