

AGGREY FINN, Appellant and REV AUTOMOTIVE GROUP INC., Appellant v DAVID NICOLL, Respondent and DIRECTOR OF EMPLOYMENT STANDARDS, Respondent

LRB File No. 213-25; February 4, 2026

Chairperson, Kyle McCreary (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act*)

Citation: *REV Automotive Group Inc. v Director of Employment Standards*, 2026 SKLRB

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Counsel for the Appellants, Aggrey Finn and REV Automotive Group: Aggrey Finn
For the Respondent, David Nicoll: No-one Appearing
Counsel for the Respondent, The Director of Employment Standards: Savannah L. Downs

Appeal of a Wage Assessment – Request for Stay of Proceedings Pending Appeal – Request Dismissed as no evidence of irreparable harm

REASONS FOR DECISION

Background:

[1] **Kyle McCreary, Chairperson:** Aggrey Finn and REV Automotive Group Inc. o/a Regina Electric Vehicles (“the Appellants”) seek a stay of an Adjudicator’s decision pending the determination of their appeal under to s. 4-8 of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 (the “Act”). The Director of Employment Standards (“the Director”) opposes the stay.

[2] The Director issued the wage assessment in favour of Mr. Nicoll on August 25, 2025. The Appellants appealed the wage assessment to an Adjudicator under Part IV of the Act.

[3] The Registrar selected an adjudicator on October 10, 2025.

[4] The Adjudicator rendered a decision on October 27, 2025, upholding the wage assessment in the amount of \$5,202.67. The Adjudicator found that appeal was not perfected in compliance with s. 2-75(4) of the Act and dismissed the appeal.

[5] The Appellants appealed the Adjudicator’s decision on November 17, 2025, and have sought a stay of the Adjudicator’s decision pending the determination of the appeal.

[6] The stated ground of appeal in the Notice of Appeal is as follows:

The Adjudicator made an error in his decision on jurisdiction to proceed with an appeal. Section 2-75(5) the funds were not deposited by the labour board. The Applicant cannot control when deposits are made.

[7] The parties were given an opportunity to file materials in relation to the request for a stay.

Analysis and Decision:

[8] The Board has the authority to stay the effect of Adjudicator's orders pending appeal pursuant to s. 4-8(5) which reads:

4-8 ...

(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.

[9] The default position of the Act is that the Adjudicator's order is not stayed pending appeal, an appellant must demonstrate that the Board should exercise its authority to order a stay.

[10] The Board set out its approach determining whether to order a stay pending an appeal pursuant to Part IV of the Act in *Olympic Motors (SK) I Corporation v Fowler*, 2024 CanLII 5486 (SK LRB). In that decision, Chair Morris (as he then was) stated the following:

[13] Generally, the purpose of a stay is to prevent prejudice (harm) to an appellant that may arise if a decision is enforced while an appeal from it is pending. However, imposing a stay can result in prejudice to a respondent, since they are prevented from enforcing the decision while the stay is in effect. When faced with an application for stay, the Board balances the parties' competing interests by applying similar principles to those described in the J.L./Nilson framework, as explained below.

[14] First, the Board must consider the strength of the appeal. Simply put, the Board will not stay a decision's effect if the appeal from it is frivolous or vexatious. An appellant requesting a stay must satisfy the Board that their appeal raises an arguable ground that could potentially affect the result under appeal. The Board does not consider the merits of the appeal beyond this relatively low threshold at this stage of the analysis.

[15] Next, the Board must consider whether the appellant has established a meaningful risk of irreparable harm if a decision is enforced while their appeal from it is pending. In basic terms, irreparable harm is generally understood as harm that will not be able to be remedied, or adequately remedied, through the recovery of compensation. A meaningful risk of irreparable harm can include being required to compensate a respondent in accordance with a decision if there is a meaningful risk of being unable to recover funds in the event of a successful appeal. This tends to be the most common type of irreparable harm alleged in the context of employers' appeals concerning wage assessments. In other appeals, such as those where an employee is required to be (or not required to be) reinstated as a consequence of an adjudicator's decision, different concerns may arise. In such circumstances, reasonably detailed affidavit evidence may be required to establish

*the meaningful risk of irreparable harm. This is not to say that affidavit evidence is not appropriate in other circumstances, including where the potential irreparable harm is the inability to recover money already paid in spite of a successful appeal. **Whether affidavit evidence is strictly necessary, in addition to the factual assertions an appellant makes in Form 1 (or a respondent makes in Form 21), will depend on the circumstances of any given case.***

[16] Provided an appeal is not frivolous or vexatious and the appellant has established a meaningful risk of irreparable harm, the Board will assess the balance of convenience. Fundamentally, the Board must weigh the risk of the irreparable harm the appellant may suffer if the stay is not granted and they ultimately succeed on appeal, against the risk of any irreparable harm the respondent may suffer if the stay is granted and they prevail on appeal. In conducting this exercise, non-exhaustive factors the Board may consider include the relative strength of the appellant's case, the relative likelihood of any irreparable harm as between the appellant and the respondent, and the likely amount and nature of such harm. In considering these factors, of course, the Board must be mindful that it is not deciding the merits of the appeal at this stage of the proceedings. That is for another day, after hearing full argument on the merits from the parties.

[emphasis added]

[11] The Board adopts this approach and will consider whether there is a serious issue to be tried, a risk of irreparable harm, and whether the balance of convenience favours the ordering of a stay. The Board would reiterate that the Appellants must demonstrate that each section of the test is met, a failure on any step is determinative of the request for a stay.

Serious Issue to be Tried

[12] A serious issue to be tried is a low threshold. The Board does not assess the merits beyond whether the arguments are frivolous, vexatious, or destined to fail. The Board finds the Appellants' appeal meets this threshold.

[13] The Appellants argue that the Adjudicator erred in his interpretation of jurisdiction. The Appellants contend that they were compliant with s. 2-75 and the Adjudicator erred in declining jurisdiction. The Appellants contend that the issues related to payment were caused by administrative delay of the Ministry. The Director argues that this does not present an arguable case.

[14] The Appellants' arguments are counter to the decisions in *Pruden v Olysky Limited Partnership*, 2018 SKCA 75 (CanLII), *Amroth Builders v Director of Employment Standards*, 2025 SKLRB 38 (CanLII), and *Saskatchewan v Martell*, 2021 CanLII 122408 (SK LRB) ("Martell").

[15] In *Martell*, the Board found strict compliance with s. 2-75 is required and an on-time deposit that is returned for insufficient funds does not constitute compliance, even when there is a later deposit completed.

[16] Considering these decisions, especially *Martell*, the Appellants have a very weak case. However, *Martell* contains a detailed analysis on the issue of substantial compliance and whether it is sufficient under the s. 2-75. The Appellants are effectively asking the Board to revisit this analysis. While the Appellants are unlikely to succeed in asking the Board to reconsider a decision from 2021, it is not frivolous, vexatious, or devoid of merit to ask the Board to reconsider its interpretation of the application of the principle of substantial compliance to s. 2-75 of the Act. The Board finds that there is a serious issue to be tried.

Will the Stay Result in Irreparable Harm?

[17] The Appellants bear the onus of establishing that there is a meaningful risk of irreparable harm from allowing the wage assessment to be enforced. The Appellants have filed no affidavit evidence in support of its claim for irreparable harm. The only facts sworn in Form 1 under the request for a stay by the Appellant is:

We would like to prevent any further action until the appeal is reviewed. This was an original error on behalf of the Sask Labour Board.

This does not demonstrate a meaningful risk of irreparable harm in allowing collection to proceed.

[18] In *Dart Services v Waisman*, 2025 SKLRB 33 at para 10, the Board found “that there is a risk or irreparable harm in the recovery of damages considering the quantum in this case”. The quantum in that case was \$41,454.25. The quantum in this case of \$5,202.67 is not large enough to permit the Board to make a finding of a meaningful risk of irreparable harm without further evidence.

[19] The Appellants argue the following in their submissions under the heading of irreparable harm:

Enforcing the order before the Board can rule on the appeal and the validity of the deposit would be premature and prejudicial. Rev Auto has demonstrated proof of funds and provided a bank letter confirming the account status.

[20] This supports that the respondent employee may be able to recover and may not suffer irreparable harm, but does not demonstrate that the Appellants will suffer irreparable harm. Further, the referenced evidence was not filed with the Board.

[21] The Board finds that the Appellants have not met their onus of demonstrating irreparable harm. The request for a stay fails on this basis.

Balance of Convenience

[22] The Board finds that the balance of convenience favours permitting enforcement pending appeal as the Appellants have not demonstrated a risk of irreparable harm. Even if it is assumed that there is a risk of the payment not being recoverable, this is outweighed by the harms to the public interest in delaying the enforcement of wage assessments, and the weakness of the Appellants' case.

Conclusion:

[23] The Appellants' request for a stay pursuant to s. 4-8(5) is dismissed.

[24] As a result, with these Reasons, an appropriate Order will issue.

[25] 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 **4th** day of **February, 2026**.

LABOUR RELATIONS BOARD

Kyle McCreary, Chairperson