Saskatchewan Labour Relations Board

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 2067, Applicant v CHERYL ANN CHRISTIAENS, Respondent and SASKPOWER, Respondent

LRB File No. 158-25 and 168-25; January 8, 2026
Chairperson, Kyle McCreary (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act)*
Citation: *Christiaens v IBEW*, 2026 SKLRB 1

Counsel for the Applicant, International Brotherhood of Electrical Workers, Local 2067:	Dan LeBlanc
The Respondent, Cheryl Ann Christiaens:	Self-represented
Counsel for the Respondent, SaskPower:	No-one appearing

Summary Dismissal – Delay – Delay of 40 months undue – *Hartmier* factors considered and it is not in the interests of justice for this matter to proceed to hearing.

Summary Dismissal – No arguable case – Facts pled demonstrate that in 2024 union reviewed case and communicated fairly with the Respondent.

REASONS FOR DECISION

Background:

[1] **Kyle McCreary, Chairperson:** Cheryl Ann Christiaens ("the Respondent") has filed an employee-union dispute application against International Brotherhood of Electrical Workers, Local 2067 ("the Union").

[2] The Respondent's application is 215 pages long and allegations contraventions of *The Freedom of Information Act* and ss. 2-97, 3-1, 3-16, 3-21, 3-24, 3-54, 3-55, 3-56, 6-59 and 6-60.

[3] On September 4, 2025, the Union filed for summary dismissal in LRB File No. 168-25.

[4] The Respondent's employee-union dispute application is prolix, logorrheic, difficult to follow, and illegible in parts. The Board assumes the following outline of facts pled in the application in LRB File No. 158-25.

[5] The Respondent was a long-term employee of SaskPower ("the Employer"). The Respondent retired at some point prior to October 2024.

[6] In 2018, the Respondent had issues with a new manager, which lead to discipline and various disputes between the Respondent and the Employer.

[7] In May 2020, the Respondent filed a harassment complaint against the manager. The Employer had a third-party investigation done of the harassment complaint.

[8] The manager retired from the Employer later in 2020.

[9] On June 17, 2021, the harassment investigation was completed. The investigation report found that the Respondent's harassment complaints against her manager were not substantiated.

[10] The Respondent, throughout the remainder of 2021, raised concerns about the report with the Employer and the Union. The Respondent alleges that she received no responses but has also included documents in the pleadings which demonstrate responses were received to some of her correspondence.

[11] The Respondent exchanged further messages with the Employer and the Union in early 2022.

[12] On April 5, 2022, the Respondent sent a multiple page email to the Union related to concerns about the Union's representation. The email concludes:

> *I had to go forward and have this battle on my own because you are not doing your :job. That is why they are now threatening me! "You" should have been having this battle with SaskPower. That is YOUR job, not mine. So, now they are threatening me and still you do NOTHING!*
>
> *I need you to do your job. I need you to assist me. I need you to represent ME! I am begging you once again, for the last time, to do what is required of you …. "DUTY OF FAIR REPRESENTATION."*

[13] On November 8, 2022, the Respondent had a phone conversation with a representative of the Union.

[14] On May 29, 2024, the Respondent met with a representative of the Union.

[15] On July 18, 2024, the Respondent had a phone conversation with a representative of the Union.

[16] On October 9, 2024, the Union sent the Respondent a letter. The letter is included within the Respondent's application. It reads as follows:

As we have discussed, you are a former member of IBEW 2067, and former employee of SaskPower. You have since retired.

In 2019, you initiated a harassment complaint against your then immediate supervisor at SaskPower. SaskPower commissioned a 3rd party investigation, which found that harassment was not proven on the balance of probabilities.

In the Spring of 2024 you asked me, on behalf of IBEW 2067 to file a grievance related to your treatment at SaskPower in 2019. I have considered that request, including commissioning a privileged legal opinion regarding the merits of any potential grievance.

Unfortunately, a grievance is not warranted. Our assessment is that the likelihood of success is very low. Our assessment is that even if the grievance was sustained – which is unlikely – the award would be modest. These factors militate against filing the grievance you requested.

Respectfully, IBEW 2067 will not be filing a grievance on your behalf.

[17] On October 16, 2024, the Respondent sent an email in reply to the Union's letter, the text of which is as follows:

I received your letter of October 9, 2024.

To say I am disappointed with your letter would be a huge understatement.

I did (in 2019) initiate a harassment complaint against my supervisor that is correct. SaskPower hired a 3rd party investigator, and he conducted a flawed and unfair investigation. I have given you evidence that he was in communication with SaskPower and that the investigation was not fair or unbiased. Back then grievance should have been done. That is the extent of accuracy in your letter.

I did not ask you to file a grievance against SaskPower in the Spring of 2024, that is not accurate.

I did ask you/the union to start an official complaint process with SaskPower to show that my file and this matter were not handled fairly, and I was not treated at all appropriately. I have been through a great deal of emotional and mental anguish because of this matter. It has been an emotional roller coaster of anxiety and depression throughout the harassment and the union has not represented me fairly or properly in any capacity.

I was asking for legal representation for pain and suffering compensation for what I went through with the employer. That way I would get some validation and justice for what has happened to me. And hopefully, the union would protect its integrity by fighting for its members and the employer would know they cannot do this to innocent employees.

Instead, it has been more red tape, inaccurate depictions of what I asked for and zero representation.

I wanted the union to provide me with:
- *A lawyer*
- *An official complaint in writing to SaskPower's legal counsel*
- *An offer to compensate me fairly for pain, anguish, and suffering*
- *An apology from the employer*

None of this has happened. I have a note showing corruption in SaskPower.

I have recordings of union officials not acting in good faith.

It just goes on and on.

So, if you are not going to represent me just say so. I am not asking for grievance at this point. I am asking for protection and representation of the union to stand behind its members when they are done wrong.

If you are not willing to do this, I will have no choice but to go public with this matter. Make official complaints about the employer and the union and seek financial compensation for my pain and suffering in the Saskatchewan Court of King's Bench. Please let me know of your intentions at your intentions at your earliest convenience so I can start to prepare for the battle ahead of me.

[18] On January 9, 2025, the Respondent filed an application with the Canadian Industrial Relations Board ("CIRB").

[19] On January 28, 2025, the CIRB sent the Respondent a letter advising that the CIRB could not process her complaint on jurisdictional grounds and that the matter appears to fall within the jurisdiction of the Saskatchewan Labour Relations Board.

[20] The Respondent filed the application in LRB File No. 158-25 on August 26, 2025.

Relevant Statutory Provisions:

[21] The Respondent has raised this provision under Part II of the Act:

Additional powers of convicting court
2-97*(1) If an employer is convicted of failure to grant an employment leave or of failure to reinstate an employee in his or her former employment after the employment leave, the convicting court may, in addition to any other penalty imposed for the offence, order the employer:*

(a) if the conviction is for failure to grant an employment leave, to immediately grant to the employee the leave that the employer ought to have granted; or

(b) if the conviction is for failing to reinstate an employee in his or her former employment after the employee has been granted employment leave:

(i) to reinstate the employee in his or her former employment under the same terms and conditions in which he or she was formerly employed; and

(ii) to pay to the employee his or her wages retroactive to the date that the convicting judge determines that the employee ought to have been reinstated in his or her former employment pursuant to this Part.

(2) If an employer is convicted of failure to modify duties or reassign an employee because of the employee's disability or pregnancy, the convicting court may, in addition to any other penalty imposed for the offence, order the employer to reassign the employee to other duties or to modify the employee's duties so as to accommodate the employee's disability or pregnancy in a reasonable manner.

(3) If an employer is convicted of taking discriminatory action against an employee contrary to this Part, the convicting court may, in addition to any other penalty imposed, order the employer to do all or any of the following:

(a) to reinstate the employee in the former employment under the same terms and conditions in which the employee was formerly employed;

(b) to pay to the employee the wages of the employee retroactive to the date that the discriminatory action was taken against the employee;

(c) to cease the discriminatory action.

[22] The Respondent has raised the following provisions under Part III of the Act:

Duty to provide information

3-16*(1) In this section, "required information":*

(a) means any information that an employer, contractor, owner or supplier knows or may reasonably be expected to know and that:

(i) may affect the health or safety of any person who works at a place of employment; or

(ii) is necessary to identify and control any existing or potential hazards with respect to any plant or any process, procedure, biological substance or chemical substance used at a place of employment; and

(b) includes any prescribed information.

(2) Subject to section 3-17 and Division 7, every employer shall keep readily available all required information and provide that information to the following at a place of employment:

(a) the occupational health committee;

(b) the occupational health and safety representative;

(c) the workers, if there is no occupational health committee and no occupational health and safety representative.

(3) Subject to Division 7, every contractor shall provide all required information to:

(a) every employer and self-employed person with whom the contractor has a contract; and

(b) any occupational health committee established by the contractor.

(4) Subject to Division 7, every owner of a plant used as a place of employment shall provide all required information to every contractor, every employer who employs workers who work in or on the plant and every self-employed person who works in or on the plant.

(5) Subject to Division 7, every supplier shall provide prescribed written instructions and any other prescribed information to every employer to whom the supplier supplies any prescribed biological substance, chemical substance or plant.

…

Duty re policy statement on violence and prevention plan

3-21*(1) An employer shall develop and implement a written policy statement and prevention plan to deal with potentially violent situations after consultation with:*

(a) the occupational health committee;

(b) the occupational health and safety representative; or

(c) the workers, if there is no occupational health committee and no occupational health and safety representative.

(2) A policy statement and prevention plan required pursuant to subsection (1) must include any prescribed provisions.

(3) An employer shall ensure that an investigation is conducted into any incident of violence at the place of employment.

…

Designation of representatives

3-24*(1) Subject to the regulations made pursuant to this Part, at each prescribed place of employment where fewer than 10 workers of one employer work, the employer shall designate a person as the occupational health and safety representative for those workers.*

(2) No person may be designated as an occupational health and safety representative unless the person:

(a) has been elected from the place of employment for that purpose by the workers whom the person would represent;

(b) has been appointed from the place of employment in accordance with the constitution or the bylaws of the union of which the workers are members; or

(c) if more than one union represents the workers that the person would represent as an occupational health and safety representative, has been appointed for that purpose from the place of employment pursuant to an agreement among all of those unions.

…

Appeals re harassment or discriminatory action

3-54*(1) An appeal mentioned in subsection 3-53(1) with respect to any matter involving harassment or discriminatory action is to be heard by an adjudicator in accordance with Part IV.*

(2) The director of occupational health and safety shall provide notice of the appeal mentioned in subsection (1) to persons who are directly affected by the decision.

Providing appeal material to adjudicator

3-55 *In the case of an appeal mentioned in subsection 3-53(10) or section 3-54 that is to be heard by an adjudicator, the director of occupational health and safety shall forward to the adjudicator:*

(a) the notice of appeal mentioned in subsection 3-53(2);

(b) all information in the director's possession that is related to the appeal; and

(c) a list of all persons who have been provided notice of the appeal pursuant to clause 3-53(5)(a) or subsection 3-54(2).

Appeal of director's decision to adjudicator

3-56*(1) A person who is directly affected by a decision of the director of occupational health and safety made pursuant to subsection 3-53(8) may appeal the decision to an adjudicator in accordance with subsection (2) within 15 business days after the date of service of the decision.*

(2) An appeal pursuant to subsection (1) is to be commenced by filing a written notice of appeal with the director of occupational health and safety that:

(a) sets out the names of all persons who are directly affected by the decision being appealed;

(b) identifies and states the decision being appealed;

(c) sets out the grounds of the appeal; and

(d) sets out the relief requested, including any request for the suspension of all or any portion of the decision being appealed.

[23] The jurisdiction of arbitrators is pursuant to section 6-45 of the Act:

Arbitration to settle disputes
6-45*(1) Subject to subsections (2) and (3), all disputes between the parties to a collective agreement or persons bound by the collective agreement or on whose behalf the collective agreement was entered into respecting its meaning, application or alleged contravention, including a question as to whether a matter is arbitrable, are to be settled by arbitration after exhausting any grievance procedure established by the collective agreement.*

(2) Subsection (1) does not prevent the director of employment standards as defined in Part II or the director of occupational health and safety as defined in Part III from exercising that director's powers pursuant to this Act.

(3) Without restricting the generality of subsection (2), the director of employment standards may issue wage assessments, issue hearing notices, take action to collect outstanding wages or take any other action authorized pursuant to Part II that the director of employment standards considers appropriate to enforce the claim of an employee who is bound by a collective agreement.

[24] The duty of fair representation is pursuant to section 6-59 of the Act:

Fair representation
6-59*(1) An employee who is or a former employee who was a member of the union has a right to be fairly represented by the union that is or was the employee's or former employee's bargaining agent with respect to the employee's or former employee's rights pursuant to a collective agreement or this Part.*

(2) Without restricting the generality of subsection (1), a union shall not act in a manner that is arbitrary, discriminatory or in bad faith in considering whether to represent or in representing an employee or former employee.

[25] The Board can determine this matter on summary dismissal pursuant to s. 6-1111(p), and without a hearing pursuant to s. 6-111(q):

Powers re hearings and proceedings
6-111*(1) With respect to any matter before it, the board has the power:*
. . .
(p) to summarily dismiss a matter if, in the opinion of the board, there is a lack of evidence or no arguable case;

(q) to decide any matter before it without holding an oral hearing.

Analysis and Decision:

Test for Summary Dismissal

[26] In *Roy v Workers United Canada Council*, 2015 CanLII 885 (SK LRB), the Board set out its approach to summary dismissal, as stated at para 8:

[8 The Board recently[5] adopted the following as the test to be applied by the Board in respect of its authority to summarily dismiss an application (with or without an oral hearing) as being:

> *1. In determining whether a claim should be struck as disclosing no arguable case, the test is whether, assuming the applicant is able to prove everything alleged in his/her claim, there is no reasonable chance of success. The Board should exercise its jurisdiction to strike on this ground only in plain and obvious cases and where the Board is satisfied that the case is beyond doubt.*
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> *2. In making its determination, the Board may consider only the subject application, any particulars furnished pursuant to demand and any document referred to in the application upon which the applicant relies to establish his/her claim.*

[27] The Board has continued to apply this formulation, with some limited modifications as it relates to generous reading of pleadings, *SGEU v Morrisseau Dickson*, 2025 SKLRB 15 (CanLII) at paras 10-20.

Should this Application be dismissed on the basis of delay?

[28] This Board has cautioned against the potential problems with applying for summary dismissal in relation to delay, *Canadian Union of Public Employees v Reuben Rosom*, 2022 CanLII 100088 (SK LRB); *SEIU-WEST v Alison Deck*, 2021 CanLII 23381 (SK LRB). Summary dismissal is a blunt tool based on assumed facts that does not permit the weighing of evidence. However, as noted in Can*adian Union of Public Employees, Local 5430 v Ruben G. Palao,* 2024 CanLII 121582 (SK LRB), the Board may still proceed with summary dismissal on delay where the pleadings permit a consideration of the criteria from *Hartmier v Saskatchewan Joint Board Retail Wholesale and Department Store Union and Retail, Wholesale and Department Store Union, Local 955*, 2017 CanLII 20060 (SK LRB)("*Hartmier*").

[29] In *Hartmier*, the Board set out the factors that guide the Board's analysis of delay in duty of fair representation cases at para 120:

> *[120] This survey of relevant Board Decisions reveals that while each decision turned on the particular facts of the case, nevertheless a number of factors figure prominently in the Board's analysis of undue delay applications in duty of fair representation claims. The more prominent factors include:*
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> *• Length of Delay: The length of delay is critical. An applicant will bear the burden to explain the reasons for any delay and the longer the delay, the more compelling must be the reasons for the delay in filing the application. Now that the Legislature has mandated a statutorily prescribed time limit for the filing of unfair labour practice applications, the Board's tolerance for exceptionally long delays has decreased significantly.*
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> *• Prejudice: Labour relations prejudice is presumed in cases of delay; however, if the delay is extensive or inordinate this factor will weigh more heavily in the analysis. The longer the delay, the greater the prejudice to a respondent. Evidence of actual prejudice to a respondent likely will result in the main application being dismissed.*

> • *Sophistication of Applicant: An applicant's knowledge of labour law and labour relations matters, generally is an important consideration when assessing the veracity of the reasons for the delay.*
>
> • *The Nature of the Claim: The issues at stake for an applicant will be weighed in the balance. If the consequences of dismissing an application for reasons of delay are significant to an applicant, this will weigh in favour of permitting the application to proceed despite a lengthy delay in its initiation.*
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> • *The Applicable Standard: When adjudicating delay applications, the standard which has been applied consistently is: can justice be achieved in the matter despite a lengthy delay in commencing it?*

[30] In this case, the delay is substantial and, on its face, impermissible. The Board will consider the *Hartmier* factors to determine whether there is no reasonable chance of this matter being permitted to proceed despite the delay.

Length of Delay

[31] Reviewing the pleadings, the delay for the Union actions from 2018 to 2022, runs at its latest from the email of April 5, 2022. As pled, at that time the Respondent expressly raised with the Union that it was not meeting its duty of fair representation. The delay from that date to the filing of the Application is 40 months. That delay is presumptively excessive as acceptable delay should be measurable in months. In reply, the Respondent has raised issues related to knowledge of jurisdiction, health issues, and the Union's failure to assist in filing a duty of fair representation application. The Board does not find any of these reasons to justify a material amount of the delay considering the frequency of the Respondent's communications leading up to April 2022, and the resumption of those communications in 2024.

[32] The delay for the Union's 2024 actions is arguably from decision letter in October 2024 and therefore approximately 10 months. The explanation for delay of needing to refile the application and health matters may excuse part of the delay. On a summary dismissal basis, the delay from October 2024 is not clearly excessive or impermissible.

Prejudice

[33] Labour relations prejudice from delay is presumed. This leads to the presumption of significant prejudice related to the representation issues for the time period of 2018 to 2022. The presumed prejudice is supported by the pleadings as it is included in the pleadings that both the manager and the Respondent are no longer employed with the Employer. Considering this fact, the presumed degradation of evidence from delay is found to support the dismissal on delay for the 2018 to 2022 period.

[34] There is also presumed prejudice in the delay from the 2024 events, however, given the much shorter passage of time, that prejudice is neutral in the analysis on a summary dismissal. That is, it is not plain and obvious that the presumed prejudice from a delay of under a year is such to support dismissal of an application.

Sophistication of the Respondent

[35] The facts pled support this factor weighing against dismissal. The Respondent has pled having knowledge of the concept of the duty of fair representation but has also pled initially filing the complaint with the Canadian Industrial Relations Board, which lacks jurisdiction. The filing in the wrong jurisdiction clearly supports that the Respondent should be granted some leniency on timelines depending on the other factors.

Nature of the Claim

[36] The nature of the claim supports dismissal for both the 2018 to 2022 allegations and the 2024 allegations. The underlying claim relates to the Union's failure to grieve the results of a third-party harassment report from 2021 and various conduct and confidentiality allegations related to the harassment investigation. The consequence of dismissal is removing the Respondent's ability to proceed to grievance arbitration in relation to the Employer's response to the harassment complaint. The Respondent asserts that is not the remedy that is sought.

[37] The remedy the Respondent seeks is for the Union to fund counsel to pursue the Employer in the Courts. It is unlikely that the Board has jurisdiction to grant the relief of paying for counsel to pursue claims before the Courts. However, even assuming that the Board has the jurisdiction, this remedy supports dismissal because all civil claims against the Employer are at this point presumptively statute barred pursuant to *The Limitations Act*, SS 2004, c L-16.1. The nature of such relief does not support permitting this matter to proceed.

[38] As it relates to the damages claimed, damages are a discretionary remedy, *SEIU-West v City Centre Bingo*, 2025 SKLRB 34 (CanLII) at para 72, and following *Saskatchewan Government and General Employees' Union v Lapchuk*, 2025 SKKB 53 (CanLII)("*Lapchuk*"), the damages in this case would arguably be for loss of a chance. The loss of chance appears to be the loss of a chance to grieve the harassment report or loss of a chance to grieve harassment. While damages may be available for such a claim, it is likely that the value of the loss of the chance to pursue that claim would be modest considering the facts related to the result of the third party report, the departure of the manager from the workplace, and the potential for any damages for a workplace

injury to be limited by *The Workers' Compensation Act, 2013*, SS 2013, c W-17.11, see for example the discussion in *Regina Civic Members' Union, Canadian Union of Public Employees, Local 21 v Regina (City)*, 2023 CanLII 83424 (SK LA).

[39] The Board does not find the potential damages claim for loss of a chance to be a claim that supports permitting delay in this case. The Respondent's interest in a claim for a modest award of damages does not outweigh the systemic interest in supporting the efficient administration of labour relations.

The Applicable Standard

[40] Weighing the above factors, the Board dismisses the Respondent's application as it relates to 2018 to 2022 based on delay. The delay of 40 months from the April 2022 email alleging the Union breached the duty to the filing is excessive. The intervening events, especially considering re-raising representation throughout 2024, do not excuse the delay. Considering the prejudice, the nature of the claim, and the sophistication of the applicant, it is not in the interests of justice to excuse delay of this nature on even a summary basis.

[41] As it relates to the 2024 allegations, the Board declines to summarily dismiss this portion on delay. The prejudice is much less, and the length of unexcused delay is not such to support a summary determination based on delay.

Does the Application as it relates to 2024 disclose no arguable case?

[42] The Union has also sought summary dismissal on the basis of no arguable case. This was not included in the original application for summary dismissal but was raised in written submissions and substantively responded to by the Respondent in her submissions.

[43] The Board finds the Respondent's application in LRB File No. 158-25 as it relates to 2024 has no reasonable chance of success as the requests made of the Union do not fall within the scope of s. 6-59, and even assuming that the allegations do fall within s. 6-59, there are no facts pled capable of supporting a finding that the Union's conduct in 2024 was arbitrary, discriminatory, or in bad faith.

[44] The Board discussed the limited scope of the duty of fair representation under s. 6-58 in *COPE, Local 397 v Kerr,* 2025 SKLRB 25 (CanLII)("*Kerr*") at para 34:

> *[34] The duty of fair representation is a duty owed by the Union in its representation of members in relation to collective bargaining and Part VI rights: Saskatchewan Government*

> *and General Employees' Union v Lapchuk, 2025 SKKB 53 (CanLII); Ha v Saskatchewan Polytechnic Faculty Association, 2024 CanLII 126796 (SK LRB); J.C. v Regina Police Association Inc., 2023 CanLII 99838 (SK LRB). For the duty to apply, the case must relate to the matters set out in s. 6-59…*

[45] The Respondent's allegations as it relates to 2024 do not relate to Part VI rights or enforcement of the collective bargaining agreement. The Respondent, in response to the Union stating it did not intend to grieve, stated that she did not want to grieve and wanted counsel to proceed against the Employer through the courts. This request does not fall within the scope of s. 6-59. Individual employee's rights under a collective bargaining agreement are collective bargaining rights that are enforced through grievance arbitration under s. 6-45, *Lapchuk v Saskatchewan (Highways),* 2017 SKCA 68 (CanLII), *Northern Regional Health Authority v Horrocks*, 2021 SCC 42, *Livingston v Saskatchewan Human Rights Commission,* 2022 SKCA 127 (CanLII). The Respondent may have the right to pursue the Employer through other venues, but the Union does not owe a duty to represent outside of the venues related to Part VI of the Act.

[46] The allegations related to 2024 do not disclose an arguable case because, based on the Respondent's assertions, they are related to rights sought to be enforced outside of Part VI.

[47] Secondly, even if it is assumed that s. 6-59 is engaged by the Respondent's 2024 request, the Board does not find that the 2024 allegations disclose an arguable case.

[48] Justice Megaw reviewed the approach to the duty of fair representation in *Lapchuk* at paras 101-103:

> *[101] This rich history then led to the development of the principles of the duty of fair representation as set forth by the Supreme Court of Canada in the oft-cited decision of Canadian Merchant Service Guild v Gagnon, 1984 CanLII 18 (SCC), [1984] 1 SCR 509 at 527 [Gagnon]:*
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> > *The following principles, concerning a union's duty of representation in respect of a grievance, emerge from the case law and academic opinion consulted.*
> >
> > *31. The exclusive power conferred on a union to act as spokesman for the employees in a bargaining unit entails a corresponding obligation on the union to fairly represent all employees comprised in the unit.*
> >
> > *2. When, as is true here and is generally the case, the right to take a grievance to arbitration is reserved to the union, the employee does not have an absolute right to arbitration and the union enjoys considerable discretion.*
> >
> > *3. This discretion must be exercised in good faith, objectively and honestly, after a thorough study of, the grievance and the case, taking into account the significance of the grievance and of its consequences for the employee on the one hand and the legitimate interests of the union on the other.*

> *4. The union's decision must not be arbitrary, capricious, discriminatory or wrongful.*
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> *5. The representation by the union must be fair, genuine and not merely apparent, undertaken with integrity and competence, without serious or major negligence, and without hostility towards the employee.*

[102] The duty of fair representation does not compel a detailed evaluation of the actions of the union nor does it envision necessarily a second guessing of the decisions of the union. As well, that duty does not elevate the Union's actions to a requirement of achieving perfection or even of acting without negligence. As a result, the SLRB is not to merely sit in appeal of any decisions taken by SGEU. In Haley v C.A.L.E.A. (No. 1), 1981 CarswellNat 602 (WL) (Can LRB), this principle was put as follows:

> *30 It is not the Board's task to reshape union priorities, allocate union resources, comment on leadership selection, second guess its decisions, or criticize the results of its bargaining. It is our task to ensure it does not exercise its exclusive majoritarian based authority unfairly or discriminatorily. Union decision makers must not act fraudulently or for improper motives such as those prohibited by human rights legislation or out of personal hostility, revenge or dishonesty. They must not act arbitrarily by making no or only a perfunctory or cursory inquiry into an employee's grievance. The union's duty of fair representation does not guarantee individual or group union decision makers will be mature, wise, sensitive, competent, effectual or suited for their job. It does not guarantee they will not make mistakes. The union election or selection process does not guarantee competence any more than the process does for those selected to act in other democratic institutions such as Parliament or appointees to administrative agencies.*
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> *31 But the law does not condone all good faith action. Some action or inaction is such a total abdication of responsibility it is no longer mere incompetence — it is a total failure to represent (e.g. Forestell and Hall [41 di 179, [1980] 3 Can LRBR 491], supra. Some conduct is so arbitrary or seriously (or grossly) negligent it cannot be viewed as fair. This is especially so when a critical job interest of an individual is at stake.*

[103] In Zalopski v Canadian Union of Public Employees, Local 21, 2017 CanLII 68784 (Sask LRB), a summary of the guiding principles for determining a fair representation case was provided, thereby developing the application of the principles set forth in the preceding citation and providing specific examples of limitations of the union's duty in this regard:

> *[40] The Applicant in this case complains that the Union failed to represent him fairly in the prosecution of his promotional grievance. Many, if not most, duty of fair representation claims allege that a member's union failed to prosecute his or her grievance appropriately. It is not surprising, then, that a large body of jurisprudence has evolved about what principles should guide a labour relations board when assessing the merits of such claims. A helpful summary of these principles is found in Mwemera v United Brotherhood of Carpenters and Joiners of America, Local Union No. 2010 [2016 CanLII 8866 (AB LRB), aff'd 2017 ABQB 286]. There the Alberta Board stated as follows at para. 20:*
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> > *This Board's decision in Reid v United Steelworkers of America Local Union No. 7226, [2000] Alta. L.R.B.R. LD-064 (at para. 3) summarizes some of the key principles underlying the duty of fair representation:*

> • *The Union need not take every grievance to arbitration. It need not take a grievance to arbitration just because the grievor asks the Union to do so. The Union is entitled to assess the merits of the grievance, the chances of success at arbitration, the costs of the arbitration process and other factors when deciding whether or not to advance a grievance to arbitration.*
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> • *The Board focuses its examination on the Union's conduct and considerations while the Union represented the employee and in making its decision, rather than on the merits of the grievance, which is the question an arbitrator would answer.*
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> • *The Union is entitled to make a wrong decision, as long as it fairly and reasonably investigates the grievance and comes to an informed decision.*
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> • *The Union must give the employee a fair opportunity to present the employee's own case to the Union and to provide input on the result of the Union's investigation.*
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> • *The Union should communicate fairly with the employee about all aspects of its representation. Communication with the employee can play a significant role in representation, but the union need not take direction from the employee or answer all questions to the employee's satisfaction nor must it act within the employee's time limits.*
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> • *A Union does not breach its duty of fair representation just because it reaches a conclusion with which the employee does not agree.*
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> *[41] It is important to recall, as well, that the function of this Board in such matters is not to "second guess" or "sit on appeal" of a union's handling of a member's grievance. As Chairperson Love reminded us in Owl v Saskatchewan Government and General Employees' Union [:*
>
> > *It is clear that a Union has carriage of grievances or, as has sometimes been stated, owns the grievance. It is also clear that the Board will not sit "on appeal" of a Union's decisions in how it conducts a grievance. At paragraph [24] of [Taylor v Saskatchewan Government and General Employees' Union 2011 CanLII 27606 (SK LRB)] the Board said:*
> >
> > *With respect to the Applicant's complaint that the Union should have called more or different witnesses, this Board has previously stated that we will not, with the benefit of hindsight, sit "on appeal" of a trade union's decision on how it conducts its arbitrations, including which witnesses should been called, and/or what evidence should have been tendered and/or what arguments should have been advanced or abandoned, as the case may be. [Citations omitted.]*

[49] The Board has applied the analysis from *Lapchuk* in several recent cases including *Livingston v CUPE*, 2025 SKLRB 18, *ATU, Local 588 v Nezamloo*, 2025 SKLRB 22, *Scheller v UFCW, 1400*, 2025 SKLRB 27, *Construction and General Workers' Union, Local 180 v Chiperi*,

2025 SKLRB 30, *Chau Ha v SPFA*, 2025 SKLRB 31, *Pichula v CUPE*, 2025 SKLRB 45, and *Anakaer v CUPE*, 2025 SKLRB 55.

[50] As it relates to 2024, the Union met with the Respondent multiple times and engaged counsel in an evaluation of a potential grievance. The Union provided the Respondent with a written response setting out its reasons for not proceeding with a grievance. Those reasons focus on the merit of a potential grievance and the modest outcome even if successful. The fact that the Respondent is disappointed and disagrees with the Union's analysis does not establish a breach of the duty of fair representation.

[51] There are no facts pled in relation to 2024 that would support a reasonable finding that this decision was arbitrary, discriminatory or in bad faith. The Respondent's complaint as it relates to 2024 has no reasonable chance of success.

[52] The Board would also note that while not argued, much of the application in LRB File No. 158-25 appears to raise matters beyond the jurisdiction of the Board. The Board would note the analysis of the Board in *Kerr* at paras 48-49:

> *[48] Ms. Kerr has raised various complaints under Part II of the SEA. These complaints fall outside the Board's jurisdiction. The Board is a creature of statute and only has the jurisdiction granted to it by statute. The Board is created under s. 6-92 and empowered under s. 6-103 to have the powers and duties that are conferred by the SEA. There is no section in Part II (or any section of the SEA) that confers on the Board with the power to determine disputes under Part II at first instance.*
>
> *[49] Under Part IV, and in particular s. 4-8, the Board is granted appellate jurisdiction of Part II adjudications. This jurisdiction is clearly appellate, see: Buchanan (Rural Municipality) v Veldman, 2024 SKCA 111 (CanLII) at para 11, and this appellate jurisdiction cannot be expanded to grant the Board with the authority to determine Ms. Kerr's Part II complaints in the first instance.*

[53] In summation, the Respondent's complaint as it relates to 2018 to 2022, is summarily dismissed on the basis of delay. The complaint as it relates to 2024, is summarily dismissed for having no reasonable chance of success.

[54] As a result, with these Reasons an Order will issue that the Application for Summary Dismissal in LRB File No. 168-25 is granted, and the application in LRB File No. 158-25 is dismissed.

[55] Pursuant to s. 6-115 of the Act, the decision of the Board is final subject to reconsideration as permitted by s. 6-115(3).

[56] 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 **January, 2026.**

LABOUR RELATIONS BOARD

Kyle McCreary
Chairperson