

LABOUR RELATIONS FILE NO. 123-23



**IN THE MATTER OF AN APPEAL TO AN ADJUDICATOR PURSUANT TO
Part IV of The Saskatchewan Employment Act
under sections 3-53, 3-54 and 3-58**

BETWEEN

Troy Carroll

APPELLANT

AND

City of Regina

RESPONDENT

IN ATTENDANCE:

ADJUDICATOR: Terrance Chinn

RESPONDENT: Catherine Clifford, Senior Legal Counsel, City of Regina

**Marco Deiana, Manager Workplace Health and Safety, City of
Regina**

NOT IN ATTENDANCE:

APPELLANT: Troy Carroll

DECISION

[1] This appeal is brought pursuant to ss. 3-53(1) and 3-54 (1) of *The Saskatchewan Employment Act*. The appeal concerns a decision dated July 6, 2023 made by Karla Kobayashi and Iheanyi Ajomiwe, as Occupational Health and Safety Officers, regarding an appeal by Troy Carroll (Employee) arising from his complaint that the City of Regina (Employer) did not properly deal with his claim of workplace harassment.

[2] Pursuant to the Employee's claim of harassment, the Employer had the matter investigated by a third party. This resulted in a report by the investigator which did not support any claim of harassment. Therefore there was a denial of harassment by the Employer. The Employee appealed the denial to Occupational Health and Safety. The Occupational Health and Safety officers undertook a review of the denial, specifically whether the investigation report was in order. The Occupational Health and Safety officers found the investigation report to be "unbiased, procedurally correct, and thorough" and therefore their decision denied the appeal of the Employee. The Employee has now appealed that decision.

[4] On November 15, 2023, I was assigned to be the Adjudicator for the Employee's appeal. I received the file of Occupational Health and Safety and after reviewing the contents, I contacted the parties by email to convene a conference call to discuss the the next steps in the appeal. A TEAM call was held on December 8, 2023. The Employee had his union representative on the call. It appeared that there were ongoing grievances filed by the Employee pursuant to the Collective Bargaining Agreement and he had also submitted a claim to the Saskatchewan Human Rights Commission.

[5] I was hoping that the grievances and Human Rights complaint might meet all of the concerns of the Employee. In February 2024, I reached out to the parties to ascertain where these other forums had allowed the parties to come to a resolution. If not, the matter at hand should proceed to a hearing. It was made clear to the parties that I could only deal with the decision by the Occupational Health and Safety officers as to whether the investigation by the third party was done properly. I could only send the matter back for a new investigation if it was not proper.

[6] I was advised that the grievances were still in a holding pattern. Subsequently, a number of emails were received from the Employee basically stating that I should be undertaking what amounts to a new investigation of his complaints, without a hearing. He was advised on a number of occasions explaining the role I play and the limitations on what I could order and that this necessitated a proper hearing. It appeared that no progress was being made in the other forums and the parties were finally requested in June 2023 to provide their availability for a hearing in June or July of 2023.

[7] The Employee agreed to a July hearing but then advised that he would not attend a hearing where the Employer representatives would also be present. The Employee again pressed that I or other persons should be undertaking an investigation before proceeding to any hearing. The Employee was advised that any hearing had to have both parties present at the same time.

[8] The Employee was then requested to provide a suitable date for a hearing and if not provided, I would set a date, time and location. The Employee then considered that I was bullying him and that any further communication from me would be considered harassment and that he would endeavour to take legal action against me.

[9] Despite the threats of my contacting the Employee, I sent out an email to both parties proposing dates in October and November 2023 for a hearing. The Employee replied immediately advising that I was harassing him and would face legal consequences for doing so but not indicating his availability on any of the proposed dates. I notified both parties by email dated October 11, 2023 that a hearing would be held on October 23, 2024, indicating the time and place. The Employee answered back the same day with an email that would indicate that he would not appear.

[10] On the specified date, time and place, the Employer's representatives appeared before me. We waited 30 minutes in case the Employee might choose to appear. He did not appear.

CONCLUSION

[11] As the Employee failed to appear at the hearing, he is considered to have failed to proceed with his appeal of the Occupational Health and Safety officers decision.

ORDER

[12] The appeal by Troy Carroll is hereby dismissed.

Issued November 26, 2024.

A handwritten signature in black ink, appearing to read "Terry Chinn", with a stylized flourish at the end.

Terrance Chinn, Adjudicator