In the Matter of an Appeal to the Special Adjudicator

Pursuant to Section 56.3(1) of

The Occupational Health and Safety Act, s.s.1993, c.0-1.1, as amended

BETWEEN:

Westfair Foods Ltd., a subsidiary of Loblaw Companies Limited

Appellant/Employer

- and –

S.H.

Respondent/Employee

- and –

Occupational Health And Safety

Executive Director

For the Appellant:	self-represented
For the Respondent:	self-represented
Decision Appealed:	Occupational Health Officer Report OR-KRH-0231, March 26, 2014

This Decision has been edited to protect the personal information of individuals by removing personal identifiers.

DECISION

INTRODUCTION

[1] On March 26, 2014, an Officer in the Occupational Health and Safety Division of the Ministry of Labour Relations and Workplace (the "Officer") issued a decision (OR-KRH-0231) that the employer had taken unlawful discriminatory action against S.H. (the "Respondent") by suspending S.H. for a total of six days contrary to section 27 of *The Occupational Health and Safety Act*[1]. The investigating Officer based his decision on the fact that the worker, S.H., had invoked a work refusal pursuant to section 23 of the Act and that the employer failed to deal with the work refusal in accordance with the steps set out in section 23 of the Act.

[1] This appeal was commenced pursuant to the provisions of *The Occupational Health and Safety Act, 1993,* since repealed and replaced by Part III and Part !V of *The Saskatchewan Employment Act*

[2] On April 10, 2014, the employer appealed the Officer's decision.

[3] A hearing was conducted in Regina, Saskatchewan on July 15, 2014. Two representatives appeared and testified on behalf of the employer, namely Ms. Tammy McBeath, Manager of Human Resources and Labour Relations, and Ms. Tenielle Dzuba, a Human Resources Generalist. The Respondent called herself as a witness. No new evidence was presented. Both parties relied primarily on the record, being the investigative file of information provided to the Officer. Each party received full disclosure of the investigative file prior to the hearing.

ISSUE

[4] Whether the employer's action against the Respondent is discriminatory in circumstances prohibited by s. 27 of *The Occupational Health and Safety Act, 1993* (the "Act").

BACKGROUND AND EVIDENCE

[5] The Respondent has been employed by Loblaw since January 10, 2011, and works as a shipper at the employer's warehouse distribution centre in Regina, Saskatchewan.

[6] About two months prior to the events giving rise to this appeal, the Respondent had complained to her employer, alleging harassment on the basis of sex (gender). At that time, the Respondent alleged inappropriate conduct and comments by a male co-worker ("Worker A") on or about November 27, 2013, being the Respondent's first day of work as a transgender woman. The Respondent's position is that "nothing was done" in response to her complaint. The employer claims that an investigation was initiated but that there was insufficient evidence from witnesses or the accused co-worker, who had no recollection of the alleged incident, on which to proceed.

[7] On January 28, 2014, shortly after 8:00 a.m., the Respondent reported to her supervisor that Worker A had struck her with the forklift he was operating. The Respondent testified that she had been struck in the foot by Worker A's forklift as she moved between pallets. The Respondent expressed the belief that Worker A had done so intentionally, and her concern that Worker A was taking his previous harassment (as alleged on November 27, 2013) to a new level, and trying to scare her.

[8] After reporting the incident, the Respondent was instructed to wait in the lunch room while her supervisor consulted Loblaw's Human Resources. Thereafter, the Respondent's supervisor proposed to separate Worker A and the Respondent such that they would no longer be in contact with each other for the remainder of their respective shifts, pending an investigation.

[9] The Respondent felt that Worker A ought to be removed from the workplace. Loblaw took the position that removal of Worker A from the workplace was unreasonable, as no fault had been proven. In

any case, the Respondent was not satisfied with the proposed remedy, which did not alleviate her concerns as to her safety in the workplace. The supervisor explained to the Respondent that she had the right of refusal, and her other option was to leave the workplace. The Respondent maintains that she was told to "go home". The Respondent inquired whether she would be paid for the remainder of her shift and was told she would be paid for any lost time if the findings of the investigation showed an infraction was committed which jeopardized her safety. The Respondent left the premises at 9:16 a.m. on January 28, 2014. At the time, the Respondent was also scheduled for a period of time off work from January 29 to February 3, 2014 and was scheduled to return to work on February 4, 2014.

[10] Later that day, the Respondent submitted a completed Harassment Confidential Questionnaire to Occupational Health and Safety dated and received by OH&S on January 28, 2014. In it, the Respondent alleged harassment against Worker A, referencing the previously mentioned allegations of comments and conduct made by Worker A on November 27, 2013 and the incident on January 28, 2013. The Respondent stated that "he drove his forklift at me and hit before I could get out of the way" and alleged that "he has taken his harassment to a new level by trying to scare me at work". The Respondent testified that her concern for her safety in the workplace arising from the forklift incident was that Worker A's harassment was escalating to a level beyond comments mocking her gender transition.

[11] Loblaw acknowledges that it did not consult with its occupational health and safety committee ("Joint Health and Safety Team") at the time of the Respondent's work refusal. Instead Loblaw proceeded with an internal investigation by Human Resources ("HR") according to its "process for investigating any incident that involves a violation of company policy". In that regard, the employer submitted Corporate Policy C03-010: Violence, Harassment & Discrimination in the Workplace.

[12] In the course of its investigation, the HR investigator interviewed the forklift driver (Worker A), who denied striking the Respondent with his forklift, and Worker B, who had been working on the floor with the Respondent. The Respondent, who had earlier provided both a verbal and written account of the incident, said she was not interviewed. In addition, the HR investigator acquired and reviewed video footage of the incident from which it was determined that there had been "no contact" between the forklift and the Respondent's person. On appeal, written submissions by the employer indicated that it was "very unlikely" the Respondent had been struck by the forklift or that there was any intent to do so.

[13] Based on its investigation, the employer concluded that the Respondent had made a false statement to her supervisor, falsely accused her co-worker of purposely striking her with his forklift.

[14] The Respondent returned to work on February 4, 2014, having previously scheduled a period of time off from January 29 to February 3, 2014. On that date, the employer met with the Respondent and

imposed a five day suspension without pay as discipline for having made false accusations against Worker A. The Respondent also learned that she would not be compensated for the lost time on the date of her refusal. Though it is unclear how the Respondent was informed of the latter, there is some evidence which suggests that the Respondent was to have been informed of the outcome prior to her return to facilitate her return to the workplace. Coupled with the fact that the Respondent submitted a discriminatory action complaint to Occupational Health and Safety dated February 3, 2014 seeking compensation for lost pay *before* she returned to the workplace to be officially informed in writing of the further five day suspension without pay, it is reasonable to infer that the Respondent was informed on or before February 3rd that she would not be paid for her lost wages on the date of her work refusal (January 28, 2014).

POSITION OF THE PARTIES

[15] The substance of the Appellant employer's position is that the disciplinary action (five days suspension without pay – February 5-8 and February 11, 2014) was administered for providing a false statement against a fellow colleague and unrelated to the work refusal. Further, although it was not expressly argued, the employer relied the findings of its policy-based investigation that the Respondent had falsely accused Worker A of striking her with his forklift for its decision not to pay the Respondent's wages for the day of her work refusal.

[16] The Respondent maintains that she was struck and that the Officer's decision should stand.

ANALYSIS/ REASONS/FINDINGS

Applicable Legislation and Framework for Analysis

[17] The framework for analysis of a discriminatory action is found in section(s) 28(1) and 28(4) of the *Act*. The Respondent filed her discriminatory action complaint pursuant to section 28(1) which states:

> **28**(1) A worker who, on reasonable grounds, believes that the employer has taken discriminatory action against him or her for a reason mentioned in section 27 may refer the matter to an occupational health officer.

[18] The Officer evidently found that there were reasonable grounds for the Respondent's belief, as the employer was subsequently informed of the Respondent's complaint in an Officer's Report (OR-KRH-0229) dated February 13, 2014, citing both sections 27 and 28(4) of *The Occupational Health and Safety Act (*the "Act"). The Officer indicated to the employer that the Respondent had raised allegations of harassment (November 27, 2013) about which nothing was done, and had expressed the belief that she was

suspended due to raising health and safety concerns and refusing dangerous work (refusing to work with an individual who is a threat to her safety). The Officer requested the employer to provide good and sufficient reason(s) for the discriminatory action taken against the Respondent by February 28, 2014. The employer complied b letter dated February 27, 2014, received by OHS on March 4, 2014.

[19] The starting point for analysis is whether the action taken by the employer falls within the definition of a discriminatory action. "Discriminatory action" is defined in section 2(1)(g) of the *Act* to mean:

> (g) "**discriminatory action**" means any action or threat of action by an employer that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes dismissal, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty, but does not include
>
> (i) the temporary assignment of a worker to alternate work, pursuant to section 36, without loss of pay to the worker; or
>
> (ii) the temporary assignment of a worker to alternate work, without loss of pay to the worker, while:
>
> (A) steps are being taken for the purposes of clause 23(a) to satisfy the worker that any particular act or series of acts that the worker refused to perform pursuant to that subsection are not unusually dangerous to the health or safety of the worker or any other person at the place of employment;
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> (B) the occupational health committee is conducting an investigation pursuant to clause 23(b) in relation to the worker's refusal to perform any particular act or series of acts; or
>
> (C) an occupational health officer is conducting an investigation requested by a worker or an employer pursuant to clause 24(a);
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> . . .

[20] Not every discriminatory action is unlawful. Under OH&S legislation, discriminatory action is a violation of the *Act* when such action is taken against a worker "for" one or more of the reasons specified in section 27 (a) to (i) of the *Act* .

[21] The ground identified by the occupational health officer upon which to base the Notice of Contravention (NC-KRH-0291) issued concurrently with his decision was section 27 (f):

> 27 No employer shall take discriminatory action against a worker because the worker:
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> . . .
>
> f) refuses or has refused to work pursuant to section 23;

[22] Section 23 of the Act establishes workers' right to refuse unusually dangerous work. Together, sections 23 and 24 describe the mandated procedure associated with a work refusal:

> 23 A worker may refuse to perform any particular act or series of acts at a place of employment where the worker has reasonable grounds to believe that the act or series of acts is unusually dangerous to the worker's health or safety or the health or safety of any other person at the place of employment until:
>
> (a) sufficient steps have been taken to satisfy the worker otherwise; or
> (b) the occupational health committee has investigated the matter and advised the worker otherwise.
>
> 24 Where there is no occupational health committee at a place of employment or where the worker or the employer is not satisfied with the decision of the occupational health committee pursuant to clause 23(b):
>
> (a) the worker or the employer may request an occupational health officer to investigate the matter; and
> (b) the worker is entitled to refuse to perform the act or series of acts pursuant to section 23 until the occupational health officer has investigated the matter and advised the worker otherwise pursuant to subsection 25(2).

[23] Section 28(4) creates a "reverse onus" clause requires the employer to prove that the decision to take discriminatory action was for good and sufficient other reason, i.e., reasons not influenced by the worker having engaged in one or more of the types of activity protected by paragraphs (a) to (i) of section 27. The employer is not obliged to prove this beyond a reasonable doubt, but must at least show that it is more likely than not that the employer's decision was not influenced by the worker's engagement in a protected health and safety activity. Section 28(4) of the *Act* states:

> 28 (4) Where discriminatory action has been taken against a worker who has acted or participated in an activity described in section 27, there is, in any prosecution or other proceeding taken pursuant to this Act, a presumption in favour of the worker that the discriminatory action was taken against the worker because the worker acted or participated in an activity described in section 27, and the onus is on the employer to establish that the discriminatory action was taken against the worker for good and sufficient other reason.

[24] However, before the onus shifts to the employer, must establish, on a balance of probabilities, a *prima facie* case that: (a) a discriminatory action was taken against her; and (b) that she engaged in a section 27 activity which could have been the reason for the employer's discriminatory action. In other words, there must be a factual foundation which would require an answer from the employer—a reasonable basis to conclude that the Respondent engaged in an activity protected by section 27 and that there is a causal nexus between that activity and the employer's discriminatory action before section 28(4) is triggered.

Discriminatory Action

[25] The Officer concluded that the Respondent had been suspended without pay for six days. There is no serious dispute that a suspension without pay falls within the broad scope of adverse employment consequences encompassed by the definition of "discriminatory action". For that reason, I am satisfied that the first required element has been met: to establish, *prima facie*, that the employer took adverse employment action against the Respondent falling within the definition of "discriminatory action".

[26] While it is not disputed that the Respondent lost six days wages, the employer takes the position that the Respondent was suspended without pay for a period of five days (February 5-8 and February 11, 2014) based on Loblaw's conclusion that the Respondent had made a false accusation against a co-worker. The "sixth" day (chronologically, the first day) of lost wages was not a suspension without pay. In light of the work refusal on January 28, 2014, the Respondent was informed that she would be paid for her lost time on January 28, 2014 if the findings of the investigation showed a safety infraction was committed which jeopardized her safety. Based on its investigation, the employer did not pay the Respondent for the January 28th shift.

Section 27 Activity

[27] Section 23 of the Act permits a worker to refuse to do work that the worker has reasonable grounds to believe is dangerous to his or her health or safety, or the health or safety of another person in the workplace. The right to refuse work pursuant to section 23 is a health and safety activity protected by section 27 of the Act.

[28] It is not disputed that in response to the Respondent's reporting of the incident on January 28, 2014, the Respondent's supervisor consulted with Loblaw Human Resources, then made a proposal to the Respondent to separate the Respondent and her alleged assailant for the remainder of their respective shifts, pending an investigation. I am satisfied, on balance, that having been informed of her right to refuse and being unsatisfied with the employer's proposal, the Respondent made it clear that she was unwilling to resume her shift that day. For these reasons, I find that the Respondent exercised her right to refuse and left the workplace for the remainder of her shift on January 28, 2014.

[29] Based on the foregoing, I am satisfied that the Respondent has established, *prima facie,* that she was engaged in health and safety activity protected by section 27 of the Act.

[30] Though it was not addressed in the Officer's reasons, the Respondent also made a concurrent complaint of harassment against Worker A both to her employer and to Occupational Health and Safety.

[31] Workplace harassment is a health and safety issue covered by the Act and Regulations. Section 36 of *The Occupational Health and Safety Regulations, 1996* requires an employer to develop and implement a policy for the prevention of harassment which includes, *inter alia*, an explanation of how to bring concerns and complaint of harassment to the attention of the employer. Generally speaking, a worker who raises a health and safety (harassment) concern or complaint is invoking a procedural requirement in the regulations, and seeking to have the employer comply with its obligations under the Act and regulations to take reasonably practicable steps to address the concern or complaint raised.

[32] Between January 28, 2014 and February 3, 2014, the employer's Human Resources conducted an investigation pursuant to corporate policy. A copy of Corporate Policy C03.0110, entitled Violence, Harassment and Discrimination in the Workplace was submitted to the Officer. It is reasonable to infer that it is the foregoing policy pursuant to which the employer conducted its investigation.

[33] Based on the foregoing, I am satisfied that the Respondent has established *prima facie* that she was engaged in one or more health and safety activities protected by section 27 of the Act. Further, having regard to the discipline imposed on the Respondent immediately upon her return to work on February 4, 2014, following a week of vacation (January 29 – February 3, 2014), I find, on balance, that the Respondent has established, circumstantially, a *prima facie* causal connection between the discriminatory action taken by the employer and the Respondent's section 27 activities.

[34] The establishment of a *prima facie* case triggers the reverse onus clause in section 28(4). That is, the onus now shifts to the employer to demonstrate, on a balance of probabilities, that its reason for taking action against the worker was not related to any of the health and safety activities protected by section 27 but was for good and sufficient other reason(s).

Good and Sufficient Other Reasons in re: lost wages for January 28, 2014

[35] The legislative intent of section 23 of the Act is to protect workers from having to perform work that endangers their health or safety, and to permit them to refuse unsafe work without fear of reprimand or reprisal. The worker does not have to be correct about whether or not the actual circumstances are unsafe. The test is one of reasonable belief.

[36] The employer submitted that if the Respondent felt she was in danger from a fellow colleague, they believe she would have reported to her supervisor immediately rather than continue to work in the unsafe environment. Rather, the employer claims, based on the video footage of the incident, that the Respondent continued to work for <u>two minutes</u> before leaving the area to report the incident to her

supervisor. Further, Loblaw submits that another employee working nearby did not see the Respondent get injured, nor did the Respondent say anything to her about being struck by the forklift.

[37] The Act does not describe a formal process or the exact words to use to when communicating circumstances endangering a worker's health or safety to justify the work refusal. In this instance, the Respondent communicated clearly and directly to her supervisor, the reasons for her belief that her health and safety were in danger. I am far from persuaded by the Respondent's argument. I am certainly not prepared to draw the inference that the reported incident could not reasonably be believed to be dangerous based solely on the difference between reporting it "immediately" versus waiting two minutes before leaving the work area to report it. The Respondent alleges that she was struck in the foot, not wounded or visibly injured, and it is not unreasonable that it might take a minute or two to decide what to do about it. Though it might have enhanced the Respondent's credibility if she had said something about being struck to the other employee working nearby, in my view, the fact that she did not—or that the other employee did not see the Respondent get struck does not diminish the Respondent's credibility. The more important point, however, is that in relation to the Respondent's *work refusal*, these are not questions for the employer to investigate or determine.

[38] When confronted with a refusal, an employer has two options: to attempt to satisfy the worker that sufficient steps have been taken to alleviate the problem, or refer the matter to the occupational health committee. In other words, a worker who honestly believes his or her safety, health or well-being was endangered is entitled to refuse the work until convinced otherwise or the matter is reviewed by an occupational health committee. In the interim, the worker is protected from employer discipline for the refusal. If it is determined on investigation by the committee (or an occupational health officer) that reasonable grounds do not exist in the refusal the worker must perform the work or face discipline. That means that an employer is prohibited from imposing discipline on a worker who honestly believes, on reasonable grounds, that a work assignment constitutes an unusual danger to that worker's health or safety. Those factors were never reviewed and investigated by the occupational health committee. Premature disciplinary action subverts the procedural requirements of the Act.

[39] There is no question that Loblaw failed to follow the steps set out in the Act for addressing a work refusal. Loblaw acknowledged that it did not engage its occupational health committee (the Joint Health and Safety Team) to investigate. Instead, Loblaw proceeded with a Human Resources investigation pursuant to corporate policy—which is an issue I will address again later. For purposes here, suffice it to say that by so doing, the employer by-passed the mandated procedure set out in section 23, thereby usurping the statutory function of the occupational health committee (or an occupational health officer) to determine the reasonableness of the Respondent's belief that the situation is unusually dangerous to health and safety.

[40] Simply stated, the statutory authority to investigate a work refusal pursuant to section 23 and make such a determination resides exclusively with the employer's occupational health committee, if there is one, subject to the proviso that if either the worker or the employer are unsatisfied by the committee's determination (or there is no committee), either the worker or the employer may request an investigation by an occupational health officer.

Decision

[41] On balance of probabilities, the Appellant employer has not discharged the burden of proof. I find that the employer's actions—its decision not to pay wages to the Respondent for the day of her work refusal was influenced, in whole or in part, by the Respondent's protected safety activity pursuant to section 27(f). As such, the employer acted in contravention of section 27 and employer's actions constitute a wrongful discriminatory action. Had the employer followed the procedures mandated by section 23 of *The Occupational Health and Safety Act, 1993*, the outcome may have been different.

Section 27 Activity & lost wages for February 5-8 and February 11, 2014

[42] I accept that the employer conducted its investigation pursuant to its corporate policy (Violence, Harassment and Discrimination in the Workplace). I am satisfied that the Respondent complained to the employer, via her supervisor, alleging that on January 28, 2014, Worker A intentionally struck her with the forklift he was driving, making contact with her foot. I infer from that fact, and the evidence as a whole, that the Respondent's allegation was the focal point of the investigation.

[43] In my view, in its decision to investigate the matter pursuant to corporate policy, the employer created a procedural conflict. On the one hand, the employer was faced with a work refusal, which ought to have been investigated by its occupational health committee or an occupational health officer. On the other hand, there was an allegation of misconduct or inappropriate conduct which would be reasonably seen to have engaged corporate policy committed to providing a workplace free of violence, harassment and discrimination.

[44] It is the employer's statutory duty to make reasonable efforts to ensure employees are not exposed to harassment and to develop a policy that includes a commitment to take corrective action

respecting any person under the employer's direction who subjects any worker to harassment[2]. From that perspective, the employer's policy-based investigation was both reasonable and necessary in order to address the Respondent's allegation. It bears repeating that the employer's policy-based investigation was both reasonable and necessary *in addition to* an investigation by the employer's occupational health committee or an occupational health officer with regard to the work refusal.

[45] The employer argued that the foregoing investigation and disciplinary action was unrelated to the work refusal. It states that while their investigation "may not have included our Joint Health and Safety Team, we did our due diligence in carrying out the process and investigated the incident to the full extent of our abilities. The discipline issued to [the Respondent] was administered due to her providing a false statement against another colleague, and was not related to her refusal to work in what she believed was an unsafe environment".

[46] Whether it was due to a lack of knowledge of the mandated procedure or merely a shortcut to use one investigation to serve two purposes, in the particular circumstances of this case, the employer blundered by lumping two distinctly separate issues into one investigation. That being said, I am unable to conclude that the employer's blunder was a pretext. I am satisfied, on balance, that even though the outcome of the employer's investigation was also used to discredit the reasonableness of the Respondent's work refusal, the focus of the employer's investigation was on whether or not the forklift incident occurred as alleged by the Respondent and made no mention whatsoever of the work refusal. While it is abundantly clear that the work refusal hangs in the background, I am satisfied, on balance, that the action taken by the employer to suspend the Respondent without pay for five days was based solely on the outcome of its investigation of the Respondent's allegation that she had been intentionally struck and the finding that the Respondent had made a false statement in that regard. I find that the employer's actions were not influenced, in whole or in part, by the Respondent's work refusal.

[47] I have not disregarded the Respondent's concerns with the video footage on which the employer's investigative conclusions rests. The employer's initial statement was that "it was determined that no contact was made between the accused Colleague's forklift and [the Respondent's} person. In its written appeal submission, the employer claims to have found "that it was very unlikely that the accused's machine came into contact with [the Respondent's] person, nor was there any intent to do so". The Officer's report stated that the video footage was reviewed by two Officers who stated that "although [they] did not see [the Respondent] struck by the forklift, it could not be conclusively determined that the contact did not

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[2] Section 3 (d) *The Occupational Health and Safety Act*, 1993 and Section 36(d) of *The Occupational Health and Safety Regulations, 1996*

happen". The Respondent expressed concern about the integrity of the video footage. Having viewed the video footage during the course of the hearing, it is, at best, inconclusive as to whether or not the Respondent was struck. In such circumstances, one might have expected the employer's conclusions to have been made based on an assessment of credibility.

Decision

[48] To be clear with respect to the preceding paragraph, it is not within my jurisdiction to adjudicate on issues that may have led the Respondent to complain or on the substantive outcome of employer's investigation. The Respondent may still have cause for complaint and may have other legal recourse in other forums (about which I take no position), but my remedial jurisdiction is limited to the question whether the employer's actions were in contravention of the Act or regulations. In this instance, as aforesaid, I find that the employer's actions—suspending the work without pay for five days—were not influenced, in whole or in part by the Respondent's work refusal, but were taken because the employer concluded the Respondent had made a false accusation against worker A.

DECISION

[49] The statutory remedies provided to me under the Act, are found in section 53(1)

> 53(1) After a hearing pursuant to section 52, the adjudicator shall:
> (a) Affirm, amend or revoke the decision appealed against;

[50] It is my decision **to allow the Employer's appeal in part**. Specifically, I find that the Respondent was not wrongfully discriminated against by the employer's actions to suspend her without pay for five days, for the reasons stated above. Accordingly, I **revoke** the Officer's decision in that regard.

[51] In accordance with my decision stated in Paragraph 41, I **uphold and affirm the decision of the Officer with respect to the wages lost because of the work refusal on January 28, 2014.** Accordingly, the employer is required to pay the Respondent any wages the worker would have earned if the worker had not been wrongfully discriminated against on January 28, 2014 and otherwise comply with the provisions of section 28 of the Act, which states:

> 28 (2) Where an occupational health officer decides that an employer has taken discriminatory action against a worker for a reason mentioned in section 27, the occupational health officer shall issue a notice of contravention requiring the employer to:
> (a) cease the discriminatory action;
> (b) reinstate the worker to his or her former employment on the same terms

and conditions under which the worker was formerly employed;
(c) pay to the worker any wages that the worker would have earned if the worker had not been wrongfully discriminated against; and
(d) remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to that worker.

Dated at Regina, Saskatchewan this 15 day of July, 2014

Rusti-Ann Blanke
Special Adjudicator

Right to appeal adjudicator's decision to board

4-8

(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.

. . .

(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