DECISION OF ADJUDICATOR
IN THE MATTER OF AN ADJUDICATION
PURSUANT TO SECTION 2-75 and 4-6 OF
THE SASKATCHEWAN EMPLOYMENT ACT

Daniel Parker

COMPLAINANT/EMPLOYEE

-AND-

GFL Environmental Inc.

APPELLANT/EMPLOYER

DATE OF HEARING:	November 19, 2025
PLACE OF HEARING:	Regina, Saskatchewan
LRB FILE:	No. 099-25
WAGE ASSESSMENT:	No. 1-000965

INTRODUCTION

This matter was heard on November 19, 2025, in Regina, Saskatchewan.

I am satisfied there has been compliance with subsections 2-74(6), 2-75(2) and 2-75(3) of *The Employment Standards Act* (the 'Act'). Therefore, I have determined that I do have jurisdiction to hear this matter.

Allysia Finn, Employment Standards Officer ('ESO'), represented The Department of Employment Standards.

Shelby Skakun, Human Resources and Celynn Manz, Manager, represented the Corporation.

Daniel Parker, Employee attended and gave sworn evidence on his behalf.

The Wage Assessment was prepared pursuant to the Saskatchewan Employment Act s.s.2014 c.s-15.1, herein after referred to as "The Act" is for $5,958.19.

I. PRELIMINARY MATTERS

There were no preliminary matters raised by the parties.

II. AGREED FACTS

The parties agreed as follows:

1. Mr. Parker began his employment with the company in June of 2019.
2. Mr. Parker worked as an assistant operator during his tenor years earning $27.57/hour prior to the end of his employment.
3. Mr. Parker's employment ended on February 14th, 2025.
4. Should the wage assessment be upheld, the parties agreed that the amount listed in the wage assessment of $5,958.19 is correct.
5. The parties agree that this is a single event firing of the employee without cause, as opposed to a cumulative event firing of the employee.

III. EVIDENCE OF THE EMPLOYER

Shelby Skakun was sworn and gave the following evidence:

The Corporation is a waste management company operating in Canada, including Saskatchewan, and has petroleum, refinery, and mining companies as clients.

Mr. Parker was an assistant operator, working from Regina. His duties comprised being the operator of a vacuum truck that processed waste.

The employee was terminated with cause on February 14, 2025.

The reason for the termination was a non-negative illicit drug test taken on the morning of February 14, 2025. The test was positive for THC (cannabis). The results of this test were forwarded to the employer's lab to determine the time frame in which the drug had been consumed. The result was received on February 20th, 2025, and was a positive result for the consumption of Cannabis within 24 hours.

The Saskatoon office of the employer received the result on February 20th, 2025, and the corporation advised the employee that he was terminated without cause as a result of the test results.

The witness referred to the policy of the employer set out in Tab 5 of ESO Exhibit #1, wherein it states that, if an employee tests positive for an illicit drug being consumed within a 24 hour period prior to the employee commencing work, the employee would be terminated.

Under cross-examination by the Employment Standards Officer, Ms. Skakun, was referred to Tab 6 of ESO Exhibit #1 wherein part 7 discusses, that a policy violation depends on the nature of the violation, and the circumstances and facts surrounding the situation. Considering all these things will warrant entering into the discipline process at different levels. The policy goes on to discuss how the employee maybe subject to progressive

discipline depending on the particular violations and the circumstances surrounding it.

Ms. Skakun was aware that Mr. Parker had received an injury on February 12th, 2025; however, had not investigated the circumstances surrounding the violation of the drug policy.

The 'ESO' directed Ms. Skakun's attention to: iii. Standards of the policy, which discusses illicit drugs, including cannabis. The paragraph states that it is a violation of the policy if the cannabis is consumed within 24 hours of starting a shift by the employee. Ms. Skakun agreed with the 'ESO' that, no investigation or discussion regarding the circumstances around Mr. Parker's failure of the drug test were taken, nor was there any inquiry of Mr. Parker regarding the same.

The company viewed the positive test result as a violation of the policy, and terminated Mr. Parker's employment as a consequence.

Under further cross examination Ms. Skakun confirmed that Mr. Parker had, prior to this event, been tested on seven previous occasions and two of the seven had been non-negative.

The test results were forwarded to the lab and the lab concluded that the cannabis had been consumed earlier than 24hrs of the test being taken and resultantly the policy was not applied, and Mr. Parker continued with his employment.

The employee chose not to cross-examine Ms. Skakun.

IV. EVIDENCE OF EMPLOYEE

The employee, Mr. Daniel Parker, was sworn and gave evidence on his behalf.

The employee confirmed that he had been injured on February 12, 2025. It has been a cool day and the hydraulics on the truck were slow and not working properly. Consequently, he received an injury to one of his fingers.

Tab 6 of ESO Exhibit "1" contained text messages between Mr. Parker and the site supervisor, Brandon G. discussing the injury.

Mr. Parker did not work the day after the injury, February 13th, 2025. When Mr. Parker returned to work on February 14th, 2025, his finger was painful and he had to struggle to put his gloves on to work. He attended a safety meeting and was then sent to the job site with another employee. Around noon he received a phone call saying that he was to come in for a test at 1:00 pm. He attended the test and had a negative result as previously set out.

On February 20th, 2025, he was notified that the test was non-negative (positive). The employee then contacted the District Manager, Josh Prinz, the results of that conversation are set out under Tab 8.

The employee stated that he did not have any discussions with anyone at the employer regarding the results or any questions about the circumstances surrounding the non-negative, positive, test.

Tab 8 sets out text discussions between the District Manager, Josh Prinz, and himself. In the text message Mr. Parker advised that he had not worked the day before and that the consumption of the cannabis had been beyond the 24hr period set out in the policy. The employee admitted that he had consumed cannabis on Wednesday/Thursday the 12th/13th night at approximately 2:00am as a result of the pain from his injury. The employee said that it was longer than a 24hour period between consumption and when he started his shift on February 14th (shift started at 6:00am) and therefore was outside of the policy time frame for the application of this policy for his circumstance.

The employee stated that, at no time did anyone from the company inquire or question him relating to the circumstances surrounding his violation. Or his use of the cannabis and failure of his test. Nor had they inquired as to the time frame relating to the incident.

V. ANALYSIS/DECISION

The employer takes the position that the employee was dismissed with cause within the meaning of "The Act", based on the events that took place on February 14th, 2025. As such events violate the company's alcohol and drug policy.

McKinley v. BC Tel (2001), 2SCR 261. The McKinley case sets out that "when an employer asserts dismissal for just cause, the employer bears the burden of proving the balance of probabilities that, there is reasonable grounds for dismissal. To satisfy this burden, the employer must demonstrate that the dismissal was a proportionate response to the alleged misconduct in question, striking an effective balance between the severity of the employee's misconduct and the sanction, with all the surrounding circumstances.

In this case, the employer asserts that the grounds for dismissal was a direct violation of the employer's alcohol and drug policy by the employee, in that, he had consumed cannabis within 24 hours of starting a shift.

Under cross examination, the employee stated that he received the injury at approximately 4:00pm on Wednesday and reported it to the company from home around 6:00pm, as well as the next day.

On February 14th, 2025, he had problems putting on his glove and spent most of his time sitting in the truck. The other employee he was working with did most of the work that day.

The employee was asked why he did not advise someone in the company that the consumption had been prior to the 24 hour period set out in the policy. The employee stated that the supervisor wanted him to proceed to the job regardless of any problems so he proceeded to the workplace.

The employer took the position that violation of this section, by the employee, was sufficient to terminate his employment and did so.

Part VII Consequences of a Policy Violation – this section of the policy states that the appropriate discipline in a particular case depends on the nature of the policy violation and the circumstances surrounding the situation. The severity of the violation will warrant entering the discipline process at different levels. The evidence shows that the employer did not take any steps or make any inquiry with regard to the employee and his violation of the policy, despite the section in the policy requiring the corporation to do so.

In addition, the employer did not confirm the time of the cannabis consumption or use, to establish if it was within 24 hours of starting the shift for the employee.

The employees' evidence is that his consumption of cannabis was before the start of the 24 hour allowance before working and therefore the policy does not apply.

The evidence also indicates little, if any, investigation of the circumstances surrounding the situation. Nor did the employer consider the severity violation when considering the discipline process at the extreme level of employment termination of the employee.

Application of the case of Entrop v. Imperial Oil Limited (2000) CAN LII(ONCA), sets out the decision that, a positive drug test alone does not establish impairment, risk or cause for terminating without supporting circumstances.

In reviewing automatic termination of employment for all employees after a single positive test, the court held that, in some cases termination may be justified, but in others, the employee's circumstances may call for a less severe sanction.

In this case the employer did not investigate the circumstances including the employee's injury, time frame of consumption, and other circumstances that, if considered, their policy would likely have called for a less severe sanction.

The company's policy states that, when considering discipline for a violation, the company would review the circumstances surrounding the situation as well as the nature of the policy violation.

The company did not investigate the injury to Mr. Parker, nor did they inquire as to the timing of his consumption of cannabis and other circumstances that were disclosed in the evidence of the parties, but automatically terminated the employee's employment due to a non-negative result of the cannabis test.

Had the company taken the time to learn as to the time frame the cannabis was Consumed, how the policy would apply, as well as the personal circumstances of the employee, a different outcome may well have been the result. In particular, since the evidence shows the employee, did not consume cannabis within 24hours of commencing his shift, which in accordance with the alcohol and drug policy,

would have placed the actions of the employee outside of the alcohol and drug policy.

Clearly the employer did not establish on the balance of probabilities, that just cause existed, at the time the employee was terminated.

In applying the *McKinley v. BC Tel* decision, coupled with the *Entrop v. Imperial Oil Ltd.* decision, I find that the employer did not meet the onus of showing, on a balance of probabilities, that Mr. Parker was fired with cause. The employer did not take any steps to investigate the policy violation and thereby apply the section where the severity of the violation may have been altered due to the factual situation of the particular employee at that time.

VI. CONCLUSION

The appeal is dismissed the Wage Assessment is upheld in the amount of $5,958.19.

Dated at City of Moose Jaw, in the Province of Saskatchewan,

this 8th, of December 2025.

Clifford B. Wheatley
Adjudicator

The Parties are hereby notified of their right to appeal this decision pursuant to Sections 4-8, 4-9 and 4-10 of *The Saskatchewan Employment Act* (the "Act").

The information below has been modified and is applicable only to Part II and Part IV of the Act. To view the entire sections of the legislation, the Act can be accessed at http://www.saskatchewan.ca/.

Right to appeal adjudicator's decision to board

4-8(1) An Employer, Employee or corporate director who is directly affected by a decision of an adjudicator on an appeal or hearing pursuant to Part II may appeal the decision to the board on a question of law.

(3) A person who intends to appeal pursuant to this section shall:

(a) file a notice of appeal with the board within 15 business days after the date of service of the decision of the adjudicator; and

(b) serve the notice of appeal on all persons mentioned in clause 4-4(1)(b) who received the notice setting the appeal or hearing.

(4) The record of an appeal is to consist of the following:

(a) in the case of an appeal pursuant to Part II, the wage assessment, or the notice of hearing;

(c) the notice of appeal filed with the director of employment standards pursuant to Part II;

(d) any exhibits filed before the adjudicator;

(e) the written decision of the adjudicator;

(f) the notice of appeal to the board;

(g) any other material that the board may require to properly consider the appeal.

(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.

(6) The board may:

(a) affirm, amend, or cancel the decision or order of the adjudicator; or

(b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board

Appeal to Court of Appeal

4-9(1) With leave of a judge of the Court of Appeal, an appeal may be made to the Court of Appeal from a decision of the board pursuant to section 4-8 on a question of law.

(2) A person, including the director of employment standards, intending to make an appeal to the Court of Appeal shall apply for leave to appeal within 15 business days after the date of service of the decision of the board.

(3) Unless a judge of the Court of Appeal orders otherwise, an appeal to the Court of Appeal does not stay the effect of the decision being appealed.

Right of director to appeal

4-10 The director of employment standards has the right:

(a) to appear and make representations on:

(i) any appeal or hearing heard by an adjudicator; and

(ii) any appeal of an adjudicator's decision before the board or the Court of Appeal;and

(b) to appeal any decision of an adjudicator or the board.