THE INTERNATIONAL UNION OF OPERATING ENGINEERS, A.F.L.-C.I.O.-C.F.L., HOISTING, PORTABLE AND STATIONARY LOCAL 870, Applicant v BFI CONSTRUCTORS LTD., Respondent and PETE COPEMAN, Respondent

LRB File Nos.206-25 & 087-25; February 11, 2026
Chairperson, Kyle McCreary (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act)*
Citation: *IUOE Local 870 v Copeman*, 2026 SKLRB 12

Counsel for the Applicant, The International Union of Operating Engineers, A.F.L.-C.I.O.-C.F.L., Hoisting, Portable and Stationary Local 870	Greg Fingas and Andrea Johnson
Counsel for the Respondent, BFI Constructors Ltd.:	Larry Seiferling, K.C.
The Respondent, Pete Copeman:	Self-represented

Summary Dismissal – Granted – Disagreeing with how the Union weighed evidence does not establish an arguable breach of the duty of fair representation – subsequent deployment to another worksite irrelevant to whether the Union met its duty – discrimination issue not in application – amendment permitted to allow issue to be raised

REASONS FOR DECISION

Background:

[1] **Kyle McCreary, Chairperson:** The International Union of Operating Engineers, A.F.L.-C.I.O.-C.F.L., Hoisting, Portable and Stationary Local 870 ("the Union") has filed for summary dismissal of Pete Copeman's ("the Member") application in LRB File No. 087-25, on the basis that it discloses no arguable case.

[2] The Member's application in LRB File No. 087-25 ("the DFR Application") is a duty of fair representation application pursuant to Section 6-59 of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 ("the Act"), alleging that the Union failed to fairly represent the Member in relation to the termination of the Members employment with BFI Contractors Ltd. ("the Employer").

[3] The DFR Application within the application form itself is very scant on facts, however, the DFR Application includes a document that sets out the Member's account of events, it reads as follows:

This is an official account of the events of November 23, 2024 that led to my wrongful suspension… It was a Saturday afternoon, shortly after lunch break. I was the only member of the "Laydown" crew working that day as the others were on "days off". My vehicle was parked in the employee parking lot & was stuck on ice & snow. We were between snowstorms with the second snowstorm nearly upon us, which threatened 30-40cm of snow. I was on modified duty due to a work injury. It was a slow day in the laydown so I busied myself with a deep cleaning of my telehandler. I then went over to the fueling station and filled my machine with diesel. While fueling my machine, I noticed a nearby pallet of sandbags. I came up with an idea to use the weight of the sandbags to get my vehicle unstuck from my parking spot. I finished fueling and used my telehandler to position the pallet of sandbags in such a way that I could slide some sandbags into the back part of my "stuck truck". I then moved the telehandler along with the remainder of the sandbags out of the way and to another part of the laydown. For a short time, I continued with the deep cleaning of my telehandler. I had every intention of returning the sandbags to the pallet one I get my truck unstuck. Some time passed while I cleaned. Then my phone rang and it was Trevor Zayonce, the laydown Super intendant. I was asked to stop in at his office. Once inside Trevors office, I was asked to close the door. Ron Sabiston was also in the office. Trevor started the conversation by telling me "As you are aware, Pete, there has been theft occurring on site" I immediately asked if this was the sandbags, that I was being called in the office for? And I began to explain that I was most certainly not stealing anything. Trevor's mind seemed made up and he suspended me from work immediately & had Ron escort me to my truck. Later, back at my residence, I discovered that I had been sent away with the sandbags still inside my truck.

I waited until Tuesday November 26th when my shop Stuart was at work and I made contact with him, asking him to start the process of grieving this wrongful suspension. After hearing me out, Lonnie asked quite a few questions. The next day, Corey Cowely, my union office manager called me to say that the union would not be grieving this. He said that by placing the sandbags in my truck, for whatever reason, that is considered theft. I argued that I had not committed theft of any kind, He sided with the employer.

[4] The relief the Member seeks on these facts is as follows:

I believe that I am entitled to a grievance and that furthermore I am entitled to an apology and I'm entitled to loss of wages from Nov. 24, 2024 until this is settled.

[5] The Union argues based on these facts and additional facts set out in the Union's reply and application for summary dismissal that the DFR Application does not plead an arguable case. The Employer supports the Union's position.

Relevant Statutory Provisions:

[6] The DFR Application is pursuant to s. 6-59 of the Act:

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.

[7] The summary dismissal application is pursuant to the Board's authority to summarily dismiss under s. 6-111(1)(p) and its power to determine matters without an oral hearing pursuant to s. 6-111(1)(q):

> ***6-111****(1) With respect to any matter before it, the board has the power:*
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> *. . .*
>
> *(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

[8] The Board on an application for summary dismissal assumes the facts contained in an application are true and only summarily dismisses a case when it is plain and obvious that those facts read generously do not disclose an arguable case, *SGEU v Morrisseau Dickson*, 2025 SKLRB 15 (CanLII), and *Roy v Workers United Canada Council*, 2015 CanLII 885 (SK LRB). The Board does not weigh evidence or determine novel points of law; there must be no reasonable chance of success for an application to be dismissed at this stage.

Should this case be Summarily Dismissed?

[9] The issue raised in the Member's application is whether the Union complied with its duty under s. 6-59 of the Act, that is has the Union breached its duty of fair representation. The Board finds that there is no arguable case that the Union breached its duty based on the current wording of the DFR Application. However, the question of discrimination for workplace injury is potentially an arguable issue and the Member is granted leave to amend the DFR Application to include this allegation within ten (10) business days of this decision.

[10] The Board's role in ensuring compliance with the duty of fair representation is a supervisory role. The Board does not sit in appeal of the Union nor second guess its decisions, it simply reviews to ensure that a union exercises its powers of exclusive representation in a manner that is not arbitrary, discriminatory or in bad faith. The nature of the review as noted by the Court of King's Bench in *Saskatchewan Government and General Employees' Union v Lapchuk*, 2025 SKKB 53 (CanLII) at para 102:

> *[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:*
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> > *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.*

[11] The Board has noted that a union does not have to make the correct decision on a file, it is permitted to make mistakes, *Scheller v UFCW, 1400*, 2025 SKLRB 27 (CanLII) and *Ha v Saskatchewan Polytechnic Faculty Association*, 2024 CanLII 126796 (SK LRB). A decision of a union not to grieve or proceed with a grievance must rise above a difference of opinion or a different evaluation of the evidence to a failure to properly evaluate to constitute a breach of the duty.

[12] A union is not required to grieve a case. It is also not a breach of the duty for a union to make a decision a member disagrees with. A union must fairly consider a case and make a fair decision.

[13] The Member has pleaded that the Union heard him out and asked, "quite a few questions". The Member has also pleaded that the reason for the Union's decision was siding with the Employer's position on whether it was improper to place sandbags in his truck.

[14] Assuming the facts are true, they do not raise an arguable case. The Union heard out the Member and made a decision based on the facts of the case. This is in accordance with their duty. The Member's differing view of the evidence and the relative merit of a grievance does not

constitute a breach. The Union considered the merits of the grievance and made a decision based on the merits, the Member's desire to fight the Employer's policy on sandbag use does not constitute a breach of the duty of fair representation.

[15] A union member is not entitled to a grievance. The union controls the grievance process as part of its right of exclusive representation, *Canadian Merchant Service Guild v. Gagnon et al.,* 1984 CanLII 18 (SCC), [1984] 1 SCR 509. While the Member feels the Union should have grieved, the law does not require the Union to grieve or to advance a grievance to arbitration.

[16] The Member in reply submissions raised various issues related to the Member's subsequent deployment to another worksite, the relative merits of the Employer's actions and defenses to the Member's use of the sandbags, and the Member alleges that the Union discriminated against the Member on basis of a workplace injury. The first issue is irrelevant to the question before the Board. The second issue goes only to an argument that the Union could have weighed the evidence differently, the Board does not second guess the Union's weighing of evidence outside of exceptional circumstances. The third issue is not raised in the DFR Application itself.

[17] The Board has considered whether to permit the Member to amend the DFR Application to allege discrimination on the basis of a workplace injury. The Union's application raises significant facts which cast doubt on the strength of this allegation, however, that determination should not be made on a summary dismissal application when the allegations have yet to be pled. As summary dismissal without amendment would arguably raise an issue of *res judicata*, the Board errs on the side of allowing the Member an opportunity to plead the issue of discrimination through amendment. The summary dismissal is granted but the Member shall have leave to file an amended application to plead facts supporting the discrimination claim.

[18] As a result, with these Reasons, an Order will issue that the Application for Summary Dismissal in LRB File No. 206-25 is granted. The Member has 10 business days from the date of this decision to file an amended application that sets out the facts supporting the claim of alleged discrimination. If the Member fails to amend the DFR Application within this timeframe, the application in LRB File No. 087-25 shall stand dismissed.

[19] 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 **11th** day of **February, 2026.**

LABOUR RELATIONS BOARD

Kyle McCreary
Chairperson