

LRB 136-25



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

Appellant:

Village of Macrorie

AND

Respondents:

Darla Fraser and The Director of Employment Standards

Date of Adjudication:

October 31, 2025

Appellant's written argument filed:

November 7, 2025

Date of Decision:

November 14, 2025

1. On June 23, 2025, Wage Assessment # 1-000984 was issued on behalf of the director of Employment Standards. The Wage Assessment was issued to the Village of Macrorie [the 'appellant' or 'Macrorie'].
2. The Wage Assessment directed the appellant to pay \$3,446.08 to former employee Darla Fraser [the 'employee' or 'Ms. Fraser'].
3. The appellant appealed the Wage Assessment by providing cheque #105 dated July 4, 2025 in the amount of \$500.00 to the Minister of Finance, along with a letter of appeal dated July 6, 2025. The Ministry of Labour Relations and Workplace Safety [the 'Ministry'] acknowledged receipt of the appeal documents by way of letter dated July 14, 2025. I have reviewed the appeal documents contained at tab 10 of EE-1 and I am satisfied that the provisions of ss 2-75(2) which requires an appeal to be commenced "by filing a written notice of appeal with the director of employment standards within 15 business days after the date of service of a wage assessment" have been complied with as the letter of appeal and the accompanying cheque were received by the Ministry within 15 days of the Wage Assessment being provided to the appellant. See *The Saskatchewan Employment Act* [the 'SEA'] ss 2-75(2).
4. Carmen Fowler and Carol Andrew represented the appellant at the appeal hearing. Employment Standards Officer Kelli Smith was the director's designate and represented the director. She did not represent Ms. Fraser. Ms. Fraser was present throughout the hearing and represented herself.
5. The director's representative filed an electronic binder with 10 tabs, which was marked for identification as Exhibit EE-1. It was the only exhibit filed. Only the following parts of EE-1 are evidence in this matter:

Tab 2, a copy of the original complaint made by Ms. Fraser;

Tab3, a copy of corporate documents from the Saskatchewan Corporate Registry, establishing the Village of Macrorie as a legal entity in Saskatchewan.

Tab 4, a copy of pay statements related to Ms. Fraser's employment.

Tab 5 b), a copy of a statement written by Carol Andrew

Tab 8, a copy of an inspection report written by Ms. Smith.

Tab 9, a copy of Wage Assessment

Tab 10, a copy of the appellant's appeal materials.

6. Tab 1 is a summary of the director's case including relevant sections of legislation. While it is certainly helpful that the appellant and I received this summary before the hearing, the summary itself of course is not evidence.
7. Tab 5 a), c), and d) are written statements on behalf of the employer. I have not considered the content of these statements in coming to my conclusions. No witness was available to speak to the statements or to be cross examined on them. As a result, these statements are not admissible as evidence. Had they been admissible, I would have disallowed the hearsay evidence contained within them.
8. Tabs 6 and 7 are relevant case law. Again, while these are helpful, they are not evidence.
9. Three witnesses gave evidence. These were Darla Fraser, Carmen Fowler and Carol Andrew. At the end of the evidentiary portion of the hearing, Ms. Smith gave her final argument. The appellant requested some additional time to prepare a written final argument. I allowed the appellant until the end of day November 7 to submit a final argument in writing. The appellant did file a written closing statement, which I have considered carefully.
10. There is really only one issue in dispute in this hearing. That issue is whether or not the Village of Macrorie established just cause for terminating Darla Fraser's employment.
11. The evidence clearly establishes that Ms. Fraser worked for the appellant from March 15, 2012 until her employment was terminated January 22, 2025. Her salary was \$25.00 per hour, and she worked 16 hours per week. As she was employed by the employer for more than ten years Ms. Fraser is entitled to eight weeks' wages in lieu of notice pursuant to s. 2-60 of the *SEA* unless just cause is established. If she is entitled to eight weeks' wages in lieu of notice, she is also entitled to vacation pay on that amount pursuant to s. 2-27 of the *SEA*. Eight weeks pay in lieu together with the vacation pay prescribed by the *SEA* totals \$3,446.08 in this case. Therefore, the dispute boils down to this: If the Village of Macrorie establishes just cause for

termination, I must allow the appeal and overturn the Wage Assessment.

Alternatively, if the Village of Macrorie does not establish just cause, I must dismiss the appeal and confirm the Wage Assessment in the amount of \$3,446.08. There are no other options.

12. Before completing my analysis of just cause, I would like to address the appellant's evidence and closing statement. Ms. Fowler and Ms. Andrew both testified on behalf of the appellant. I found them both to be straightforward, honest and direct in their statements. I accept their evidence as true. However, both Ms. Fowler and Ms. Andrew started employment with the Village of Macrorie in February, which was after Ms. Fraser was terminated. Neither Ms. Fowler nor Ms. Andrew had any personal knowledge of the events surrounding Ms. Fraser's termination. They did testify as to certain irregularities- some important documents and some funds not being where they were expected to be in the Village office. However, the only evidence submitted relevant to what Ms. Fraser did or did not do, and the only evidence submitted as to the details of Ms. Fraser's termination, was submitted by Ms. Fraser.
13. In her closing statement, Ms. Fowler said "the Village of Macrorie, was not advised of the process for this hearing". Elsewhere in her statement she said "it seemed as though we may have needed legal council to represent our case" and "(t)he claimant side had professional resources to represent and advise". It is true that the director was very professionally represented by Ms. Smith. However, I want to point out that Ms. Smith did not represent Ms. Fraser. She represented the director only. In addition, the Village of Macrorie received the standard notices with the Wage Assessment. Those notices come with a bold upper-case heading "IMPORTANT TO KNOW" followed by several relevant sections of the *SEA*. The appellant clearly did receive appropriate notice with respect to the Wage Assessment and their rights to appeal to this adjudication. Macrorie appealed almost four months ago on July 14. In short, the appellant had plenty of time to consult a lawyer had it wished to.
14. Ms. Fowler testified that the Village of Macrorie made a complaint to the RCMP with respect to allegedly missing funds. The appellants closing statement says: "The Village of Macrorie is currently relying on the [RCMP] investigation being done to help with clarifying this situation and past situations for the village to ensure

certainty on whether this is reasonable “just cause” or not as the village has limited funds for legal representative. The Village of Macrorie respectfully requests additional time to allow the investigation to be completed, so that a clearer determination can be made as to whether the termination qualifies as “Just Cause.””

15. The only issue I have jurisdiction to determine is if the Wage Assessment is proper. In this case that turns on whether the employer established just cause. I do not believe it would be appropriate for me to adjourn this matter, perhaps for a very long time, because one of the parties made a complaint to the RCMP. If the appellant has evidence of just cause, it should have presented that evidence at the hearing.
16. Where an employer alleges just cause for dismissal, the onus is on the employer to establish on a balance of probabilities that it had just cause to end the employment relationship. [*Swidovich v Saskatchewan Place Assn. Inc.*, 2019 SKQB 50 at para 119, [2019] 8 WWR 320]
17. If the employer had just cause to end the employment relationship, no pay in lieu of notice pursuant to *The Saskatchewan Employment Act* sections 2-60 and 2-61 is required.
18. In this case, Ms. Fraser’s uncontradicted evidence is that she had never been disciplined, warned or otherwise spoken to about any problems with her work performance, at any time during her employment. Therefore, this is not a ‘progressive discipline’ case.
19. The other way an employer can establish just cause is where a single act is so egregious it irreparably damages the employer-employee relationship. In this case, there were allegations that some important municipal documents including council minutes and a bylaw registry, were not located in the Village Office where they were supposed to be. However, Ms. Fraser’s uncontradicted evidence was that she left the documents in a box at the Village office months ago. Ms. Fowler and Ms. Andrew testified that the documents do not appear to be in the Village Office. They

presume the documents are missing or misplaced. Neither Ms. Fowler nor Ms. Andrew were at the Village Office when the documents were allegedly returned. There was no evidence of who had access to the Village Office, and documents at the Village Office in the time between when Ms. Fraser claims to have returned them, and the time Ms. Fowler and Mr. Andrew began working at the Village Office. The onus is on the employer to establish on a balance of probabilities, that Ms. Fraser is responsible for the fact the documents are missing or misplaced. No evidence connecting Ms. Fraser's actions to the missing or misplaced documents was tendered, except for Ms. Fraser's evidence that she left the documents in a box in the Village Office.

20. The other allegation raised against Ms. Fraser that could support immediate termination for cause relates to her alleged failure to deposit a sum of money in the appropriate bank account. Ms. Fraser testified that she did deposit these funds in a Village account, and that the receipts were left in the same box in the Village Office. While a simple denial of wrongdoing such as this does not establish that no wrongdoing had occurred, the lack of evidence *contra* is a significant concern. Again, the onus is on the employer to establish on a balance of probabilities, that Ms. Fraser mishandled, misplaced or misappropriated the money in question. No evidence connecting Ms. Fraser's actions to the missing or misplaced money or receipts was tendered, except for Ms. Fraser's evidence that she properly deposited the money and left the receipts in the same box in the Village Office.

21. In effect the evidence I heard from Ms. Fraser is that she left the receipts and the documents in a box at her place of employment months ago, before Ms. Fowler and Ms. Andrew began working for the Village. The onus to establish just cause rests on the employer. The evidence from the appellant was essentially that they can't locate the deposits, the money or the receipts. There was no evidence regarding who had access to the Village office. In the complete absence of evidence regarding who had access to the Village Office, and the absence of evidence regarding deposits to the Village's accounts I must conclude that Macrorie has not established any wrongdoing on a balance of probabilities.

22. Just cause is defined by the common law, not legislation. The Supreme Court of Canada, in *McKinley v. BC Tel* 2001 SCC 38 at paragraph 449 stated the test for determining whether a single act of dishonesty by an employee establishes just cause. It is:
- (1) whether the evidence established the employee's deceitful conduct on a balance of probabilities; and*
 - (2) if so, whether the nature and degree of the dishonesty warranted dismissal.*
23. In this case, the Village of Macrorie fails at step one. They have not established the alleged deceitful or dishonest conduct on a balance of probabilities.
24. I want to add that Ms. Fowler and Ms. Andrew appeared to me to be honest witnesses who told the truth. This decision of mine should not be interpreted as an indication that Ms. Fraser did or did not do anything improper with respect to the documents or the funds. I do not know what happened. This decision is simply my conclusion that the employer, who carries the onus to establish just cause, failed to do so. The result is that pay in lieu of notice is therefore required by the *SEA*.
25. The appeal is dismissed and Wage Assessment # 1-000984 is hereby confirmed in the full amount of \$3,446.08.

Dated at the City of Saskatoon, in the Province of Saskatchewan this 14th of November, 2025.



Doug Surtees
Adjudicator

The Parties are 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 viewed at 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.

(2) A person who is directly affected by a decision of an Adjudicator on an appeal pursuant to Part III 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 or hearing pursuant to Part II, the wage assessment or the notice of hearing;

(b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;

(c) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III, as the case may be;

(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 of the adjudicator's decision or order with any directions that the board considers appropriate.

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 or the director of occupational health and safety, 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 and the director of occupational health and safety have the right:

(1)(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 on a question of law or a question of mixed law and fact; and

(c) to appeal any decision of the board on a question of law.

(2) If the director of employment standards or director of occupational health and safety intends to appeal to the board pursuant to this section, that director shall:

(a) file a notice of appeal with the board within 30 business days after the date of service of the decision of the adjudicator; and (b) serve the notice of appeal on all parties to the appeal.

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

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

(b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;

(c) in the case of an appeal pursuant to Part V, any written decision of a radiation health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;

(d) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III or V, as the case may be;

(e) any exhibits filed before the adjudicator;

(f) the written decision of the adjudicator;

(g) the notice of appeal to the board;

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

(4) The commencement of an appeal to the board does not stay the effect of the decision or order being appealed unless the board orders otherwise.

(5) On an appeal, 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 considers appropriate.