MUHAMMAD WAJEEH MUSTAFA, Applicant v SEIU-WEST, Respondent and SASKATCHEWAN HEALTH AUTHORITY, Respondent

LRB File Nos.: 037-23 & 009-26; April 24, 2026
Chairperson, Kyle McCreary (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act)*
Citation: *Mustafa v SEIU-West*, 2026 SKLRB 22

For the Applicant, Muhammad Wajeeh Mustafa: Self-Represented

Counsel for the Respondent, SEIU-West: Shannon Whyley and Christina Kerby

Counsel for the Respondent, Saskatchewan Health Authority: Paul Clemens

Duty of Fair Representation – Onus on the applicant to establish on a balance of probabilities that there has been a breach – Onus not met based on information filed

Written Hearing – Matter heard on the basis of written submission – Nature of the file and history of adjournments supports matter being heard on written submissions – As no evidence was heard orally there is no procedural unfairness in proceeding in writing

REASONS FOR DECISION

Background:

[1] Kyle McCreary, Chairperson: SEIU-West ("the Union") in LRB File No. 009-26 filed a request for Muhammad Wajeeh Mustafa's ("The Member") application in LRB File No. 037-23 to be determined on the basis of written submissions without an oral hearing pursuant to s. 6-111(1)(q) of *The Saskatchewan Employment Act* ("the Act").[1] The Saskatchewan Health Authority ("the SHA") filed a reply in LRB File No. 009-26 supporting the Union's request. The Member did not file a reply. On January 30, 2026, the Board ordered LRB File No. 037-23 to be determined on the basis of written submissions with specific timelines.

[2] The Applicant filed his underlying application pursuant to s. 6-59 of the Act in LRB File No. 037-23 on March 3, 2023 ("the DFR Application").

[1] SS 2013, c S-15.1.

[3] The DFR Application was originally set for hearing in November of 2023; those dates were adjourned at the request of the Applicant.

[4] The DFR Application was next set to be heard on June 3-5, 2024. The hearing commenced on June 3, 2024. The first day of the hearing was consumed with opening statements and providing the Member's disclosure to the Respondents. The matter was adjourned on June 4, 2024, at the request of the Employer due to issues raised by the Member's disclosure. No evidence was heard by the Board during these dates. During the appearance, the Member requested the Board appoint legal counsel to assist him.

[5] Following that appearance, the Board received submissions from the parties on the Member's having counsel appointed and the Board rendered a decision in *Muhammad Wajeeh Mustafa v SEIU-WEST*, 2024 CanLII 75092 (SK LRB) ("the Counsel Appointment Decision"), denying the Member's request for Board appointed counsel.

[6] The DFR Application was next scheduled for hearing on December 2-4, 2024. On November 29, 2024, the matter was adjourned at the request of the Member. The reason for the adjournment was the Member had recently retained counsel. Counsel appears to have subsequently withdrawn, although counsel did not provide notice of the same to the Board.

[7] The DFR Application was next scheduled for hearing on January 26-28, 2026. On January 9, 2026, the Board granted the Member's request for an adjournment. The reason for the adjournment related to family and personal health concerns of the Member.

[8] On January 14, 2026, the Union filed its request to have the DFR Application determined on the basis of written submissions. On January 30, 2026, the Board ordered the matter be determined on the basis of written submissions. The Board set timelines for written submissions within the order.

[9] The Member was to file his written submissions by February 23, 2026. The Member filed no materials in compliance with the Board's order. The Board has confirmed that the order was sent to the email address for service on the Board's file. The Member attempted to file unsworn materials on March 15, 2026, including a covering email and a 61-page pdf containing a series of documents.

[10] The Union and the Employer had a filing deadline of March 16, 2026. On March 16, the Union filed an affidavit from Marj Markwart, and the Employer filed affidavits from Jonathan Melville, Jeff Cutting, and Lori Bjorkman. Both parties also filed written arguments.

[11] The Member's deadline for reply submissions was March 23, 2026. The Member did not file reply submissions.

[12] On April 1, 2026, the Member filed an affidavit of Randy Samuels. The responding parties objected to this late filing. The Board declines to accept this affidavit for filing. The reasons for that decision are addressed in the analysis section.

[13] The DFR Application sets out the Member's allegations against the Union. Distilled, the Member alleges that the Union has failed to advance a grievance related to the payment of missed meal breaks and alleges that the Union failed in how it represented the Member in his harassment complaints and complaints about allegedly missing property. The DFR Application also has various allegations and statements about the Employer's conduct; however, those issues are beyond the Board's jurisdiction related to the duty of fair representation.

[14] The affidavit of Ms. Markwart sets out the Union's efforts in response to the Member's concerns. In particular it sets out a chronology of actions and communications taken in relation to both the missed break issue and the harassment issue.

[15] The affidavit of Jeff Cutting responds and denies specific allegations made in relation to issues related to the harassment complaints.

[16] The affidavit of Jonathan Melville responds and denies specific allegations made by the Member.

[17] The affidavit of Lori Bjorkman sets out the Member's employment history and has information related to the grievance and on the harassment issue including a copy of the investigation report which followed the Member's complaint.

Statutory Provisions:

[18] The Member's application is pursuant to s. 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.*

[19] The Board's authority to determine this matter without an oral hearing and on affidavit evidence is pursuant to clauses 6-111(1)(e) and (q). The Board's adjournment authority is pursuant to clause 6-111(1)(k).

> ***Powers re hearings and proceedings***
> ***6-111****(1) With respect to any matter before it, the board has the power:*
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> *…*
>
> *(e) to receive and accept any evidence and information on oath, affirmation, affidavit or otherwise that the board considers appropriate, whether admissible in a court of law or not;*
>
> *…*
>
> *(k) to adjourn or postpone the hearing or proceeding;*
>
> *…*
>
> *(q) to decide any matter before it without holding an oral hearing;*

Analysis and Decision:

Should this matter be determined by a written hearing?

[20] The Board discussed its approach to written hearings in *Stephen-McIntosh v SEIU-West*, 2025 SKLRB 2 (CanLII)("*Stephen-McIntosh*") and *SEIU-West v City Centre Bingo*, 2025 SKLRB 39 (CanLII)("*City Centre Bingo*").

[21] In *Stephen-McIntosh* the Board set out that the Board should hear matters in the most proportionate matter which can include determining a matter on the basis of written submissions. The Board found that it has the statutory authority to determine any matter without an oral hearing, as stated at para 20:

> *[20] The general ability to control process in s. 6-103 is supplemented by specific powers related to hearings under s. 6-111. The powers under s. 6-111 make clear that the Board can determine the form of evidence acceptable on an application (s. 6-111(1)(e)), determine any preliminary procedures (s. 6-111(1)(h)), and determine any matter without an oral hearing (s. 6-111(1)(q)):*
>
> *6-111(1) With respect to any matter before it, the board has the power:*
>
> *…*
>
> *(e) to receive and accept any evidence and information on oath, affirmation, affidavit or otherwise that the board considers appropriate, whether admissible in a court of law or not;*

> …
>
> *(h) to order preliminary hearings or procedures, including pre-hearing settlement conferences;*
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> …
>
> *(q) to decide any matter before it without holding an oral hearing;*
>
> *The combined effect of s. 6-103 and the above clauses of s. 6-111 is that the Board can determine its own process and how an application is to be heard. The Board has the power to direct the parties to consider the issue of whether this matter could be determined on a written record. The Board can also determine the form of the hearing it considers appropriate, whether it is a hearing based on viva voce evidence, affidavit evidence, or the pleadings. The Board expressly has the power to determine any matter before it without an oral hearing, which includes not just preliminary questions and summary dismissal applications, but also the merits of this application or the merits of any other matter.*

[22] In determining whether it is proportionate to proceed to a written hearing instead of an oral hearing, the Board set out that it must consider whether a written evidentiary record will be sufficient to determine the matter, and whether it is procedurally fair in a particular case to proceed with a written hearing, as stated at para 31:

> *[31] …The Board is statutorily empowered to determine any matter without an oral hearing. The question for the Board to determine when deciding whether an oral hearing is necessary is not whether there is a genuine issue for trial, but whether it is procedurally fair to do so and does the Board have the evidence and information it needs to render a decision.*

[23] In *City Centre Bingo*, the Board considered the question of whether parties have a right to cross examine in hearings before the Board. The Board found that parties do not have a right to cross examination and that procedural fairness generally does not require oral hearings, as stated at para 20:

> *[20] Considering the legal issues raised in this hearing and the potential delay in coming before the Board, the Board finds it is proportionate to proceed by written hearing. An oral hearing is not generally required for procedural fairness and the record does not disclose any exceptional circumstances. The factual issues do not present material and substantial disagreements as to what occurred, and the legal issues are not of a level of complexity for the Board to require an oral hearing to determine the questions raised.*

[24] The Board will now consider the issues raised by this application, the question of procedural fairness, and proportionality in determining the Union's request. On the sections of the Act at issue, a written record has been found sufficient in duty of fair representation cases in *Stephen-McIntosh*, *Scheller v UFCW, 1400*, 2025 SKLRB 27 (CanLII)("*Scheller*"), *Chau Ha v SPFA*, 2025 SKLRB 31 (CanLII), and *Anakaer v CUPE*, 2025 SKLRB 55 (CanLII). There are no

issues raised on the allegations in these proceedings which distinguishes it from duty of fair representation cases the Board has previously determined. Further, with the adoption of Practice Note 10, the default method of determining duty of fair representation applications is now written hearings.

[25] On the issue of procedural fairness, this case raises a unique issue, an oral hearing was previously commenced. Is there an unfairness from converting a matter mid hearing to another mode of hearing? The Board would state that all parties should have an opportunity to present their evidence in the same manner to the Board. In this case, no party has presented any oral evidence to the Board, opening statements are not evidence, they are an outline of evidence that parties intend to call, but no evidence was called. There is no procedural unfairness in converting this hearing at this juncture as all parties will still be able to present their case to the Board in the same manner. The parties have been given notice of the conversion of the proceedings, and each party has had an opportunity to meet the others case in a written form.

[26] On proportionality, considering the numerous adjournments over a period of years, it is not a proportionate use of the Board's resources to attempt to determine this matter with an oral hearing. The nature of the hearing and procedural fairness does not require an oral hearing and it is disproportionate to attempt to hold an oral hearing in this case. It has been over three years since the application was originally filed and over 18 months since opening statements and the Member has yet to call a witness. It does not promote the prompt resolution of labour relations matters as is intended by the Act to continue seeking to hold an oral hearing in this matter.

[27] Considering the three factors above that all support determination without an oral hearing, the Board considers it appropriate to determine this matter on the basis of the written submissions filed.

The Extension Request

[28] As noted above, the Member filed unsworn materials on March 15, 2026. This is 14 business days after the Member's filing deadline and was a Sunday. The respondents' materials were due the next day. On March 16, 2026, the filing deadline for the responding parties, the Member requested an extension to his filing deadline, this extension was opposed by both respondents.

[29] As this is a matter proceeding by written materials, a filing extension on the eve of the other parties' filing deadline is similar to seeking an adjournment of an oral hearing. In *SEIU-*

West v Prairie Harm Reduction, 2026 SKLRB 13 (CanLII), the Board adopted the adjournment factors from *Green v Arthurs*, 2023 SKKB 75 (CanLII), which are:

> a. the nature of the tribunal's process and its obligation to decide the case on its merits and make a just determination of the matters in dispute;
>
> b. the prejudice caused to a party by granting or refusing the adjournment;
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> c. the applicant's explanation for the inability to proceed on the scheduled date;
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> d. the length of the adjournment requested and any resulting disruption;
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> e. the history of the proceedings, including other adjournments and delays as well as which party caused them; and
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> f. whether the adjournment is found merely to be an attempt to delay proceedings.

[30] The Board considers these factors appropriate to consider a filing extension in these circumstances. Requesting to file materials in a matter that denies the responding parties right of reply is effectively an adjournment of a written hearing.

[31] The first factor is the nature of the Board's process. The nature of the Board's process is to finally determine labour relations matters on the merits; this would support granting the extension.

[32] The prejudice to the responding parties is significant due to the timing. If the Member had sought an extension at any point in the three weeks before the Member's original timeline, there would have been minimal prejudice, or even if it had been shortly thereafter, the prejudice could have been mitigated. By waiting until the responding parties would have completed their materials, the Member maximized the prejudice to the responding parties.

[33] Further, the Board reviewed the materials filed by the Member, which were not sworn. The materials were generally only relevant to the issues between the Member and the Employer and had minimal relevance to the issue of the Union's representation. None of them addressed the issue of how the Union's handling of the file was in breach of the duty of fair representation. This is especially acute in the covering email that the Board accepted as argument:

> *Despite waiting more than 3 years and suffring from mental, financial and social trauma and damages and an income loss of 180,000 CAD the following matters are still unresolved:*
>
> *The grievance is still unresolved*
> *The missed break dues are still pending*
> *Despite the unions response, pending dues payment, pending fair investigation for Harrassment and abuse.*
>
> *To traumatize me further for asking for my rights in accordance with the Canadian Charter of rights and freedom and CBA the employer has unfairly and unlawfully suspended my employment and later on July 18,2025 unfairly and unlawfully issued a termination letter disregard all the pending matters. The union has informed that they have filed another grievance on top of the existing unresolved past grievance to initiate a legal process against the actions of the employer for which i do not have any current update.*
>
> *It is more than 3 years now that due to the unfair and unlawful actions of the employer i and my entire family has been suffering from severe health and financial damages in terms of severe mental and emotional trauma, stress and an income loss of 60,000 CAD per yer totalling to 180,000 CAD for three years now.*
>
> *I am still waiting for help in terms resolution of filed Grievance, payment of dues, reinstatement and resumption of my job am still waiting for duty of fair representation.*
>
> *I need urgent help as i am struggling to protect myself and my entire family from the mental and emotional trauma and financial damages interms of loss of income that we are suffering from due to the unfail and unlawful actions of the employer for more than 3 years now and the issues remain unresolved till today.*
>
> *Response for Written Hearing with the Saskatchewan Labour Relations Board pursuant to The Saskatchewan Employment Act, referenced as LRB File No. 009-26.*

The only references to the Union relate to delay. It is prejudicial to the responding parties to admit evidence of limited relevance that will require further work to respond. The prejudice to the Member is limited as the information filed, even if accepted in the form it was in, is unlikely to prove or disprove allegations against the Union.

[34] The Member's explanation for the delay relates to personal health and family health obligations. This is a generally acceptable explanation, except no explanation is offered for why the request for an extension was not made sooner or in a manner less prejudicial to the other parties. The failure to explain the timing of the extension request weighs against granting the extension.

[35] The length of the request would be to effectively reset all of the filing deadlines ordered by the Board. The total delay would be at least three weeks. This would support granting the extension request.

[36] The history of the file weighs against the extension. This matter has been set for hearing numerous times and been subject to significant delay. There have been adjournments granted over a period of years. Most of the adjournments were at the request of the Member. The history of delay and lack of progress on the file supports denying the extension request.

[37] Considering the history of the file, this appears to simply be an attempt to delay proceedings and potentially to force the Board to revisit either its decision to not appoint counsel or to order the matter to an oral hearing. If the Member wanted the Board to reconsider those decisions, the Member should have applied to do so. Attempting to revisit decisions through manufactured delay is not acceptable.

[38] Weighing the above factors and particularly the history of the file and the prejudice to the responding parties. The Board declined to extension request for the documents. The written argument in the email was accepted for consideration.

The Affidavit of Randy Samuels

[39] After the extension request was denied on the documents, the Member sought to file the Affidavit of Randy Samuels. This is not in compliance with the Boards direction on the extension request. The Member asked for either this affidavit to be accepted, the matter to be heard by oral hearing, or for the Board to appoint counsel to represent the Member.

[40] The Board declines to accept the filing of the Affidavit of Mr. Samuels. The Affidavit was not filed in compliance with the Board's direction and is continuation of a pattern of delay. Further, the Board has reviewed the Affidavit, and it is primarily relevant to the merits of the underlying grievance and does not potentially prove or disprove a material fact in the duty of fair representation issue before the Board. Considering the prejudice to the responding parties, the failure to follow the Board's directions and the lack of legal relevance of the facts int the affidavit, the Board does not consider it to be in the interests of justice to admit Mr. Samuels' affidavit.

[41] The Board has attempted to have this matter proceed via oral hearing over a period of years. The Member did not respond to the Union's application to convert this matter to a written hearing. The request to hold an oral hearing to hear Mr. Samuels evidence is arguably an argument that an oral hearing is required to fulsomely present his case. The Member has identified no evidence other than the evidence of Mr. Samuels that would be called other than the evidence in the affidavit. The Board does not consider the evidence of Mr. Samuels in the Affidavit to be material enough to demonstrate that an oral hearing is required simply to hear this evidence.

[42] The Board finds the request for the appointment of counsel to border on vexatious. The Board fulsomely addressed its jurisdiction or lack thereof to make such an order in The Counsel Appointment Decision. The Member did not apply for reconsideration of that decision, nor has the Member identified a basis for the Board to revisit the analysis in that decision. The Member simply demands that the Board grant relief that it has already denied, this request does not appear to be based on asserting a valid legal right and does not identify any error in the Board's previous analysis. The Board declines to revisit its previous decision on the appointment of counsel.

Duty of Fair Representation

[43] The Board has discussed the duty of fair representation in numerous cases, for example: *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), *Scheller, Livingston v CUPE,* 2025 SKLRB 18 (CanLII), and *HSAS v Orell-Bast*, 2026 SKLRB 17 (CanLII). Broadly, the Union has a duty to act fairly and to consider matters and come to decisions based on the merits of member's issues. A union may not act in a manner that is arbitrary, discriminatory, or in bad faith. A union may make decisions on the allocations of scarce resources, on how to and whether to file or proceed with grievances arbitrations, and a union is permitted to make mistakes.

[44] The Court of King's Bench in *Saskatchewan Government and General Employees' Union v Lapchuk*, 2025 SKKB 53 (CanLII) discussed the duty as follows:

> *[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.*
>
> *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.*
> >
> > • *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.*
> >
> > • *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.*
> >
> > • *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.*
> >
> > • *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.*
> >
> > • *A Union does not breach its duty of fair representation just because it reaches a conclusion with which the employee does not agree.*

> *[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:*
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> > *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.]*

[45] With these principles in mind, the Board will now turn to considering whether the Union's conduct was in breach of the duty of fair representation.

The Meal Breaks Issues

[46] The Board has reviewed the Union's evidence from Marj Markwart of its handling of the grievance of alleged unpaid missed meal breaks along with the Affidavit of Lori Bjorkman and the Member's application. The Board does not find any objectionable conduct in the intake of the grievance on June 6, 2022, the filing of the grievance in July 2022, the advancing of the grievance through Step One in July 2022, Step Two in September and October 2022, and Step Three between October 2022 and March 2023.

[47] The Board also does not find the Union's efforts to settle the grievance through a monetary settlement in 2023-2024 to be arbitrary, discriminatory or in bad faith.

[48] In 2025, the Member was terminated and agreed with the Union focusing its efforts on resolving a grievance related to his termination rather than the meal break issue.

[49] The Board accepts that the Union's explanation for the delay in the resolution of the grievance is reasonable.

[50] The meal break grievance remains live, and the Union has made efforts to continue discussing the issue with the SHA. The Board does not find it to be arbitrary, discriminatory or in bad faith to focus limited resources on a termination grievance and to put less focus on the meal

break issue until the employment status of the Member is resolved. The Member has not met his onus to establish that the Union has breached its duty. The Union is entitled to make choices and allocate resources as long as it complies with its duty, the Board finds that the affidavit evidence and included exhibits demonstrate compliance with the duty.

The Harassment Issue and Related Complaints

[51] The Board has reviewed the Union's evidence from Marj Markwart related to the Harassment issue as well as the Member's application, and the Affidavits of the Employer. The Board does not have jurisdiction to determine the merits of the harassment and missing property issues; it falls either to an Occupational Health and Safety Adjudicator or to an arbitrator under s. 6-45 of the Act. The Board's jurisdiction is the Union's conduct in this matter.

[52] The Union's conduct primarily relates to its attendance at meetings on September 13, 2022, February 2, 2023, communications between the Member and the Employer on the status of the harassment complaint and investigation and inquires into the allegedly missing personal property of the Member.

[53] The Member demands that the Union should have done more to protect him during these interactions and the harassment investigation process. The Union's duty is to represent; the Union represented the Member's interests at the meetings with the Employer and in its communications with the Employer. The argument that the Union should have represented differently or more aggressively is not a question for the duty of fair representation, the Board does not assess the quality of representation other than the standard set by s. 6-59. The Board does not find the Union's representation at the meetings or communications and investigations of issues related to the complaints or the allegedly missing property to be arbitrary, discriminatory, or in bad faith.

[54] As a result, the Member's application in LRB File No. 037-23 is dismissed. An order to this effect will accompany these reasons.

[55] The Board thanks the Respondents 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 **24th** day of April**, 2026.**

LABOUR RELATIONS BOARD

Kyle McCreary
Chairperson