LRB File No. 116-21

IN THE MATTER OF: An Appeal to an Adjudicator pursuant to sections 3-53 and 3-54 of *The Saskatchewan Employment Act*, S.S. 2013, Chapter S-15.1

Decision Appealed From: Occupational Health Officer's Decision dated August 26, 2021

Between:

REUBEN ROSOM

APPELLANT

-and-

PRAIRIE SPIRIT SCHOOL DIVISION NO. 206

RESPONDENT

DECISION

I. Introduction

[1] The Appellant, Reuben Rosom, alleged that he had been subjected to harassment in the course of his employment as a caretaker with Prairie Spirit School Division No. 206 (the "Respondent" or "Prairie Spirit"). On or about March 5, 2021 Mr. Rosom made allegations of harassment or bullying against four other employees of Prairie Spirit. Written complaints were submitted. Prairie Spirit undertook an investigation of Mr. Rosom's allegations of harassment and a fact-finding report dated March 22, 2021 was written. In such report, the writers found that in the case of all four complaints, the facts did not, on the balance of probabilities, support a finding of harassment. According to the Affidavit of Jon Yellowlees, Mr. Rosom was a member of the CUPE 4254 bargaining unit.

[2] Mr. Rosom disagreed with these findings and he requested that Occupational Health and Safety ("OHS") review the matter. The Ministry of

Labour Relations and Workplace Safety wrote to Prairie Spirit on April 20, 2021 and requested information pertaining to Mr. Rosom's harassment complaints and the investigation undertaken by Prairie Spirit. The Respondent provided information and documents requested.

[3] The OHS officer investigating the matter considered whether the Respondent's harassment investigation complied with the employer's statutory obligations under *The Saskatchewan Employment Act* (the "Act") and *The Occupational Health and Safety Regulations, 2016*. In a decision dated August 26, 2021 (the "OHS Decision"), the officer wrote that it was his opinion that the investigation into Mr. Rosom's complaints of harassment was completed competently, thoroughly, impartially, and gave voice to all participants under the rule of "Natural Justice". The officer found that based on his review, Prairie Spirit had complied with the legislation, and had received and investigated Mr. Rosom's complaints.

[4] Mr. Rosom appealed the OHS Decision by way of a written appeal received by the Director of OHS on September 14, 2021. This was within the time limit for such appeals as set out in section 3-53(2) of the Act. On February 18, 2022 I was selected as adjudicator to hear the appeal.

[5] A case management conference call was held on March 24, 2022. Mr. Rosom attended and was self-represented. Bob Bayles represented Prairie Spirit, and Kit McGuinness represented the Respondent. The case management conference was called to review and discuss the following:

1) Whether there were any objections to my appointment as adjudicator;
2) Efforts of the parties, if any, in resolving or settling the matter which was the basis of the appeal;
3) To confirm the scope of the appeal and issues under appeal;
4) To explain the hearing process, evidence and witness disclosure and to determine the amount of time required for the hearing if settlement was not possible;
5) To select a date for the hearing; and
6) To hear any other preliminary matters which the parties may raise.

[6] At the case management conference, the Respondent, through its counsel, raised preliminary objections as to jurisdictional matters relating to the appeal. A request was made for a hearing to be scheduled for the purpose of receiving oral and written submissions on such matters. A formal Hearing Notice was sent to the parties for a hearing to be held via Webex teleconference on April 18, 2022. The parties each agreed that Mr. McGuinness would provide his written submissions to Mr. Rosom and I on or prior to April 11, 2022. Mr. Rosom was to provide his written response to the Respondent's written argument by April 15,

2022. Mr. McGuinness submitted an Affidavit, Brief of Law and Table of Authorities on April 11, 2022. Mr. Rosom submitted his written response by way of email received on April 15, 2022.

[7] Bob Bayles attended the April 18th hearing as the representative of Prairie Spirit. Mr. McGuinness represented the Respondent. Mr. Rosom attended and was self-represented. While some technical difficulties with the Webex platform arose, the hearing was held and concluded.

II. Arguments

[8] The Respondent's position was that Mr. Rosom's appeal should be dismissed because an adjudicator appointed under Part III of the Act did not have jurisdiction to hear this appeal. There were two grounds advanced in making this argument. First, the Respondent took the position that the subject matter of the appeal was *ultra vires,* or beyond the power, of the authority of an adjudicator appointed under Part II of the Act. Second, the Respondent took the position that the notice of appeal did not meet the required statutory threshold for an appeal of this nature in that it did not seek a review of the OHS Decision. These matters were raised in both oral argument and in the Brief of Law filed by the Respondent.

[9] In reply, Mr. Rosom argued that he was not provided with a safe work environment, that he was a victim of harassment, and that his right to natural justice was denied because he did not receive adequate notice, a fair hearing without bias, and a right to be heard prior to being disciplined by the Respondent. Mr. Rosom argued that he had rights to protection from harassment under the Act, in addition to his rights as an employee under the Collective Bargaining Agreement. Mr. Rosom believed that if an adjudicator did not have jurisdiction to deal with his appeal, this would result in further unfairness by his employer.

III. The Notice of Appeal

[10] Mr. Rosom's appeal document is central to the arguments relating to jurisdiction. The relevant portions of the appeal document are recited below:

"This letter is a written notice of appeal.

a) The names of the persons who have direct interest in the decision appealed against would be Tracey Young, B.Ed., M. Ed. and Dean Broughton, B. Ed., M.Ed. of Prairie Spirit School Division.

b) The decision appealed against is Tracey Young and Dean Broughton regarding Jarid Brown.

c) The grounds of appeal are, **"Natural Justice"** has not been acknowledged in my case. "Essentially, Natural Justice requires a person receive a fair and unbiased hearing before a decision is made that will negatively affect them. The three main requirements of natural justice that must be met in every case are: **adequate notice, fair hearing and no bias".**

Jarid Brown issued me the written warning, then a letter of suspension without 2 days pay. None of the above components of Natural Justice were followed. Bullying and abusive power were a great factor here. I was never asked my side of the story before the written warning and letter of suspension without 2 days pay were issued to me by Jarid Brown.

According to Saskatchewan Bullying and Harassment it states, "adversely affects a worker's psychological or physical well-being". This has affected me in both ways to the point of my doctor providing me with a stress leave letter stating my work place environment is not healthy.

d) The relief requested is that the two letters issued by Jarid Brown be removed from my employee file by HR. I would like the two days pay reinstated. "

IV. Analysis

[11] The scope of review by an OHS officer, and an adjudicator on an appeal, where an investigation of alleged harassment is under consideration is limited. In *K.O. v Prairie North Health Region,* LRB No. 138-15 ("KO"), the adjudicator outlined a two-step process as follows:

> [5] Does the Appellant's complaint(s) concern harassment as defined by *The Saskatchewan Employment Act, 1993?* If so, has the Employer failed to comply with its obligations under the Act or the regulations?

[12] Neither the OHS officer nor I as an adjudicator sit in appeal of an employer's investigation into a claim of harassment. As stated in the KO decision, the provisions of the Act pertaining to harassment are not a mechanism to appeal an employer's decision. The focus of the appeal is not on the underlying allegations of harassment. In *Jennifer Ford v Anne Anderson,* 2015 CanLII 27353 (ON LRB) ("Jennifer Ford"), the Board wrote:

> ... the focus of the Board's inquiry will almost never be upon the underlying allegations of harassment. Those allegations are, at the very best, peripheral to the issues that the Board must address, which are exclusively whether a workplace harassment complaint was made, whether the worker suffered some detrimental impact and whether there is a causal connection between the two. This latter issue will, in most cases, be

> focused on the employer's explanation and rationale for its actions. In the usual case, the only inquiry that the Board will make into the underlying allegations of harassment is whether the employer terminated, or otherwise penalized, the worker for having filed the harassment complaint. Beyond that, in virtually all such proceedings, the nature, extent and details of the underlying harassment allegation will be irrelevant to the issues before the Board. **The Board is not the appropriate forum to adjudicate upon the issues that lead to the filing of the harassment complaint or the substantive outcome of the employer's investigation.** *Aim Group Inc.*, [2013] OLRB Rep. November/December 1298. (emphasis added)

[13] With my limited scope of review in mind, I turn to the arguments advanced by the Respondent. The first argument advanced was that the nature of Mr. Rosom's appeal and allegations were such that they were subject to the grievance provisions in the Collective Agreement. That being the case, the appeal was *ultra vires* the jurisdiction of an adjudicator appointed under Part III of the Act.

[14] This appeal was filed under section 3-53 of the Act. Under section 3-54, the appeal must be heard by an adjudicator as it is a matter involving harassment. Mr. Rosom is a member of a unionized workplace which is governed by a Collective Agreement. Subject to certain exceptions, section 6-45 of the Act confers exclusive jurisdiction to an arbitrator for all matters relating to the meaning, application or a contravention of a Collective Agreement. Section 6-45 states:

> **Arbitration to settle disputes**
>
> 6-45(1) Subject to subsections (2) and (3), all disputes between the parties to a collective agreement or persons bound by the collective agreement or on whose behalf the collective agreement was entered into respecting its meaning, application or alleged contravention, including a question as to whether a matter is arbitrable, are to be settled by arbitration after exhausting any grievance procedure established by the collective agreement.
>
> (2) Subsection (1) does not prevent the director of employment standards as defined in Part II or the director of occupational health and safety as defined in Part III from exercising that director's powers pursuant to this Act.
>
> (3) Without restricting the generality of subsection (2), the director of employment standards may issue wage assessments, issue hearing notices, take action to collect outstanding wages or take any other action authorized pursuant to Part II that the director of

employment standards considers appropriate to enforce the claim of an employee who is bound by a collective agreement.

[15] One of the exceptions to section 6-45(1) is the exception relating to the powers of the director of occupational health and safety as defined in Part III. However, my powers as an adjudicator are distinct from those of the director and are limited to the authority provided to me under the Act, and in particular, section 4-5 thereof. As stated in *ATCO Gas & Pipelines Ltd. v. Alberta (Energy &n Utilities Board)*, 2006 1 S.C.R. 140, 2006 SCC 4, at paragraph 35:

> 35 Administrative tribunals or agencies are statutory creations: they cannot exceed the powers that were granted to them by their enabling statute; they must "adhere to the confines of their statutory authority or 'jurisdiction'[; and t]hey cannot trespass in areas where the legislature has not assigned them authority": Mullan, at pp. 9-10 (see also S. Blake, *Administrative Law in Canada* (3rd ed. 2001), at pp. 183-84).

[16] My powers as an adjudicator do not provide me with statutory authority to review disputes between parties subject to a collective agreement respecting such agreement's meaning, application or a contravention thereof. Section 6-45 specifically states that such matters are to be settled by arbitration after exhausting any grievance procedure established by the collective agreement. While there is an exception contained in section 6-45(2) relating to the director of occupational health and safety, my powers as an adjudicator are derived from the Act and are not delegated by or derived from the director of occupational health and safety. In my view, the exception set out in section 6-45(2) for the director of occupational health and safety exercising that director's powers does not apply to an adjudicator appointed under sections 3-53 and 3-54 of the Act.

[17] The Supreme Court of Canada has held that an arbitrator has exclusive jurisdiction to settle disputes if the essential character of the dispute arises either explicitly or implicitly out of the collective agreement. Authority for this proposition is found in *Weber v Ontario Hydro*, [1995] 2 S.C.R. 929 (S.C.C.) ("Weber"), *New Brunswick v O'Leary*, [1995] 2 S.C.R. 967 (S.C.C.) ("New Brunswick") and *Regina Police v Regina (City) Police Commissioners* (2000), 2000 SCC 14 ("Regina Police Assn.").

[18] At paragraph 25 of Regina Police Assn., the Court wrote:

> To determine whether a dispute arises out of the collective agreement, we must therefore consider two elements: the nature of the dispute and the ambit of the collective agreement. ... Upon determining the essential character of the dispute, the decision-maker must examine the provisions of the collective agreement to determine whether it contemplates such factual

> situations. It is clear that the collective agreement need not provide for the subject matter of the dispute explicitly. If the essential character of the dispute arises either explicitly, or implicitly, from the interpretation, application, administration or violation of the collective agreement, the dispute is within the sole jurisdiction of an arbitrator to decide: see, e.g., Weber, at para. 54; New Brunswick v. O'Leary, supra, at para. 6.

[19] In *Lapchuk v Saskatchewan (Highways)*, 2017 SKCA 68 ("Lapchuk"), the Saskatchewan Court of Appeal stated:

> [15] There is no dispute about the basic legal concept that is central to the resolution of this appeal. The foundation of the required approach is s. 6-45 of The Saskatchewan Employment Act (formerly s. 25(1) of The Trade Union Act). It provides for the resolution of employer-employee disputes by way of grievance and arbitration:
>
> > 6-45(1) Subject to subsections (2) and (3), all disputes between the parties to a collective agreement or persons bound by the collective agreement or on whose behalf the collective agreement was entered into respecting its meaning, application or alleged contravention, including a question as to whether a matter is arbitrable, are to be settled by arbitration after exhausting any grievance procedure established by the collective agreement.
> >
> > (2) Subsection (1) does not prevent the director of employment standards as defined in Part II or the director of occupational health and safety as defined in Part III from exercising that director's powers pursuant to this Act.
> >
> > (3) Without restricting the generality of subsection (2), the director of employment standards may issue wage assessments, issue hearing notices, take action to collect outstanding wages or take any other action authorized pursuant to Part II that the director of employment standards considers appropriate to enforce the claim of an employee who is bound by a collective agreement.
>
> [16] In Weber v Ontario Hydro, the Supreme Court adopted what it called the "exclusive jurisdiction" model for determining the effect of final and binding arbitration clauses like s. 6- 45. Under this approach, an employee must proceed by arbitration rather than the courts to resolve a workplace dispute. It holds that

the courts lack jurisdiction to entertain a dispute that arises out of the collective agreement, subject only to a residual discretionary jurisdiction in courts of inherent jurisdiction to grant relief not available under the statutory arbitration scheme.

[17] The Supreme Court has also made it clear that a dispute will be held to come under the collective agreement if it does so either expressly or inferentially. The determining factor is the essential character of the dispute, not the legal packaging in which it is presented. See: New Brunswick v O'Leary at para 6; Regina Police Assn. Inc. v Regina (City) Board of Police Commissioners, 2000 SCC 14 at para 25, [2000] 1 SCR 360. 20.

[20] In *Livingston v. Saskatchewan Human Rights Commission*, 2021 SKQB (CanLII) ("Livingston"), the Court of Queen's Bench concluded that, in the case of an employee who was bound by a collective agreement, the Court did not have jurisdiction to hear the plaintiff's claim as by operation of section 6-45(1) of the Act. the subject of the action was required to be resolved through the grievance and arbitration process. The Court wrote as follows in paragraphs 28-31 of the decision:

[28] As to whether that dissemination is something that falls under the collective agreement, article 10 of the collective agreement provides for resolution of a grievance, and it defines a "grievance" in article 10.05: Definition of Grievance: A grievance shall be defined as any difference or dispute between the Employer and any employee(s) or the Union, or a case where the Employer is considered to have acted unjustly or improperly.

[29] The subject of this action is a dispute between the applicants and the plaintiff (the employer and an employee) in which the plaintiff alleges that the applicants have acted unjustly or improperly by disseminating the information.

[30] In the circumstance of the applicants having disseminated the information in the employment context, the plaintiff's claim being a workplace dispute, and the subject of this action falling within the definition of a "grievance" in the collective agreement. I return to the remarks of Chief Justice Richards in Lapchuk SKCA. A dispute falls under a collective agreement if it does so expressly or inferentially. Here, the subject of this action falls under the agreement expressly by virtue of the definition of "grievance", and it does so inferentially by virtue of the dissemination of the information having taken place in the employment context.

> [31] The essential character of the dispute identified in the statement of claim is that it is a workplace dispute, and that it is a dispute respecting the collective agreement's "meaning, application or alleged contravention". Consequently, s. 6-45(1) of The Saskatchewan Employment Act applies.

[21] In *Hemmings v. University of Saskatchewan,* 2002 SKCA 96 (CanLII), the Court of Appeal went beyond "legal packaging" to determine the essential character of a dispute. The Court wrote at paragraphs 25-26:

> [25] Dr. Hemmings seeks to bring an action based in tort on the basis that the claim is not one in its essential nature and character a dispute arising under the collective agreement. A collective agreement by its very nature deals with the terms and conditions of employment and the working conditions of employees. A review of all the allegations of Dr. Hemmings reveals that they relate to the working conditions and the failure of the University to take adequate measures to ensure a safe and harassment free working environment In an attempt to bring a cause of action against the University, Dr. Hemmings brings an action based on the tort of non-sexual common law harassment, intimidation and unlawful interference with economic interests.
>
> [26] As McLachlin J. stated in *Weber*, the task is to define the "essential character" of the dispute. It is not how the claim is pleaded, in this case in tort, that is determinative, but rather its essential character that will determine the appropriate forum. Here, the essential nature of the dispute is a failure to comply with the obligations under the collective agreement to render the premises safe for Dr. Hemmings. This, in my opinion, is a dispute involving a violation of the terms of the collective bargaining agreement – that is, a dispute dealing with a violation of the collective agreement by the University in failing to ensure safe working conditions for Dr. Hemmings. Thus, the appropriate forum for the resolution of the dispute between the parties is the grievance and arbitration procedure set out in the collective bargaining agreement. The statement of claim will be struck as against the University. Given my finding on this issue, it is not necessary to consider the other issues raised on the appeal by the University and, in particular, whether the claim properly falls under *The Occupational Health and Safety Act, 1993*.

[22] Considering the above case authorities, and my limited scope of review in harassment claims, I must now determine whether Mr. Rosom's appeal is in essence and character a dispute that falls within the ambit of the collective agreement. To do so, I must consider the nature of the dispute and the ambit of the collective agreement, as set out in Regina Police Assn. As referred to in

Lapchuk, the determining factor is the essential character of the dispute, not the legal packaging in which it is presented.

[23] Mr. Rosom's notice of appeal referenced a written warning and letter of suspension which he received. He stated that Natural Justice was not followed prior to his receiving this discipline. Mr. Rosom does not request as relief that I set aside or overturn the OHS Decision which found that the Respondent had complied with the legislation, and had received and investigated Mr. Rosom's complaints. Rather, Mr. Rosom requests that discipline letters be removed from his employee file and that he be paid for the two days when he was suspended.

[24] Excerpts from the Collective Agreement relevant to this appeal were cited in the Respondent's Brief of Law and are reproduced below:

> ARTICLE 3 – NO DISCRIMINATION
>
> 3.02 Harassment
>
> (...)
>
> d) Grievances related to harassment shall commence at Step 2 of the Grievance Procedure. Grievances under this Article shall be dealt with in a way that respects the confidentiality of all parties but recognizes the principles of fairness and justice.
>
> (...)
>
> ARTICLE 6 – GRIEVANCE PROCEDURE AND ARBITRATION
>
> 6.01 Definition of a Grievance
>
> A grievance shall be defined as any complaint, dispute or disagreement between the Employer and the Union or any member(s) of the Union regarding the interpretation, application or alleged violation of this Agreement. Prior to the Union formally submitting grievances, employees are encouraged to first discuss their complaint with their immediate supervisor.
>
> (...)
>
> 6.03 Settlement of a Grievance
>
> An effort shall be made to settle any grievance fairly and promptly in the following manner:
>
> (...)

ARTICLE 7 – DISCIPLINE

> The parties endorse the concept of progressive discipline as per Administrative Procedure AP 513 and agree there shall be no discipline without cause. Progressive discipline shall take the form of verbal reprimand. written reprimand, suspension and dismissal.
>
> When the Employer is affecting a disciplinary measure with respect to an employee, no disciplinary action shall be taken other than in the presence of a Union representative unless the employee has waived his/her right to union representation.

[25] The Appellant's notice of appeal does not allege an error made by the OHS officer while conducting his investigation and review or an error within the OHS Decision. Rather, the Appellant raises matters which allege that natural justice was not followed and that he was treated unjustly at the time of his discipline. His appeal is in essence and character a complaint or disagreement concerning the discipline process followed by the Respondent. In my view, this is a "grievance" within the meaning of section 6.01 of the Collective Agreement in that it is a complaint, dispute or disagreement between the employer and Mr. Rosom as a unionized employee regarding the interpretation, application or alleged violation of the Collective Agreement. Grievances must be dealt with in accordance with the process outlined in the Collective Agreement. Section 6-45(1) of the Act provides that an arbitrator has exclusive jurisdiction to arbitrate disputes that fall within the ambit of a Collective Agreement. An adjudicator appointed under Part III of the Act does not have similar jurisdiction to arbitrate disputes that fall within the ambit of a Collective Agreement. I therefore conclude that the essential subject matter and character of Mr. Rosom's appeal is *ultra vires* my authority as an adjudicator appointed under Part III of the Act, For these reasons, the appeal is not successful.

[26] In addition to the argument that I do not have jurisdiction to hear the appeal because the subject matter of the appeal was *ultra vires* my authority as a Part III adjudicator, the Respondent also advanced the argument that I did not have jurisdiction because the notice of appeal did not meet the statutory threshold for an appeal of this nature because it did not seek a review of the OHS Decision.

[27] Section 4-5(2) of the Act reads as follows:

> 4-5(2) With respect to an appeal pursuant to section 3-54 respecting a matter involving harassment or a discriminatory action, the adjudicator:
>
> (a) shall make every effort that the adjudicator considers reasonable to meet with the parties affected by the decision of the occupational health officer that is being appealed with a view to encouraging a

settlement of the matter that is the subject of the occupational health officer's decision; and

(b) with the agreement of the parties, may use mediation or other procedures to encourage a settlement of the matter mentioned in clause (a) at any time before or during a hearing pursuant to this section.

[28] Section 4-4(5) further states that a technical irregularity does not invalidate a proceeding before or by an adjudicator.

[29] In *Ballantyne v. Saskatchewan Government Insurance*, 2015 SKCA 38 (CanLII) ("Ballantyne"), the Court of Appeal stated as follows with respect to statutory interpretation:

> [19] The leading case with respect to statutory interpretation is the Supreme Court of Canada's decision in Re Rizzo & Rizzo Shoes Ltd., 1998 CanLII 837 (SCC), [1998] 1 SCR 27 [Rizzo Shoes]. A number of principles set out in that case are applicable to the case at hand, namely:
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> 1. The words of an Act are to be read in their context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, its objects, and the intention of the Legislature (See: Rizzo Shoes at para. 87). (See also: Saskatchewan Government Insurance v Speir, 2009 SKCA 73 (CanLII) at para 20, 331 Sask R 250; and Acton v Rural Municipality of Britannia, No. 502, 2012 SKCA 127(CanLII) at paras 16-17, [2013] 4 WWR 213 [Acton]).
>
> 2. The Legislature does not intend to produce absurd consequences. An interpretation can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent or if it is incompatible with other provisions or with the object of the legislative enactment (See: Rizzo Shoes at para. 27).
>
> 3. Any statute characterized as conferring benefits must be interpreted in a broad and generous manner (See: Rizzo Shoes at para. 21). This principle is Page 16 enshrined in s. 10 of The Interpretation Act, 1995, SS 1995, c. I-11.2 (See: Acton at paras. 16-18).
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> 4. Any doubt arising from difficulties of language should be resolved in favour of the claimant (See: Rizzo Shoes at para. 36).
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> [20] In Sullivan on the Construction of Statutes, 6th ed (Markham: LexisNexis, 2014) at 28-29, Ruth Sullivan sets out three propositions

that apply when interpreting the plain meaning of a statutory provision:

> 1. It is presumed that the ordinary meaning of a legislative text is the meaning intended by the Legislature. In the absence of a reason to reject it, the ordinary meaning prevails.
>
> 2. Even if the ordinary meaning is plain, courts must take into account the full range of relevant contextual considerations including purpose, related provisions in the same and other Acts, legislative drafting conventions, presumptions of legislative intent, absurdities to be avoided and the like.
>
> 3. In light of these considerations, the court may adopt an interpretation that modifies or departs from the ordinary meaning, provided the interpretation adopted is plausible and the reasons for adopting it are sufficient to justify the departure from ordinary meaning.

[30] In *CUPE, Local 1486 v The Students' Union of the University of Regina Student Inc.*, [2017] Sask LRBR 44004, the Saskatchewan Labour Board wrote:

> [48] To summarize, for purposes of this application when interpreting the provisions of the SEA that (the Applicant) relies on, the ordinary meaning of the words of the provision must be read in the context of the SEA as a whole, and, more particularly, in the context of Part VI. The purpose of the SEA and the Legislature's intention in enacting the provision or provisions in question must not be forgotten. As well, it is important to recall that such legislation is benefit conferring and must be given a generous and purposive interpretation. Finally, the provision or provisions in question should not be interpreted so as to lead to an absurdity.

[31] Considering the principles of statutory interpretation referenced in the case law above, the provision in section 4-5(2)(a) stating "...affected by the decision of the occupational health officer that is being appealed" indicates, in my view, that the appeal must be connected to and an appeal of the decision of the OHS officer. As stated in Jennifer Ford referred to in paragraph 12 of this decision, the focus of the appeal is not on the underlying allegations of harassment. Rather, the appeal is of the OHS officer's decision.

[32] Mr. Rosom's notice of appeal refers to the initial harassment investigation conducted by the Respondent. The notice of appeal does not allege any errors made by the occupational health officer or seek any review of the officer's decision. Rather, the Appellant requests that I review the circumstances which gave rise to his original harassment complaints made on March 5, 2021. Mr. Rosom does not request that I set aside or vary the OHS Decision. Rather, he asks

that discipline letters be removed from his employee file and for two days' pay to be reinstated. I conclude that the notice of appeal is not in substance an appeal of the OHS Decision. This is a substantive deficiency, and I do not have jurisdiction to adjudicate this appeal.

V. Decision

[33] For the reasons set out in this decision, the appeal is dismissed and the OHS Decision is confirmed.

Dated at Saskatoon, Saskatchewan this 17th day of May, 2022.

Daryl Kraus, Adjudicator