



AMENDED FORM 10

UNFAIR LABOUR PRACTICE: UNION-UNION DISPUTES

ALLEGED CONTRAVENTIONS OF SECTION 6-63
OF THE SASKATCHEWAN EMPLOYMENT ACT.



1. Saskatchewan Polytechnic Faculty Association (SPFA)

of: 733B 1st Avenue North, Saskatoon, SK., S7K 1X9; Ph: (306)986-3366; Fax: (306)664-4431

Email Address: c/o ghamilton@mcdougallgauley.com

applies to the Labour Relations Board for an order determining whether a contravention of *The Saskatchewan Employment Act* is being and/or has been engaged in by the union designated in paragraph 2 of this application and requiring the union to comply with its obligations contained in *The Saskatchewan Employment Act*, particulars of which are set out below.

2. The name and address of the other union concerned are as follows:

Name: The Saskatchewan Government and General Employees' Union (SGEU)

Address: 1011 Devonshire Drive North, Regina, SK S4X 2X4; Ph: (306)522-8571; Fax: (306)347-7822

Email Address: c/o jstettner@grj.ca

3. The name and address of the employer concerned, and the general nature of its business, are as follows:

Name: Saskatchewan Polytechnic, a polytechnic educational institution

Address: 400 - 119 4th Avenue South, Saskatoon SK S7K 5X2

Email Address: c/o d.stack@mckercher.ca

4. The applicant alleges that a contravention of *The Saskatchewan Employment Act* has been and/or is being engaged in by the SGEU by reason of the following facts:

a) The SPFA represents employees covered by a collective agreement which is generally referred to as the Academic Bargaining Unit. The SGEU represents employees covered by a collective agreement which is generally referred to as the Professional Services Bargaining Unit.

b) After the Saskatchewan Polytechnic Faculty Association (SPFA) was certified in late 2012 to replace the SGEU as the bargaining agent, it continued to be covered by the existing terms and conditions of employment set out in the

SGEU collective agreement until a new collective agreement was reached. After protracted collective bargaining, the first SPFA collective agreement was achieved on June 23, 2014.

- c) The first collective bargaining agreement continued all of the existing provisions in the previous SGEU-SIAST collective agreement except for the negotiated amendments, which arose from i) the mandatory changes arising from the provincial government mandate at the time, and ii) the SPFA proposals which addressed some issues which led to the establishment of the SPFA as a distinct trade union. To date, this is the only collective agreement that has been ratified between the SPFA and the employer, Saskatchewan Polytechnic, although a tentative collective agreement was reached on December 2, 2019.
- d) The SPFA collective agreement includes only two subsections referencing the Great West Life Extended Health Plan (the "Plan") which confirmed that the Plan is maintained by the Employer. When the Plan was first set up in the collective agreement, there were only two "parties" to the Plan - the SGEU and SIAST (now Saskatchewan Polytechnic) - since both bargaining units were represented by the SGEU at the time.
- e) The Plan is set up in the form of a trust, whereby the Saskatchewan Polytechnic provides the funding to cover the cost of extended health plan benefits for the beneficiaries, which comprise the bargaining unit members represented by both the SPFA and the SGEU. The stated beneficiaries of the Plan are not the two trade unions, but the employees who work in the respective bargaining units. The Plan is currently in a surplus position, and has been for many years.
- f) Over time, the SPFA became aware that the SGEU could veto any changes to the Plan proposed by the SPFA, even though it is not a "party" under the SPFA collective agreement. The SPFA requested that the Plan provider track the relationship between the contributions attributable to each group of beneficiaries in relation to any surplus or deficit. Data is now available for the years ending 2015-2018 inclusive.
- g) Saskatchewan Polytechnic has indicated that it cannot make any changes to the Plan, including the separation of the plan to reflect the two bargaining units, without SGEU's consent. It relies upon its interpretation of Article 18.4.3 which states: "If there is a surplus or deficit in the plan the parties shall jointly determine the course of action to deal with the situation."
- h) The SGEU has refused to engage in any meaningful discussions regarding the transition the Plan to the SPFA, a trust within the meaning of the *Saskatchewan Employment Act*, including any apportionment of the surplus funds between the two groups of beneficiaries who are represented by different unions. The latest response from the SGEU dated October 18, 2019 is attached, in response to a formal request from the SPFA dated June 7, 2019 (also attached), which confirms its refusal to transition the trust. In the latest response, the SGEU suggested that the SPFA ought to bargain to improve Plan benefits on behalf of SGEU members as well as SPFA members.
- i) It is accepted that one of the major issues surrounding any transition of the Plan will presumably be how the surplus will be apportioned, but the SGEU has refused to even discuss any transition of the Plan to the SPFA for the SPFA members. However, the apportionment of the surplus is a separate issue that will necessarily have to be addressed once the transition to the SPFA is completed.
- j) On November 28, 2019, the SPFA attempted to conclude a difficult round of collective bargaining by following another provincial collective bargaining settlement between SaskTel and Unifor. The SPFA proposed that surplus funds from the Plan be released by the Employer to SPFA members in a manner similar to the release of surplus

health plan funds by SaskTel, with the details of the manner of distribution to be determined later. The Employer verbally advised that it would be asking permission from the SGEU to allow the SPFA's request. By letter dated December 2, 2019, the Employer indicated that it could not do so without the agreement of the SGEU.

5. The Applicant, the Saskatchewan Polytechnic Faculty Association submits that, by reason of the facts set forth above, the said union, the Saskatchewan Government and General Employees' Union, has been and continues to engage in a continuing contravention of section 6-63(1)(g) of *The Saskatchewan Employment Act*.

The Applicant, the SPFA, therefore seeks:


- a) a declaration that the SGEU has committed an unfair labour practice being in breach of section 6-63(1)(g) of *The Saskatchewan Employment Act*;
- b) an Order pursuant to its powers under section 6-104(4), (5) and (6) directing that the Employer, as the administrator of the Plan, shall transition that portion of the trust (namely the Great West Life Extended Health Plan) relating to the members of the academic bargaining unit to the SPFA; and
- c) an Order pursuant to its powers in section 6-104(4), (5) and (6) to divide the assets and liabilities associated with the Plan, taking into account the surplus attributable to the beneficiaries in the academic bargaining unit, and transferring the surplus into a separate extended health plan covering only those beneficiaries represented by the SPFA; and
- d) an Order that Saskatchewan Polytechnic, as the administrator of the Plan, comply with and assist the parties with the Board's order to transition the SPFA portion of the Plan.

I, the undersigned, solemnly declare that the submissions set forth above, are, in so far as they are matters of fact, true to the best of my information, knowledge and belief, and, in so far as they are matters of opinion, are reasonably and honestly believed by me.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

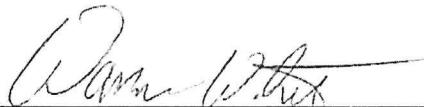
DECLARED before me at the City of Saskatoon,

Saskatchewan, this 7th day of January, 2020



Notary Public, Justice of the Peace or Commissioner for
Oaths for Saskatchewan

My Commission Expires: *Being a Solicitor*



(signature)

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If the applicant is an employer or a union, please indicate the name, address and contact information of the individual swearing the document.

Name: Warren White
Position Held: President, Saskatchewan Polytechnic Faculty Association (SPFA)
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If the applicant is represented by legal counsel, please also indicate the name and address for service of your lawyer.

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