



IN THE MATTER OF

An Appeal pursuant to Part IV of *The Saskatchewan Employment Act (The Act)* under section 3-53 , 3-54 and 3-58 of *The Act*

BETWEEN:

Nisar Ghani

APPELLANT

And

City of Prince Albert

RESPONDENT

Decision appealed from: Occupational Health Officer Decision dated October 12, 2021.

Adjudicator – Marlene Weston.

DECISION

I. INTRODUCTION

1. Pursuant to subsection 4-3(2) of the *Act*, the Executive Director of Occupation Health & Safety had submitted a written document to the Saskatchewan Labour Relations Board appointing Marlene Weston as Adjudicator in this matter; and pursuant to subsection 4-3(3) of *The Act*, Jonathan Swarbrick, the Registrar of the Labour Relations Board, confirmed the appointment and directed that Marlene Weston was selected as the Adjudicator for the appeal of the Occupational Health Officer’s decision dated October 12, 2021. I received the Selection of Adjudicator document from the Registrar dated June 20, 2023.

II. BACKGROUND

2. Mr. Swarbrick has advised me that he had made numerous attempts to contact Mr. Ghani, the Appellant in this matter. His last attempt was on December 9th 2022. On December 9, 2022, Mr. Jonathan Swarbrick wrote to Mr. Ghani to ask that Mr. Ghani advise whether he wished to proceed with the above Appeal that he filed against a decision of the Occupational Health & Safety Branch regarding the City of Prince Albert or whether he wished to withdraw the Appeal. On June 19, 2023 Mr. Swarbrick emailed me to advise “I have been unable to reach the appellant in this matter and my last attempt was by registered letter in December 9th, 2022”. He had not received any indication from Mr. Ghani as to his intentions regarding this action to that date.

3. In his letter to Mr Ghani on December 9th, 2022, Mr. Swarbrick advised that “failure to contact me will cause this matter to be placed before an adjudicator without your participation who is likely to dismiss the appeal.” That eventuality has now happened. As I had been selected as the Adjudicator in this matter it was now in my hands.
4. On July 13th, 2023, I sent a letter by Registered Mail to Nisar Ghani advising that I had been appointed as the Adjudicator in this matter. I also advised that “unless I hear from you regarding this appeal within 15 days from your receipt of this letter or the return of this letter to me for inability to deliver, I will then dismiss the appeal for failure to prosecute.” I have not had a reply to my letter from Mr. Ghani.
5. Using Canada Post’s Tracking Process, the information provided by the website was that the letter was mailed from Gull Lake, Saskatchewan on July 14th, 2023 and was available for pickup in the Post Office in Brampton, Ontario on July 18th, 2023. It was not picked up.
6. On September 4th, 2023, as a final attempt to contact the Appellant, I telephoned the number that was on the document appointing me as Administrator. I reached an automatic answering service, but it was not initialized by the customer, and I was not able to leave a message to have the Appellant contact me.

III. CONCLUSION

7. In view of the above information I have shown that numerous attempts were made to contact the Appellant regarding proceeding with his appeal by both Mr. Swarbrick and me; however, no response was received from him to the letters and phone calls. The Appellant has therefore failed to prosecute his Appeal.

IV. ORDER

8. Accordingly, Nisar Ghani’s appeal filed in this matter is hereby dismissed.

ISSUED the 4th day of September, 2023.

ME Weston

Adjudicator