

IN THE MATTER OF:

AN APPEAL OF DECISION PURSUANT TO SECTION 3-53 OF *THE SASKATCHEWAN EMPLOYMENT ACT*, S.S. 2013, c. S-15.1, AS AMENDED, (THE "*SEA*") AND A HEARING PURSUANT TO SECTION 3-54 OF THE *SEA*

BETWEEN:

Heather Collier,

APPELLANT,

- and -

Village of Hawarden,

RESPONDENT.

APPEARANCES:

Appellant, Heather Collier: Self Represented

Respondent, Village of Hawarden: No person appeared

BEFORE:

T. F. (Ted) Koskie, B.Sc., J.D., Adjudicator

DECISION DATE:

June 2, 2025

DECISION

I. INTRODUCTION

[1] Heather Collier ("Collier") lodged a complaint¹ pursuant to section 3-36 of the *SEA* alleging that the Village of Hawarden ("Hawarden") had taken discriminatory action against her for a reason mentioned in section 3-35 of the *SEA*.

¹Exhibit G-1, Complaint received by Occupational Health and Safety, Ministry of Labour Relations and Workplace Safety, Government of Saskatchewan ("OHS") on July 12, 2023

[2] An OHS officer decided Hawarden “has complied with the requirements of OHS legislation and this file is deemed closed” (the “Decision”).²

[3] Collier appealed the Decision (the “Appeal”).³

[4] The Saskatchewan Labour Relations Board appointed me as the adjudicator to hear and determine the Appeal.

[5] Hawarden agreed to—and was given notice of—the appeal hearing. Despite further confirmation of the hearing date and time, Hawarden did not appear. I proceeded with the hearing and this decision in its absence.

II. FACTS

[6] Collier was employed by Hawarden as an operator at its groundwater treatment facility. Her duties included:

- a) “checking water levels and chlorine levels daily,”
- b) “recording test results,” and
- c) “maintaining the equipment and ensuring that the system was functioning properly.”

[7] Collier testified that she “was expected to handle chemicals like chlorine and other disinfectants” but that she “wasn’t provided with gloves, a mask, or even goggles”—equipment she considered essential given the hazards involved.

²Exhibit G-2, Decision dated October 18, 2023

³Exhibit G-3, Notice of Appeal dated October 28, 2023

[8] She stated:

I brought up concerns about not having proper PPE and not knowing exactly how to handle the chemicals safely... I was told they'd look into it, but nothing changed.

[9] She further explained:

I'd get headaches and a tight chest sometimes. My doctor said it was likely from chlorine exposure.

[10] Collier reported her concerns directly to her supervisor and also contacted OHS, stating:

After I reached out to OHS, things at work felt different. My boss wouldn't talk to me about it anymore, and then I was just told I didn't have a job.

[11] Hawarden terminated Collier from her employment without a clear explanation. She testified:

Nobody gave me a reason. It just felt like they wanted me gone after I went to OHS.

[12] Collier submitted medical documentation confirming she sought treatment for symptoms consistent with chlorine exposure, including headaches, chest tightness, and skin irritation, and that her symptoms improved after she stopped working at the groundwater treatment facility.

[13] OHS found Hawarden had complied with the requirements of OHS legislation investigation, but Collier appealed, asserting that her termination was directly linked to her protected activities under section 3-35 of the SEA.

[14] The Village was notified of the appeal hearing but did not appear and did not submit any evidence to refute Collier's claims or provide any alternative explanation for her

termination.

III. ISSUES

[15] The issues herein are as follows:

- a) Did Collier engage in activities protected under section 3-35 of the *SEA*?
- b) If so, did Hawarden terminate Collier's employment because of her engagement in those protected activities, constituting "discriminatory action" as defined in section 3-1(1)(i) of the *SEA*?
- c) If discriminatory action occurred, what remedy should be ordered under the *SEA*?

IV. DECISION

[16] I find Hawarden took discriminatory action against Collier for a reason mentioned in section 3-35 of the *SEA*.

[17] I allow the appeal.

[18] I order Hawarden to:

- a) cease the discriminatory action against Collier;
- b) reinstate Collier to her former position on the same terms and conditions of employment that applied prior to her dismissal;
- c) pay to Collier all wages she would have earned from the date of her dismissal to the date of her reinstatement, less any amounts earned from alternative employment

during that period together with interest thereon according to *The Pre-judgment Interest Act* of Saskatchewan; and

- d) remove any reference to the discriminatory dismissal from Collier's employment records.

[19] I reserve jurisdiction to hear and decide any issue concerning the implementation of this decision, including but not limited to the calculation of the remuneration to be paid by Hawarden to Collier.

V. REASONS

A. LEGISLATION

[20] The relevant provisions of the *SEA* are as follows:

PART III Occupational Health and Safety

DIVISION 1 Preliminary Matters for Part

Interpretation of Part

3-1(1) In this Part and in Part IV:

...

- (i) "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 termination, 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 alternative work, pursuant to section 3-44, without loss of pay to the worker; or
 - (ii) the temporary assignment of a worker to alternative work, without loss of pay to the worker, while:

- (A) steps are being taken for the purposes of clause 3-31(a) to satisfy the worker that any particular act or series of acts that the worker refused to perform pursuant to that clause is not unusually dangerous to the health or safety of the worker or any other person at the place of employment;
 - (B) the occupational health committee is conducting an investigation pursuant to clause 3-31(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 3-32(a);
- (j) "employer" means, subject to section 3-29, a person, firm, association or body that has, in connection with the operation of a place of employment, one or more workers in the service of the person, firm, association or body;
- ...
- (m) "notice of contravention" means a notice of contravention served pursuant to section 3-38;
- ...
- (gg) "worker" means, subject to subsection (6):
- (i) an individual, including a supervisor, who is engaged in the service of an employer;
 - (ii) a member of a prescribed category of individuals;
- but does not include an inmate, as defined in *The Correctional Services Act, 2012*, of a correctional facility as defined in that Act who is participating in a work project or rehabilitation program within the correctional facility;
- ...

DIVISION 5

Right to Refuse Dangerous Work; Discriminatory Action

Discriminatory action prohibited

3-35 No employer shall take discriminatory action against a worker because the worker:

- (a) acts or has acted in compliance with:
 - (i) this Part or the regulations made pursuant to this Part;
 - (ii) Part V or the regulations made pursuant to that Part;
 - (iii) a code of practice issued pursuant to section 3-84; or
 - (iv) a notice of contravention or a requirement or prohibition contained in a

notice of contravention;

- (b) seeks or has sought the enforcement of:
 - (i) this Part or the regulations made pursuant to this Part; or
 - (ii) Part V or the regulations made pursuant to that Part;
- (c) assists or has assisted with the activities of an occupational health committee or occupational health and safety representative;
- (d) seeks or has sought the establishment of an occupational health committee or the designation of an occupational health and safety representative;
- (e) performs or has performed the function of an occupational health committee member or occupational health and safety representative;
- (f) refuses or has refused to perform an act or series of acts pursuant to section 3-31;
- (g) is about to testify or has testified in any proceeding or inquiry pursuant to:
 - (i) this Part or the regulations made pursuant to this Part; or
 - (ii) Part V or the regulations made pursuant to that Part;
- (h) gives or has given information to an occupational health committee, an occupational health and safety representative, an occupational health officer or other person responsible for the administration of this Part or the regulations made pursuant to this Part with respect to the health and safety of workers at a place of employment;
- (i) gives or has given information to a radiation health officer within the meaning of Part V or to any other person responsible for the administration of that Part or the regulations made pursuant to that Part;
- (j) is or has been prevented from working because a notice of contravention with respect to the worker's work has been served on the employer; or
- (k) has been prevented from working because an order has been served pursuant to Part V or the regulations made pursuant to that Part on an owner, vendor or operator within the meaning of that Part.

Referral to occupational health officer

3-36(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 3-35 may refer the matter to an occupational health officer.

(2) If an occupational health officer decides that an employer has taken discriminatory action against a worker for a reason mentioned in section 3-35, the occupational health officer shall serve 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) subject to subsection (5), 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.
- (3) If an occupational health officer decides that no discriminatory action has been taken against a worker for any of the reasons set out in section 3-35, the occupational health officer shall advise the worker of the reasons for that decision in writing.

...

DIVISION 8

Appeals

3-52(1) In this Division:

- (a) “adjudicator” means an adjudicator appointed pursuant to Part IV;
 - (b) “decision” includes:
 - (i) a decision to grant an exemption;
 - (ii) a decision to issue, affirm, amend or cancel a notice of contravention or to not issue a notice of contravention; and
 - (iii) any other determination or action of an occupational health officer that is authorized by this Part.
- (2) In this Division and in Part IV, “person who is directly affected by a decision” means any of the following persons to whom a decision of an occupational health officer is directed and who is directly affected by that decision:
- (a) a worker;
 - (b) an employer;
 - (c) a self-employed person;
 - (d) a contractor;
 - (e) a prime contractor;
 - (f) an owner;
 - (g) a supplier;
 - (h) any other prescribed person or member of a category of prescribed persons;

but does not include any prescribed person or category of prescribed persons.

Appeal of occupational health officer decision

3-53(1) A person who is directly affected by a decision of an occupational health officer may appeal the decision.

(2) An appeal pursuant to subsection (1) must be commenced by filing a written notice of appeal with the director of occupational health and safety within 15 business days after the date of service of the decision being appealed.

(3) The written notice of appeal must:

- (a) set out the names of all persons who are directly affected by the decision that is being appealed;
- (b) identify and state the decision being appealed;
- (c) set out the grounds of the appeal; and
- (d) set out the relief requested, including any request for the suspension of all or any portion of the decision being appealed.

...

(10) Instead of hearing an appeal pursuant to this section, the director of occupational health and safety may refer the appeal to an adjudicator by forwarding to the adjudicator:

- (a) the notice of appeal;
- (b) all information in the director's possession that is related to the appeal; and
- (c) a list of all persons who are directly affected by the decision.

...

Appeals re harassment or discriminatory action

3-54(1) An appeal mentioned in subsection 3-53(1) with respect to any matter involving harassment or discriminatory action is to be heard by an adjudicator in accordance with Part IV.

(2) The director of occupational health and safety shall provide notice of the appeal mentioned in subsection (1) to persons who are directly affected by the decision.

Providing appeal material to adjudicator

3-55 In the case of an appeal mentioned in subsection 3-53(10) or section 3-54 that is to be heard by an adjudicator, the director of occupational health and safety shall forward to the adjudicator:

- (a) the notice of appeal mentioned in subsection 3-53(2);
- (b) all information in the director's possession that is related to the appeal; and
- (c) a list of all persons who have been provided notice of the appeal pursuant to clause 3-53(5)(a) or subsection 3-54(2).

Appeal of director's decision to adjudicator

3-56(1) A person who is directly affected by a decision of the director of occupational health and safety made pursuant to subsection 3-53(8) may appeal the decision to an adjudicator in accordance with subsection (2) within 15 business days after the date of service of the decision.

(2) An appeal pursuant to subsection (1) is to be commenced by filing a written notice of appeal with the director of occupational health and safety that:

- (a) sets out the names of all persons who are directly affected by the decision being appealed;
- (b) identifies and states the decision being appealed;
- (c) sets out the grounds of the appeal; and
- (d) sets out the relief requested, including any request for the suspension of all or any portion of the decision being appealed.

...

PART IV Appeals and Hearings re Parts II, III and V

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Adjudicator's duties

4-2 An adjudicator shall:

- (a) hear and decide appeals pursuant to Part II and conduct hearings pursuant to Division 5 of Part II;
- (b) hear and decide appeals pursuant to Division 8 of Part III;
- (c) hear and decide any appeals pursuant to Division 6 of Part V; and
- (d) carry out any other prescribed duties.

Selection of adjudicator

4-3(1) In this section and sections 4-4 and 4-7, "registrar" means an employee of the ministry who is designated as the registrar by the chairperson of the board.

(2) The director of employment standards and the director of occupational health and safety shall inform the board of an appeal or hearing to be heard by an adjudicator.

(3) On being informed of an appeal or hearing pursuant to subsection (2) and in accordance with any regulations made pursuant to this Part, the registrar shall select an adjudicator.

Procedures on appeals

4-4(1) After selecting an adjudicator pursuant to section 4-3 and in accordance with any regulations made pursuant to this Part, the registrar shall:

- (a) in consultation with the adjudicator and the parties, set a time, day and place for the hearing of the appeal or the hearing; and
- (b) give written notice of the time, day and place for the appeal or the hearing to:
 - (i) in the case of an appeal or hearing pursuant to Part II:

- (A) the director of employment standards;
 - (B) the employer;
 - (C) each employee listed in the wage assessment or hearing notice; and
 - (D) if a claim is made against any corporate directors, those corporate directors;
- (ii) in the case of an appeal or hearing pursuant to Part III:
- (A) the director of occupational health and safety; and
 - (B) all persons who are directly affected by the decision being appealed; and
- (iii) in the case of an appeal or hearing pursuant to Part V:
- (A) the director of occupational health and safety; and
 - (B) all persons who are directly affected by the decision being appealed.
- (2) Subject to the regulations, an adjudicator may determine the procedures by which the appeal or hearing is to be conducted.
- (3) An adjudicator is not bound by the rules of law concerning evidence and may accept any evidence that the adjudicator considers appropriate.
- (4) An adjudicator may determine any question of fact that is necessary to the adjudicator's jurisdiction.
- (5) A technical irregularity does not invalidate a proceeding before or by an adjudicator.
- (6) Notwithstanding that a person who is directly affected by an appeal or a hearing is neither present nor represented, if notice of the appeal or hearing has been given to the person pursuant to subsection (1), the adjudicator may proceed with the appeal or the hearing and make any decision as if that person were present.
- (7) *The Arbitration Act, 1992* does not apply to adjudications conducted pursuant to this Part.

Powers of adjudicator

4-5(1) In conducting an appeal or a hearing pursuant to this Part, an adjudicator has the following powers:

- (a) to require any party to provide particulars before or during an appeal or a hearing;
- (b) to require any party to produce documents or things that may be relevant to a matter before the adjudicator and to do so before or during an appeal or a hearing;
- (c) to do all or any of the following to the same extent as those powers are vested in the Court of Queen's Bench for the trial of civil actions:

- (i) to summon and enforce the attendance of witnesses;
- (ii) to compel witnesses to give evidence on oath or otherwise;
- (iii) to compel witnesses to produce documents or things;
- (d) to administer oaths and affirmations;
- (e) to receive and accept any evidence and information on oath, affirmation, affidavit or otherwise that the adjudicator considers appropriate, whether admissible in a court of law or not;
- (f) to conduct any appeal or hearing using a means of telecommunications that permits the parties and the adjudicator to communicate with each other simultaneously;
- (g) to adjourn or postpone the appeal or hearing.
- (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.

Decision of adjudicator

4-6(1) Subject to subsections (4) and (5), the adjudicator shall:

- (a) do one of the following:
 - (i) dismiss the appeal;
 - (ii) allow the appeal;
 - (iii) vary the decision being appealed; and
- (b) provide written reasons for the decision to the board, the director of employment standards or the director of occupational health and safety, as the case may be, and any other party to the appeal.

...

B. ANALYSIS

1. Protected Activity under Section 3-35

[21] Section 3-35 of the *SEA* prohibits an employer from taking discriminatory action

against a worker because the worker:

- a) acts in compliance with occupational health and safety laws or regulations (s. 3-35(a));
- b) seeks enforcement of occupational health and safety laws (s. 3-35(b)); or
- c) gives information to an occupational health officer regarding health and safety matters (s. 3-35(h)).

[22] Collier's testimony established that she engaged in these protected activities:

- a) She testified: "I brought up concerns about not having proper PPE and not knowing exactly how to handle the chemicals safely... I was told they'd look into it, but nothing changed."
- b) She further testified: "After I reached out to OHS, things at work felt different."

[23] I find that Collier engaged in protected activities under s. 3-35(a), (b), and (h).

2. Discriminatory Action under Section 3-1(1)(i)

[24] Section 3-1(1)(i) defines "discriminatory action" to include any action that adversely affects a worker's terms or conditions of employment, including termination.

[25] Collier was terminated from her employment shortly after raising health and safety concerns and reporting to the OHS. She testified: "My boss wouldn't talk to me about it anymore, and then I was just told I didn't have a job."

[26] No other explanation for her dismissal was provided by Hawarden.

3. Causal Connection

[27] To establish a violation of section 3-35, I must be satisfied that Hawarden took the discriminatory action because of Collier's protected activity.

[28] Collier's testimony was clear and unchallenged: she was terminated shortly after raising her concerns and contacting the OHS, and no alternative reason was provided for the termination. Her testimony, combined with the absence of any employer explanation, supports the inference that her termination was a direct result of her protected activities.

[29] Section 3-36(2) of the *SEA* specifies the remedies for discriminatory action, which include:

- a) ordering the employer to cease the discriminatory action;
- b) reinstatement of the worker to her former position on the same terms and conditions;
- c) payment of any lost wages; and
- d) removal of any reprimand or other references to the matter from the worker's employment records.

[30] Pursuant to section 4-6(1)(a)(ii) of the *SEA*, I have the authority to allow the appeal and make the appropriate order.

[31] Given the circumstances and the absence of any reason to believe reinstatement is impracticable, I find that Collier is entitled to be reinstated with back pay.

VI. CONCLUSION

[32] For the foregoing reasons, the appeal is allowed, and the orders set out above are issued.

Dated at Saskatoon, Saskatchewan, on June 2, 2025.



T. F. (TED)KOSKIE, B.Sc., J.D.,
ADJUDICATOR