

Court of King's Bench of Alberta

**Citation: Piechotta v United Food and Commercial Workers Canada Union, Local 401,
2025 ABKB 241**

Date: 20250417
Docket: 2001 04150
Registry: Calgary

Between:

Katrina Piechotta

Plaintiff/Appellant

- and -

**United Food and Commercial Workers Canada Union, Local 401, Jane Doe or John Doe as
representatives of United Food and Commercial Workers Canada Union, Local 401,
United Food & Commercial Benevolent Association, United Food and Commercial
Workers Canada Union, and Paul Meinema as representative of United Food and
Commercial Workers Canada Union**

Defendants/Respondents

**Reasons for Decision
of the
Honourable Justice J. T. Eamon**

Appeal from the Order by
J. Farrington, The Honourable Applications Judge
Filed on the 26th day of April, 2023
Dated the 11th day of April, 2023

I Introduction

[1] The Plaintiff was an employee of the Defendant United Food & Commercial Workers Canada Union, Local 401 (“Local 401”). Local 401 is a registered trade union under the *Labour Relations Code*, RSA 2000, c L-1.

[2] This lawsuit arises from the Plaintiff’s claim that she was constructively dismissed from her employment with Local 401 as a result of the intolerable work conditions and toxic work environment created by its then President Doug O’Halloran and other unnamed management and employees.

[3] The Plaintiff claims, *inter alia*, that the Defendant United Food & Commercial Workers Canada Union (“UFCW Canada” or the “international union”) and its Canadian president the Defendant Paul Meinema breached their obligations as a supervisor under section 4 of the *Occupational Health and Safety Act*, SA 2017, c 0-2.1 (the *Act*)¹ for failing to provide the Plaintiff with a healthy and safe work environment including investigating and addressing the ongoing harassment.

[4] UFCW Canada and Meinema deny the allegations. They applied for summary judgment dismissing the claim because UFCW Canada is not the Plaintiff’s employer, and these Defendants are not a “supervisor” under the *Act* and therefore could not owe a duty to the Plaintiff to address the alleged workplace problems.

[5] Applications Judge Farrington dismissed the claim against these Defendants. In his brief verbal reasons, he found that UFCW Canada is a separate entity from Local 401 and that a possibility of UFCW Canada exercising its power under the union constitution to place Local 401 in trusteeship was not sufficient to make it a supervisor of Local 401’s employees or work places.

[6] The Plaintiff appeals from Farrington AJ’s decision.

[7] Both sides agreed at the appeal hearing that the sole issue to be addressed is whether there is a case for trial that the Defendants UFCW Canada or Meinema were a “supervisor” under the *Act*. The issue whether duties as a supervisor impose a duty of care in tort is not before me.

II Issue

[8] The regulatory scheme of the *Act* imposes duties on various persons to ensure the health and safety of workers, including the role of “supervisor”. The Plaintiff claims that the international union or Meinema is a “supervisor” under the *Act* because the international union

¹ Now replaced by SA 2020, c 0-2.2.

had authority over O'Halloran, therefore they owed the Plaintiff duties to ensure that O'Halloran did not participate in harassment or violence at the work site and to provide a safe workplace.

[9] In contrast, the Respondent submits that an unincorporated union is not a "person" who can become a supervisor under the *Act*. Further, the legislation contemplates a "supervisor" as someone with hands on authority, something which these Defendants did not have.

III Evidence

(a) Union constitution

[10] The parties provided a copy of the United Food and Commercial Workers International Union constitution (the "union constitution"). This international union is known in Canada as the UFCW Canada.

[11] The union constitution provides that the United Food and Commercial Workers International Union shall be comprised of all persons who are members and consist of an unlimited number of Local Unions and other chartered bodies. It imposes a complex structure of oversight and management at many levels, including Conventions, International Executive Board, International Executive Committee, International Officers (President, Secretary-Treasurer, Executive Vice-Presidents, and Vice-Presidents), Local Unions, and the Executive Board, Board of Trustees, President, Vice-Presidents and other officers of each local union. The union constitution also provides for other chartered bodies, such as trade councils and regional boards.

[12] The union constitution provides for the office of a Canadian National Director (also known as the Canadian National President) which is filled by the Canadian international executive vice president or a Canadian international vice-president as provided in Article 12(C). This person is a member of the International Executive Board (the "highest authority of the International Union" between Conventions) together with other International officers including executive vice-presidents and vice-presidents. The International President, International Secretary-Treasurer, and the three International Executive Vice-Presidents form the International Executive Committee. The union constitution imposes obligations on the International Executive Board and other officers to consult with the Canadian President and consider the recommendations of the international officers in Canada before acting in respect of a Canadian local union.

[13] Articles 32, 33, and 34 of the union constitution include the following powers and responsibilities of the membership, executive board and president of each local union:

- (a) The local union is required to abide by and conform with all the provisions of the union constitution and laws of the international union.
- (b) The local union must adopt bylaws and hold regular membership meetings.
- (c) The local president is the chief executive officer of the local union and is responsible for enforcing the constitution and laws of the international union and the bylaws and rules of the local union.
- (d) The local president has the authority to interpret the bylaws of the local union, subject to an appeal to the local union executive board, provided that any such

interpretations or decisions on appeal are consistent with the union constitution and law of the international union.

- (e) The local president has general supervision over the affairs of the local union.
- (f) The local president is the trustee of all employee benefit trusts of which the local union is entitled to be a trustee, appoints stewards or decides whether affected members may elect stewards, and appoints committees.
- (g) The local president disburses funds that are approved or ratified by the local union executive board.
- (h) The local president invests all surplus funds with approval of the local union executive board, to a fiduciary standard.
- (i) The local president hires all personnel as may be necessary to conduct the affairs of the local union and exercises the powers of termination provided therein. The local president determines (subject to local executive board approval) compensation, expenses or expense policy of such personnel.
- (j) The local president is responsible for collecting and receipting money and providing various financial and membership reporting to the international union, local executive board, and membership.
- (k) The executive board of the local union has full and complete charge of all business of the local union not otherwise delegated to a specific officer or officers, or reserved to the membership.
- (l) The local union board of trustees performs various financial and audit functions and holds real property of the local union if it is unable to hold in its own name.

[14] The local union president is an elected position. The evidence indicates that the only means of terminating a local president before the expiry of their elected term is through the discipline process (Articles 25 and 26 of the union constitution). A union officer may be charged in the local union with failing to faithfully perform the duties of the office and tried by its executive board. The president is a member of the executive board, but as an accused would be unable to serve in that capacity (Article 26(A)(11)). They may choose not to testify (Article 26(A)(12)). Disciplinary penalties include removal from office (Article 26(A)(14)).

[15] The international union has extensive powers under the union constitution to operate the international affairs of the union and ensure that the local unions comply with their obligations of compliance with the union constitution and of governance under the union constitution. These include:

- (a) Grant dispensation in the payment of initiation fees, union dues, or other financial obligations relating to membership in those jurisdictions operating under laws or regulations which require that membership in good standing be a condition precedent to the filing or processing of petitions for certification or representation or the legal equivalent thereof.
- (b) Determine jurisdictional disputes among local unions.
- (c) Establish programmes of union benefits or services for classes of members who are not actively engaged in work in a collective bargaining unit.

- (d) Authorize voluntary mergers among or with local unions and initiate and promote certain mergers, all subject to approval of the membership of affected local unions voting separately from any other affected local.
- (e) Expel local unions.
- (f) Impose a trusteeship on a chartered body (which includes the local unions) to “correct corruption or financial malpractice, including mishandling or endangering Union funds or property, or the funds or property of any trust in which the Union has an interest; assure the performance of collective bargaining agreements or other duties of a bargaining representative; restore democratic procedures; or otherwise carry out the legitimate objectives of the International Union, including the proper administration of the finances and other affairs of the chartered body, and the enforcement of compliance with federal, state or provincial law, the Constitution or laws of the International Union, the approved bylaws of the chartered body, or the rules, decisions, or orders of the International Executive Board, the International Executive Committee, or International officers made within the scope of their authority under this Constitution”.

[16] Article 9(F)(1) provides the general process for placing a local union in trusteeship:

... Whenever in the judgment of the International Executive Committee such action is required, it shall have the power to place such chartered body in trusteeship or take such other temporary action as it deems necessary, provided that any such action shall not be authorized in Canada unless concurred in by a majority of the International officers in Canada. Within 30 days following the imposition of a trusteeship, a hearing shall commence to determine whether the trusteeship is justified and shall be continued.

[17] Article 9 further provides that if a trusteeship is imposed, the International President shall appoint a trustee, who shall administer the affairs of the chartered body during the trusteeship. In Canada, such trustee shall be a member of a Canadian local union who shall be appointed following consultation with the National Director (National President). The trustee must take immediate charge of the affairs of the local union and the officers of the chartered body are suspended from office. The trustee acts under the supervision of the International President and may be removed and replaced at any time by that president. If the trusteeship is found justified after a hearing, the local union officers are removed. The trusteeship continues for such period “as the International Executive Committee considers necessary for the reorganization or stabilization of the affairs of the chartered body to achieve the purposes of the trusteeship”.

[18] As the Plaintiff points out, the international union has several other powers over the local unions, including: should a local be expelled or withdrawn, its books and assets must be delivered to the international union and after a period of time may become the property of the international union; and the international union exerts control over the local’s proposed collective bargaining agreements and decisions to strike or take other economic action.

(b) Affidavit evidence

[19] Generally, the Plaintiff deposed that Local 401 did not have a formal harassment policy or mechanism to bring complaints forward except by reporting them to O’Halloran. She deposed that O’Halloran bullied and harassed her, the management of Local 401 were aware of the

problems, and the Plaintiff brought the matter to Meinema's attention and asked him to investigate. She deposed that Meinema did not address the matters, broke his promise to keep her communication confidential from O'Halloran, and O'Halloran's abuse continued until she left her employment claiming constructive dismissal about a year thereafter.

[20] Some of this evidence is disputed, particularly the content of her conversation with Meinema, and it is not necessary to resolve such dispute for the purpose of addressing the summary dismissal application. It can be assumed for the purpose of deciding the summary judgment application that the Plaintiff could establish her factual allegations at the trial.

[21] To establish that her claim against these Defendants should proceed to trial, the Plaintiff asserts that it was well known that UFCW Canada retained broad oversight and a level of authority over local executives and the workplace by virtue of its power to place a local in a trusteeship and investigate activities of the local unions. She says those powers, and the purpose behind them, are codified in the union constitution, and that it was always her understanding that the trusteeship power included ensuring local unions were conducting their affairs properly and complying with statutory law such as the *Act*.

[22] In support of her position, the Plaintiff identified instances where a member of the executive board of Local 401 sought Meinema's guidance over issues with O'Halloran's conduct, that Meinema visited the local executive board to discuss management issues in the local office, that the national union intervened in an employment dispute between another employee ("Z") and Local 401 at the employee's request, and that O'Halloran referred to Meinema as his "boss".

[23] O'Halloran passed away before the action was started. The Plaintiff has not had an opportunity to obtain discovery from him as to the nature of his working relationship with UFCW Canada or Meinema.

[24] Meinema deposed he is UFCW Canada President and an executive vice president of the international union. He has overall responsibility for UFCW Canada but not day to day authority over Local 401. UFCW Canada provides administration, bargaining, organization and training support for some smaller local unions, but does not provide these services for larger well-established locals that have their own management and operational staff including Local 401.

[25] Meinema said in his cross-examination that "the National office's relationship with the Locals is based solely on the constitution or the constitution requirements." He testified later in his examination that that locals may seek advice from the national office and when they do, the national office provides advice.

[26] Meinema further testified that the national union is distinct from a Canadian national council composed of representatives of the local unions which periodically directs various initiatives, for example a national diversity training initiative which the Plaintiff cited as evidence of control by the international union. The Defendants produced the by-laws for this council, that indicate it is also a body chartered under the union constitution with a defined mandate. The Canadian President is responsible to carry out "policies, laws and mandates" of this council.

[27] Meinema acknowledged the Plaintiff brought bullying allegations to his attention. He could not recall agreeing to keep them confidential, but deposed the Plaintiff told him she did not want him to take action or make inquiries at that time and wrote in his notes of the conversation

that he would wait to hear further from the Plaintiff. He claimed he did not take action, and if the Plaintiff had followed up with him then he would have considered what potential action the national office could take. Notwithstanding his claims, he admitted to contacting O'Halloran and telling him that the Plaintiff had some allegations about him and that he would talk further to him when he heard back from the Plaintiff.

[28] Meinema also described in his cross-examination that he met with two executive board Members of Local 401, and later with O'Halloran, and discussed issues about O'Halloran's management. He says he provided advice to these board members about their responsibilities under the union constitution and that the matters were addressed between O'Halloran and the executive board of Local 401. No one came back to him and pursued a trusteeship over Local 401.

[29] Meinema acknowledged becoming involved in an issue over "Z", and explained the matter pertained to the election process in the union which was investigated under the union constitution.

IV Applicable law

(a) Introduction

[30] The *Act* and its regulations establish a comprehensive legislative regime that sets minimum standards for the protection of the health and safety of workers (*R v Precision Diversified Oilfield Services Corp*, 2018 ABCA 273 at para 37). It is remedial public welfare legislation intended to guarantee a minimum level of protection for the health and safety of workers and its provisions ought to be generously interpreted in a manner that is in keeping with the purposes and objectives (*Precision Diversified* at para 53).

[31] Further, s 2 of the *Act* provides:

2 The purposes of this Act are

- (a) the promotion and maintenance of the highest degree of physical, psychological and social well-being of workers,
- (b) to prevent work site incidents, injuries, illnesses and diseases,
- (c) the protection of workers from factors and conditions adverse to their health and safety, and
- (d) to ensure that all workers have
 - (i) the right to be informed of work site hazards and the means to eliminate or control those hazards,
 - (ii) the right to meaningful participation in health and safety activities pertaining to their work and work site, including the ability to express health and safety concerns,
 - (iii) the right to refuse dangerous work, and
 - (iv) the ability to work without being subject to disciplinary action for exercising a right or fulfilling a duty imposed by this Act, the regulations or the OHS Code.

[32] The *Act* prescribes specific duties in furtherance of the objectives, upon those involved in safety at any given worksite: employers, owners, supervisors, employees, various contractors, suppliers, and service providers.

[33] Section 1(tt) of the *Act*² defines “supervisor” as “a person who has charge of a work site or authority over a worker”. A “worker” means a person engaged in an occupation, with various exceptions (*Act*, s 1(aaa)³). A “work site” means “a location where a worker is, or is likely to be, engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation” (*Act*, s 1(bbb)⁴). With respect to a “supervisor” the *Act* requires:

4. Every supervisor shall

- (a) as far as it is reasonably practicable for the supervisor to do so,
 - (i) ensure that the supervisor is competent to supervise every worker under the supervisor’s supervision,
 - (ii) take all precautions necessary to protect the health and safety of every worker under the supervisor’s supervision,
 - (iii) ensure that a worker under the supervisor’s supervision works in the manner and in accordance with the requirements of this Act, the regulations and the OHS Code,
 - (iv) ensure that every worker under the supervisor’s supervision uses all hazard controls, and properly uses or wears personal protective equipment designated or provided by the employer or required to be used or worn by this Act, the regulations or the OHS Code, and
 - (v) ensure that none of the workers under the supervisor’s supervision are subjected to or participate in harassment or violence at the work site,
- (b) advise every worker under the supervisor’s supervision of all known or reasonably foreseeable hazards to health and safety in the area where the worker is performing work,
- (c) report to the employer a concern about an unsafe or harmful work site act that occurs or has occurred or an unsafe or harmful work site condition that exists or has existed,
- (d) cooperate with any person exercising a duty imposed by this Act, the regulations and the OHS Code, and
- (e) comply with this Act, the regulations and the OHS Code.⁵

² Now s 1(nn) of the 2020 *Act*.

³ Now s 1(tt) of the 2020 *Act*.

⁴ Now s 1(uu) of the 2020 *Act*.

⁵ Section 4 of the 2020 *Act* differs slightly from the quoted provision of the 2017 *Act*. The changes do not appear substantive. For example, the specific reference to hazard controls was removed, but remains covered by the requirement that the supervisor take all precautions

(b) Whether international union can be a “supervisor”

[34] The Respondents assert that a supervisor must be a natural person. The Appellant responds that there is no such requirement explicit in the legislation, and points to a decision of the Ontario LRB that found a government department was a supervisor (*Ontario (Health and Long-Term Care, Land Ambulance Programs) v Canadian Union of Public Employees, Local 2974.1*, 2010 CanLII 11302 (ON LRB) at para 141 - 147). It is not apparent from the reasons in that case that the point was disputed.

[35] Section 28(1)(nn) of the *Interpretation Act*, RSA 2000, c I-8, provides that a reference to a “person” in an enactment, includes “a corporation and the heirs, executors, administrators or other legal representatives of a person”. This definition is not exhaustive and does not specifically include or exclude unincorporated yet suable entities.

[36] While a trade union is neither a real person nor a corporation, it is a legal entity that can be sued in its own name (*Berry v Pulley*, 2002 SCC 40 at para 39; *Fallowka v Royal Oak Ventures Inc*, 2010 SCC 5 at paras 118-122). There is some authority that a trade union may sue in its own name (*Canadian Union of Postal Workers v Quebecor Media Inc*, 2024 ONSC 6484 at paras 50-63, 68-72) and may be sued for breach of responsibilities extending beyond its labour-relations role (*Kiewning v CEP*, 2011 ONSC 712).

[37] Although the international union is not an incorporated entity, it is a suable entity and therefore capable of assuming obligations and being held accountable for breaching them. Having regard to the purposes of the *Act* to ensure worker safety and well being, there is no reason why the international union could not be a supervisor where the authorities of any of its officers, boards or committees bring them within the definition under section 4 of the *Act*.

[38] Given the lack of submissions on the point, I would not be prepared to find that the international union, who bears the onus, has presented persuasive arguments that the union cannot be a supervisor should it have the requisite degree of authority that would otherwise satisfy the attributes of a supervisor. If the union has this authority, then it would be reasonably open to a trial judge to find that the union is a supervisor and Meinema is responsible to discharge its obligations by adequately informing himself and directing the manner and conditions of work.

(c) Meaning of “supervisor”

[39] There is no Alberta case law interpreting the meaning of “supervisor” in the *Act*. Ontario’s *Occupational Health and Safety Act*, RSO 1990, c O.1 has substantially similar purposes as Alberta’s legislation (see *Ontario (Ministry of Labour) v Hamilton (City) at para 16; R v Timminco Ltd*, 2001 CanLII 3494 (ON CA) at para 22; *Ontario (Ministry of Labour) v Walters*, 2004 CanLII 55057 (ON SC) at para 17) and a similar concept of a supervisor with responsibility including to “take every precaution reasonable in the circumstances for the protection of a worker”.

[40] The Respondent relies on Ontario case law which holds that a supervisor is someone with “hands-on authority” over a workplace or someone who is involved in the day-to-day operations

necessary to protect the health and safety of every worker under the supervisor’s supervision. Also, the obligation that a supervisor be competent was removed, but still appears as an obligation of the employer to ensure supervisors are competent (*Act*, s 3).

of a workplace and the day-to-day working conditions of an employee. These cases involve industrial or medical workplaces, rather than an office setting, but are nevertheless useful in ascertaining the indicia of a supervisor.

[41] In the often-cited case of *R v Adomako*, [2002] O.J. No. 3050 (COJ), the Court described the concept of a supervisor and the various indicia of a supervisor as follows:

17 Section 1(1) of the Act defines supervisor as a person "who has charge of a workplace or authority over a worker." From a review of the relevant cases, it appears that critical criteria used to determine whether or not a person will be held to be a supervisor under the Act includes the authority to promote workers, discipline workers, schedule work, deal with employee complaints, grant employees' leaves of absences and determine how an individual is paid. (Ontario Health and Safety Law, Norman A. Keith, p. 4-18.1).

18 A supervisor must be someone who has hands-on authority. Authority is commonly defined as a power or right to enforce obedience. Where a person has authority over a worker it is irrelevant as to whether or not he actually exercises that authority. (*R. v. Border Steel Ltd.*, unreported, April 17, 1996, Ontario Court (Prov. Div.) Renaud, J.P. at page 5). The cases are clear that the criteria used to assess supervision will vary from case to case but will normally include evidence that the individual had control over workers. There may also be evidence of the control of a plant, job site or the equipment, at either.

19 In any event it is clear that the question of whether or not one is a supervisor, within the terms of the Act, should be the subject of an objective test based on the actual powers and responsibilities of the individual. Whether or not the person in question thought he was a supervisor or was given the title of supervisor is of no import. (*R. v. Jetters Roofing and Wall Cladding Inc.*, (unreported) Ontario Court of Justice, J.P. Stafford, November 1, 2000 p. 10).

[42] In *Abarquez v Ontario*, 2009 ONCA 374 at para 34, Sharpe JA as he then was, writing for the panel, summarized the applicable law as follows:

[34] Having "charge of a workplace" so as to become a supervisor involves "hands-on authority" akin to that exercised by an employer: *R. v. Walters*, [2004] O.J. No. 5032, 67 W.C.B. (2d) 838 (S.C.J.), at para. 18; *R. v. Adomako*, [2002] O.J. No. 3050, 55 W.C.B. (2d) 266 (C.J.) ("*Adomako*"), at paras. 17-18. Having "authority over a worker" so as to become a supervisor includes the authority to promote workers, discipline workers, schedule work, deal with employee complaints, grant employees' leaves of absences and determine how an individual is paid: *R. v. Furtado*, [2007] O.J. No. 3122, 2007 ONCJ 368, at para. 25; *Adomako*, at para. 17. ...

[43] The test is "objective, based on the individual's actual powers and responsibilities", and whether or not the person considered themselves to be a supervisor is not relevant (*Ontario (Ministry of Labour) v Walters*, 2004 CanLII 55057 (ON SC) at para 18; *Adomako* at para 19). This requirement reflects that a "supervisor must have sufficient authority to be able to fulfill the duties" imposed by the legislation (*Walters* at para 16).

[44] In questions of statutory interpretation, the Court reads the words in their entire context, and in their grammatical and ordinary sense harmoniously with the scheme of the *Act*, the object of the *Act*, and the intention of the legislature (*Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27 at para 21, as applied in *Precision Diversified* at para 48).

[45] In its ordinary sense in the workplace, one usually refers to one’s supervisor as the person with authority over their day-to-day work. As an example, a worker on the front lines in an industrial plant would likely refer to their supervisor as the person overseeing or controlling their work, not the policy makers, investigators, auditors or enforcers who may work in other parts of the organization. A board of directors of a corporation must “supervise” the business and affairs of a corporation and they might delegate to a CEO who is normally assisted by executive officers, but I doubt many employees would think of the Board, who are heavily engaged in policy and strategic outcomes, as their “supervisor” for occupational health and safety purposes. Yet, the Board is the ultimate authority in the organization and may intervene when required.

[46] The scope of the term “supervisor” must be interpreted in the context of the entire safety regime imposed by Part 1 of the *Act*.

[47] Many individuals in a hierarchical organization may have a role in employee safety and well being or in supervising the business and affairs of an organization or particular aspects thereof. Moreover, it is clear from the legislation that a work site or employee may have more than one supervisor (*Act*, s 13(3)⁶).

[48] Supervisors are required to be “competent” (*Act*, s 3(1)(d)(i)). They are concerned with health and safety issues relating to site conditions, employee behaviour or the manner in which work is being carried out, which are usually matters that are specific to the conditions of a particular worksite, type of work, or on-site behaviour. To assume the responsibility of a competent supervisor, a person must have the authority to address non-compliant activity on a direct basis which would include some meaningful way to monitor conditions and behaviour as they are ongoing.

[49] The employer has a significant role under the *Act* in ensuring the necessary policies, oversight, and systems to achieve the health and safety goals. The *Act* imposes safety duties on employers (*Act*, s 3) and extends the meaning of “employer” to “a director or officer of a corporation or a person employed by the employer who oversees the occupational health and safety of the workers employed by the corporation or employer” (s 1(n)(iii)⁷). Although a person may have multiple obligations or functions under Part 1 (*Act*, s 13(2)⁸), the Legislature imposed the higher level oversight duties upon the employer, and did not intend that oversight at such level is characteristic of a supervisor under the *Act*.

[50] Therefore, I conclude that the concept of a “supervisor” under the Alberta *Act* contemplates a person who is authorized to directly address health and safety issues on a day to day basis.

⁶ Now s 12(3) of the 2020 *Act*.

⁷ Now s 1(k)(iv) of the 2020 *Act*.

⁸ Now s 12(2) of the 2020 *Act*.

V Analysis

[51] The appeal standard of review is correctness and the hearing is *de novo*. The question is whether summary judgment is permissible under the principles in *Weir-Jones Technical Services Incorporated v Purolator Courier Ltd*, 2019 ABCA 49 at para 47 and *Hannam v Medicine Hat School District No.76*, 2020 ABCA 343 at paras 145-161. In short, the Court may grant summary judgment where the process allows the court to fairly make the necessary findings of fact, apply the law to those facts, and is a proportionate, more expeditious and less expensive means to achieve a just result. The presiding judge must have sufficient confidence in the state of the record such that he or she is prepared to exercise the judicial discretion to summarily resolve the dispute.

[52] The parties debated whether the local unions were separate suable entities from the international union. Farrington AJ found that these entities were separate and that the power to impose a trusteeship did not constitute the international union a supervisor of the local.

[53] Local unions are not always separate from their national union. Each case turns on its specific facts. The reasons of the NWT Court of Appeal in *Fullowka v Royal Oak Ventures Inc.* 2008 NWTCA 4 at para 140 outline a number of the factual considerations:

[140] There are a number of reasons to reach this conclusion:

(a) the evolution of unions as separate suable entities is based on a statutory foundation, and the statutes generally grant bargaining certificates to the locals, not the national unions.

(b) local unions generally have their own executives and decision-making structures, and in accordance with the principles in *Berry v. Pulley* they should be recognized as separate entities.

(c) locals can enter into contracts, the most significant of course being collective agreements. Those agreements should be enforceable only by and against the local, not the national union or other affiliated locals.

(d) if locals and national unions are not separate entities, it would seem to follow that they have no separate rights to hold property. Not only would local and national entities be responsible for each other's obligations, it would appear that each local would be responsible for all the obligations of the other locals. This is a commercially unreasonable result.

The separate legal existence of local unions is now accepted as a reality in the labour community.

[141] The constating documents and organizational structure of the union will always be relevant to determining whether a national union and its locals are separate entities. There will always be financial and other links between the locals and their national unions. In many cases members will automatically belong to both the local and the national, but overlapping membership is not sufficient to displace separate legal existence. National unions may well depend on dues remitted by their locals. The union constitution may well provide that if a local is wound up, any residual assets revert to the national entity. The national union may have a greater or lesser degree of control over the constitution and

operations of the local. The CASAW National Constitution is noteworthy however for the fact that it explicitly recognizes the possessory rights of locals over their assets, and stipulates that “[a]ll locals shall have the right to retain their assets and records and apply to the National Executive Board to secede from the National Union” to affiliate with another Canadian union or become an unaffiliated body.

[142] In our view none of these factors that linked Local 4 and CASAW National is sufficient to displace the separate existence of the local and the national entity. All organizations have links of one sort or another with other organizations or individuals. All organizations are either controlled by their membership, or by other organizations, but that does not mean that they do not exist as separate entities. It is only prudent for any organization to have some rule as to what will happen to its assets if it ceases to exist; indeed such a rule is not needed if there is only one entity in existence.

(Emphasis added).

[54] The Supreme Court of Canada agreed that the local and national in the case before it were separate entities, observing that the local was the exclusive bargaining agent, and each had its own management structure, areas of responsibility, and assets and liabilities under the applicable constitution of that organization (*Fulowka* (SCC) at para 119 – 133).

[55] The union constitution in the present creates and recognizes a local management structure including the local president and executive board, which largely governs all local matters pertaining to the day-to-day operation of the local union and local representation of the members in their workplaces.

[56] Other matters are controlled by the international union to a high degree, including the terms of proposed collective bargaining agreements and whether to allow the local to act on its decision to strike or take other economic action. The assets of the local unions are tied to the international union, in the sense that the union constitution purports to require that assets transfer to the international union upon withdrawal, expulsion or dissolution. I use the word “purport” because it is questionable that such a transfer could occur without first satisfying the liabilities of the local union, but that question is not before me and for present purposes it is only necessary to note that the local’s ownership of assets is subject to transfer to the international union, again indicating a high degree of control. Nevertheless, rules dealing with the residual assets are not necessarily inconsistent with the existence of separate entities (*Fulowka* (CA) at para 142).

[57] However, the question whether the international union and local union are separate suable entities is not before me and does not have an air of reality in this specific case given the Plaintiff’s pleadings. She sued the international union as a separate suable entity, alleged she was employed by Local 401, and generally treated Local 401 as a separate entity in her Amended Statement of Claim. I agree with the observation in her written supplemental brief (at para 13) that the question in the present case is not whether the entities are separate suable entities.

[58] Rather, the question here is whether the international union has the necessary degree of authority and control to constitute the union or any of its officers as supervisors under the *Act*.

[59] The union constitution gives the international union control over significant substantive issues such as the terms of collective agreements and acting on a decision to strike. In contrast,

matters of workplace safety in the offices of Local 401 were matters of local governance, under the control of an elected local president and local executive board. Trusteeship could only be imposed in cases defined under the union constitution and was reviewable by hearing as set out therein. The union constitution does not provide for monitoring of workplaces by the international union or give that union a right of access to local union employees or premises to conduct workplace monitoring whether day to day or otherwise. Consequently, the international union's powers to audit books and records and place locals in trusteeship are reactionary, and do not reflect the power of proactive supervision of the safety of workplaces and worker behaviour. The occasional statement by O'Halloran that Meinema was his boss, is a subjective belief not an objective assessment supported by the union constitution or other material evidence.

[60] The Plaintiff's allegations might raise issues whether Local 401 complied with its duties as an employer under the *Act* to provide a competent supervisor over O'Halloran or the Plaintiff's workplace, but do not suggest that Meinema was O'Halloran's supervisor. If the safety issue could not be addressed to the satisfaction of the local executive board, it might advocate for trusteeship as a means of removing the elected president, but the international union could not control the workplace or the workers until it took such a drastic step to intervene. No such step was taken.

[61] There is no issue for trial under the principles in *Weir-Jones* that Meinema or the international union was a supervisor. The Plaintiff must put her best case forward in response to a summary judgment application (*Weir-Jones* at para 15(c)). The evidence she provided does not prove the necessary degree of direct authority or charge of the employees, officers or workplace of Local 401 or cause me lack of confidence in the state of the record such as a reasonable prospect that additional evidence buttressing her case will be developed. Therefore, her claim should be summarily dismissed against Meinema and the international union.

[62] The appeal is dismissed. The parties may speak to costs.

Heard on the 17th day of December, 2024.

Dated at Calgary, Alberta this 17th day of April, 2025.

JT Eamon
J.C.K.B.A.

Appearances:

Kenneth P Reh
for the Plaintiff/Appellant

Michael D Wright and Alex St John
for the Defendants UFCW Canada/Respondents