

# KING'S BENCH FOR SASKATCHEWAN

Citation: 2025 SKKB 143

Date: 2025 09 09  
Docket: KBG-SA-01060-2024  
Judicial Centre: Saskatoon

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BETWEEN:

BOARD OF EDUCATION OF SASKATCHEWAN RIVERS  
PUBLIC SCHOOL DIVISION NO. 119, as represented by the  
GOVERNMENT-TRUSTEE BARGAINING COMMITTEE

Applicant

- and -

JOHN DORION, as represented by the SASKATCHEWAN  
TEACHERS' FEDERATION

Respondent

**Counsel:**

Candice D. Grant  
Shannon G. Whyley

for the applicant  
for the respondent

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JUDGMENT  
September 9, 2025

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WEMPE J.

## Introduction

[1] This is an application for judicial review brought by the Board of Education of Saskatchewan Rivers Public School Division No. 119, as represented by

the Government-Trustee Bargaining Committee [School Division], in relation to a preliminary determination on the issue of jurisdiction made by a Board of Arbitration [Arbitration Board] appointed pursuant to *The Education Act, 1995*, SS 1995, c E-0.2 [Act].

[2] In the circumstances, the Arbitration Board's decision of April 2, 2024, concluding it has jurisdiction to hear the grievance is reasonable. The Arbitration Board did not exceed its jurisdiction by making findings which were unsupported by the evidence and the reasons provided by the Arbitration Board were sufficient. Accordingly, there is no basis for this Court's interference in the decision.

### **Factual Background**

[3] The School Division and the Saskatchewan Teachers' Federation [STF] agreed to seek a preliminary determination from the Arbitration Board on whether the subject matter of the grievance was within the Arbitration Board's jurisdiction. An agreed statement of facts was signed by the parties on September 27, 2023, and formed the basis of the facts before the Arbitration Board.

[4] The agreed statement of facts set out that Mr. John Dorion, a registered teacher, was added to the substitute teachers list for the School Division in November 2019. He was subsequently employed by the School Division from time to time on a day-to-day basis as a substitute teacher. Mr. Dorion was engaged by the School Division as a substitute teacher as follows:

- in 2019-2020 on 21 occasions representing 19.5 days (out of a possible 140 days);
- in 2020-2021 on 21 occasions representing 18 days (out of a possible 183 days); and

- in 2021-2022, on 53 occasions representing 49.5 days (out of a possible 157 days).

[5] The School Division, the STF and the Government of Saskatchewan are all parties to a provincial collective bargaining agreement [PCBA], the relevant version of which is effective September 1, 2019, to August 31, 2023. The School Division and the teachers employed by the School Division are also parties to a Saskatchewan Rivers School Division No. 119 Teacher Local Bargaining Agreement [LINC], the relevant version of which is effective July 1, 2019, to June 30, 2024.

[6] This matter relates to a grievance brought by the STF on behalf of Mr. Dorion alleging that the employer, the School Division, by way of a telephone call, informed Mr. Dorion he would be removed from the substitute teachers list. The reasons for the removal were related to alleged incidents that occurred on days Mr. Dorion was teaching; however, the phone call occurred on a day when he was not working.

[7] During the call, Mr. Dorion did not have a representative from the STF present and was not offered the opportunity to arrange for one. The STF filed a grievance alleging that the School Division violated Articles 15.1 and 15.9 of the PCBA by making the decision arbitrarily or in bad faith and by having a disciplinary telephone meeting without providing the opportunity to arrange for representation.

[8] The School Division takes the position that Mr. Dorion was employed as a substitute teacher on a day-to-day basis. He was not employed on the day he was advised he would be removed from the substitute teachers list and, therefore, the provisions of the PCBA and/or the LINC do not apply. The School Division argues that because Mr. Dorion was not owed any obligations under either the PCBA or the LINC on the specific date he was informed of his removal from the substitute teachers list, the Arbitration Board has no jurisdiction over the grievance.

[9] The parties agreed to submit the issue of jurisdiction for a preliminary determination from the Arbitration Board on the basis of an agreed statement of facts. A half day hearing was held October 3, 2023, and the Arbitration Board issued its decision on April 2, 2024.

[10] In its decision the Arbitration Board held there was nothing express or implied in Article 15 to suggest that the relevant provisions may not apply in this factual scenario and, accordingly, they had jurisdiction to determine the grievance.

[11] The School Division has applied for judicial review, arguing that (1) the Arbitration Board exceeded its jurisdiction, (2) its findings were patently unreasonable and not supported by the evidence, and (3) the reasons provided by the Arbitration Board were insufficient.

### **Issues**

[12] The issues in this judicial review are as follows:

1. What is the appropriate standard of review?
2. Is the application for judicial review premature?
3. What are the relevant statutory and collective bargaining agreement provisions?
4. Is the Arbitration Board's decision reasonable?
  - (a) Did the Arbitration Board exceed its jurisdiction?
  - (b) Did the Arbitration Board make findings which were unsupported by the evidence?
  - (c) Were the reasons of the Arbitration Board insufficient?

## 1. What is the appropriate standard of review?

[13] Counsel on behalf of the School Division and the STF agree that the appropriate standard of review is reasonableness.

[14] In *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*], the Supreme Court clarified that the presumptive standard of review in a judicial review application is reasonableness. The presumption of reasonableness may be rebutted in two scenarios:

- (i) where the legislature has prescribed a standard of review in a governing statute or has provided a statutory appeal mechanism; and
- (ii) where the rule of law requires the standard of correctness to be applied, namely on constitutional questions, general questions of law of central importance to the legal system as a whole, or questions related to jurisdictional boundaries between two or more administrative bodies.

See: *Vavilov*, para 17.

[15] Neither of the above scenarios apply to this judicial review application. I am, therefore, in agreement with counsel that reasonableness is the correct standard of review.

## 2. Is the application for judicial review premature?

[16] Counsel for both parties brought to my attention the recent case of *United Food and Commercial Workers Union, Local 1400 v Affinity Credit Union*, 2025 SKKB 45 [*United Food*], where Gerecke J. held that an application for judicial review was premature because there had not yet been a final determination of the grievance. At paragraph 27, Gerecke J. summarized the law as follows:

[27] To recap, courts are reluctant to permit judicial review applications to proceed until the matter has been resolved with finality by the tribunal. Appellate courts caution that exceptions should be only in truly rare and exceptional circumstances. Generally, challenges on apprehension of bias, procedural fairness and jurisdiction are not exceptional circumstances. This predisposition against interlocutory judicial reviews has strengthened considerably since about 2010. Concerns expressed by courts include multiplicity of court proceedings, impact on legislative regimes, delay, fragmentation (also referred to as bifurcation) at the administrative level, increased potential for mootness, and interference with the roles of administrative decision-makers. In addition to those considerations, it is appropriate that the Court weigh hardship and strength of the judicial review case.

[17] While I agree with Gerecke J.'s summary of the law, this judicial review is more akin to *University of Saskatchewan v Canadian Union of Public Employees, Local 1975*, 2014 SKQB 190, [2015] 4 WWR 813 [*University*]. In *University*, Scherman J. held that because the parties had agreed to a bifurcation of the arbitration, it would make no practical or policy sense to force the University to go through the exercise of having the Board of Arbitration rule on the remedy as a compulsory prerequisite to an inevitable judicial review application (*University*, at para 15). Scherman J. noted this would put both parties to unnecessary expense and delay in a situation where the parties have, by express agreement, chosen to bifurcate the issues (*University*, at para 16). Gerecke J. also acknowledged in *United Foods* that a judicial review may not be premature where the parties have expressly agreed to bifurcate (*United Foods*, at para 26).

[18] In this matter, the parties have agreed to a bifurcated process wherein they sought a ruling from the Board on the jurisdiction issue. There is no practical or policy reason to force the parties to obtain a final determination from the Board on the grievance prior to seeking judicial review on the issue of jurisdiction from this Court. I find that the application for judicial review is not premature in the circumstances of

this case.

**3. What are the relevant statutory and collective bargaining agreement provisions?**

[19] The relevant statutory and collective bargaining agreement provisions frame the Arbitration Board’s decision and, in turn, frame this Court’s decision as well. It is therefore useful to lay out the relevant provisions at the outset. Starting with the *Act*, the following provisions are relevant:

**Definitions and interpretation**

2(1) In this Act:

...

**“collective bargaining agreement”** means an agreement in writing between the parties to negotiation setting forth the terms and conditions of employment of teachers;

...

**“grievance”** means any disagreement between the parties to a collective bargaining agreement with respect to the meaning or application of the collective bargaining agreement or any violation of the collective bargaining agreement;

...

**“substitute teacher”** means a teacher employed on a day-to-day basis as required to replace a teacher who is temporarily absent from his or her regular duties;

...

**“teacher”** means a person who holds a valid teacher’s certificate;

...

**Arbitration of grievance**

261(1) Subject to section 263 and except where otherwise provided in a collective bargaining agreement, either party to the agreement may, at any time by notice in writing to the other party, require that any grievance be resolved by arbitration.

(1.1) For greater certainty and for the purposes of this section and section 263, **“party”**, **“party to the grievance”** or **“party to the agreement”** means with respect to a provincial

agreement:

- (a) the bargaining committee appointed by the federation pursuant to subsection 234(1); or
- (b) the bargaining committee that consists of:
  - (i) the persons appointed by the association pursuant to subsection 234(2); and
  - (ii) the persons appointed by the Lieutenant Governor in Council pursuant to subsection 234(2).

(2) The notice mentioned in subsection (1) shall specify the grievance and the name of the person whom the party giving the notice appoints to be a member of the arbitration board.

(3) Within 10 days after receipt of that notice, the party to whom a notice is sent pursuant to subsection (1) shall appoint a person to be a member of the arbitration board and notify the other party in writing of the appointment.

(4) Within 10 days after the appointment of the second of them, the two members appointed pursuant to subsections (2) and (3) shall appoint a person to be the third member and chairperson of the arbitration board.

(5) Where a party does not appoint a person to be a member of the arbitration board, or where the two persons appointed as members cannot agree on a person to be the third member of the arbitration board, within the time prescribed in subsection (3) or (4) for those appointments, the chairperson of the Educational Relations Board shall, on being notified by either party of that fact, appoint:

- (a) a person to be a member of the arbitration board; or
- (b) a person to be the third member and chairperson of the arbitration board.

...

**Conditions precedent for arbitration of grievance**

**263** Except where otherwise provided in a collective bargaining agreement, if a grievance involves the interpretation or application or the alleged violation of a collective bargaining agreement, that grievance shall not be referred for arbitration until:

- (a) a complaint in writing is filed with the other party by a

party to the grievance; and

(b) negotiations between the parties mentioned in clause (a) have failed to result in a settlement of the grievance within 15 days.

[Emphasis in original]

[20] Section 53.1 of *The Education Regulations, 2019*, RRS c E-0.2 Reg 29, is also relevant:

**List of substitute teachers**

**53.1(1)** Every board of education, the conseil scolaire and the SDLC shall provide to the federation, at the beginning of each month of the academic year, a list, in electronic format, of the substitute teachers available for employment by the board of education, the conseil scolaire or the SDLC, as the case may be, at that time in relation to that academic year.

(2) The list mentioned in subsection (1) must include each substitute teacher’s name, teacher’s certificate number, mailing address, email address and telephone number.

(3) The information provided to the federation in accordance with this section shall not be used or disclosed by the federation for any purpose other than for the federation to offer services to substitute teachers.

[21] The following provisions of the PCBA are relevant:

1.1 This Provincial Collective Bargaining Agreement, hereafter referred to as “this Agreement,” negotiated in accordance with *The Education Act, 1995*, shall be binding upon all teachers and boards of education in the Province of Saskatchewan and upon the Government of Saskatchewan.

...

1.3 Unless the context otherwise requires, all words, names and expressions used in this Agreement shall have the same meaning attached to them as are expressed or implied in *The Education Act, 1995* and the Regulations thereunder.

...

1.5 *The Interpretation Act, 1995* shall apply.

...

15.1 A grievance may be filed alleging:

15.1.1 Violation of the terms and conditions of employment set out in *The Education Act, 1995* or the Regulations thereunder, as may be amended from time to time, or in other employment-related legislation applicable to teachers, or

15.1.2 That a discretionary decision made with respect to a teacher's employment was made arbitrarily or in bad faith.

15.2 Except as provided for in this Article of this Agreement, Sections 261, 262 and 263 of *The Education Act, 1995* shall apply in the resolution of grievances with respect to this Agreement and the representatives of the parties named pursuant to Section 234 of *The Education Act, 1995* shall have the sole authority for negotiating from time to time for the settlement of grievances covered by the Agreement and for the appointment of members of an arbitration board pursuant to Section 261 of *The Education Act, 1995*.

15.3 Where either party initiates a grievance under Section 261 of *The Education Act, 1995*, the written notice shall include the particulars of the grievance, the relevant clauses of the Agreement and the remedy requested.

...

15.8 The arbitration board shall not have the authority to add to, subtract from, modify, change or alter any of the provisions of this Agreement; nor to add to, detract from or modify the language herein in arriving at a determination of any issue presented that is properly within the limitations expressed herein.

15.9 A teacher who is requested to attend a meeting which is disciplinary in nature or which may lead to discipline may choose to be accompanied by another teacher or representative of the Saskatchewan Teachers' Federation. Every effort will be made to provide sufficient notice of the meeting, including the purpose of the meeting. If the teacher chooses to be accompanied, the unavailability of the accompanying teacher or representative of the

Saskatchewan Teachers' Federation will not result in postponement of the meeting unless otherwise agreed to by both parties.

...

#### **4. Is the Arbitration Board's decision reasonable?**

[22] *Vavilov* provided a reviewing court with guidance on the nature of the reasonableness review. Reasonableness review is not a “line-by-line treasure hunt for error” (*Vavilov*, at para 102). More specifically, “a reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (*Vavilov*, at para 85). Alternatively, a decision will be unreasonable if there is no rational chain of analysis or an irrational chain of analysis if the conclusion does not follow from the preceding reasoning, if the reasoning is impossible to understand on a critical point considering the reasons together with the record or if the reasoning is marked by clear logical fallacies. (*Vavilov*, at paras 103-104).

[23] It is with this reasonableness lens in mind that I now turn to consider the Arbitration Board's decision. I will consider each of the School Division's issues separately, however many of the issues overlap.

##### **(a) Did the Arbitration Board exceed its jurisdiction?**

[24] The School Division argues the Arbitration Board exceeded its jurisdiction because it went beyond the narrow and discrete issue it was asked to decide, namely whether it had jurisdiction to hear the grievance.

[25] The School Division takes issue with the fact that the Arbitration Board considered “the overall context that applies to substitute teachers and the rights and obligations that are created between a substitute teacher and a school division”

(Arbitration Board decision, para 40).

[26] It is entirely reasonable and appropriate for the Arbitration Board to have considered the overall context of substitute teachers, including the rights and obligations created between a substitute teacher and the School Division. The Arbitration Board cannot make its decision in a vacuum. Context is necessary to inform their decision, even if it is a narrow and discrete decision regarding jurisdiction.

[27] The School Division also argues the Arbitration Board's determination that "there is ... no doubt that [Mr. Dorion's] entitlement to further and future employment opportunities was being terminated for reasons that were directly related to events that transpired while he was employed" and "no doubt that the outcome of the determination was disciplinary in nature" goes beyond the agreed statement of facts (Arbitration Board decision, para 41). They also argue the Arbitration Board made an unfounded assumption when it held that "but for [the School Division's] 'intervention', [Mr. Dorion] would have been retained on the substitute teachers list as available for employment" (Arbitration Board decision, para 42).

[28] The School Division argues the Arbitration Board was not asked to determine why Mr. Dorion was removed from the substitute teachers list, yet they speculated regarding the circumstances under which a teacher might be removed. They take issue with the Arbitration Board finding that the decision to remove Mr. Dorion was disciplinary in nature, because the agreed statement of facts only stated that the reason for removal was related to incidents which occurred on days Mr. Dorion was teaching. They argue the only question the Arbitration Board was asked to determine was whether a grievance could be brought in the circumstances, however, the Arbitration Board delved into the merits of the grievance when it found that the decision was disciplinary in nature.

[29] Regarding the Arbitration Board's speculation on the circumstances

under which a teacher might be removed from the substitute teachers list, while I agree this is outside the narrow issue of jurisdiction, the Arbitration Board acknowledged they had no evidence on this issue, and it was only mentioned at paragraph 43 of the decision. The Arbitration Board's comments in this regard are *obiter dicta* and did not factor into their analysis or conclusion.

[30] The School Division argues that procedural fairness was breached because the Arbitration Board went beyond the question it was asked to determine without allowing the parties an opportunity to lead evidence or to be heard by the decision-maker.

[31] I do not agree that the Arbitration Board delved in the merits of the grievance when it found the decision was disciplinary in nature. The Arbitration Board did not make any comments whatsoever regarding whether the decision was arbitrary, made in bad faith, or warranted in the circumstances. Rather, they made a reasonable inference that because the decision to remove Mr. Dorion from the substitute teachers list was due to incidents which occurred while he was teaching, it was disciplinary in nature. In the circumstances, the conclusion that the decision was disciplinary in nature was reasonable, and Article 15.9 would not be at issue if the decision was not disciplinary. I also do not find that the School Division suffered any breach of procedural fairness, particularly when, in their own brief, they referred to the decision as "performance issues, insubordination and theft".

**(b) Did the Arbitration Board make findings which were unsupported by the evidence?**

[32] The School Division argues that the Arbitration Board made three factual findings which were unsupported by the evidence:

- (a) that Mr. Dorion had an "entitlement" to further and future employment opportunities, and that this entitlement was being

terminated;

(b) that the decision was disciplinary in nature; and

(c) that, as a result, Mr. Dorion would not be eligible for any employment opportunities.

[33] In relation to the first finding, I agree with the STF's submissions that although the Arbitration Board incorrectly used the word "entitlement", when one reads the decision as a whole, it is clear the Arbitration Board is referring to Mr. Dorion's eligibility rather than entitlement to be called in for work as a substitute teacher.

[34] On the second finding, the Arbitration Board's finding that the decision was disciplinary in nature was a reasonable inference based on the facts before it. The agreed statement of facts stated, "The reasons for the removal, as communicated to [Mr. Dorion], were related to alleged incidents that occurred on days that [Mr. Dorion] was teaching." I also note that in the School Division's written brief, they state that the matters could be classified as performance issues, insubordination and theft in the course of his employment. The School Division also acknowledges that had they decided to address the concerns on a day Mr. Dorion was teaching, Article 15.9 of the PCBA would apply and STF representation and notice of the meeting would have been required.

[35] The School Division's whole argument before the Arbitration Board was that Article 15.9 does not apply because Mr. Dorion was not employed on the day he received the telephone call, not because the call was not disciplinary in nature. Based on the characterization of the incidents in their written brief, it does not appear that the School Division took issue with the incidents being characterized as disciplinary in nature when the matter was argued before the Arbitration Board. Article 15.9 only applies where a teacher is requested to attend a meeting which is "disciplinary in nature

or which may lead to discipline”. At no point did the School Division argue that Article 15.9 did not apply because the call was not disciplinary in nature.

[36] In light of this, it was reasonable for the Arbitration Board to infer that the telephone call and removal of Mr. Dorion from the substitute list was “disciplinary in nature”. If the removal of Mr. Dorion was due to budget reasons or some other reason, Article 15.9 would not even be contemplated, and the agreed statement of facts would not have referred to “alleged incidents” that occurred on a day Mr. Dorion was teaching.

[37] Accordingly, I find no error in the Arbitration Board’s finding that the decision to remove Mr. Dorion from the substitute teacher’s list was disciplinary in nature.

[38] Finally in relation to the Arbitration Board’s finding that Mr. Dorion would not be eligible for any employment opportunities, I do not find this conclusion to be unreasonable either. While there was no specific evidence regarding future opportunities, the bottom line is if Mr. Dorion’s name is not on the substitute teachers list, he will not be called for employment opportunities; therefore, while the wording could be more specific, it is not for this Court to do a line-by-line treasure hunt for errors.

**(c) Were the reasons of the Arbitration Board insufficient?**

[39] The School Division argues that the Arbitration Board’s reasons were insufficient in three areas:

- a. in relation to the Arbitration Board’s conclusion that Mr. Dorion was removed for disciplinary reasons;
- b. in relation to the Arbitration Board’s finding that the PCBA is

binding on all teachers; and

- c. in relation to the Arbitration Board's ultimate conclusion regarding its jurisdiction.

[40] Because the Arbitration Board's conclusion that Mr. Dorion was removed from the list for disciplinary reasons was a reasonable inference as set out above, I am of the view that the reasons are also sufficient. While the Arbitration Board could have provided more detail regarding how and why it came to that conclusion, viewed in its totality, the Arbitration Board's reasons in this regard are sufficient.

[41] The Arbitration Board's reasons for finding that the PCBA is binding on all teachers are also sufficient. The Arbitration Board first referred to Article 1.1 of the PCBA which states that the PCBA shall be binding upon all teachers and boards of education in the Province of Saskatchewan and upon the Government of Saskatchewan. The Arbitration Board then noted that there is no reference to or requirement for active employment in Article 1.1. The Arbitration Board then considered the School Division's argument that PCBA provisions regarding grievances did not apply on days a substitute teacher was not working because of the day-to-day nature of their employment. The Arbitration Board took guidance from the rights and obligations created between a substitute teacher and the school division. They concluded that the School Division's argument is too narrow and is inconsistent with the context of substitute teachers and the language of Article 15.9.

[42] The Arbitration Board considered the case law submitted by the School Division and found the cases were distinguishable. They appropriately looked at the wording in the collective agreements and found the wording was more restrictive than in the PCBA.

[43] *Algoma District School Board v Canadian Union of Public Employees,*

*Local 16 (Termination Grievance)* (2015), 252 LAC (4th) 128 (Ont Arb Bd), involved the termination of a casual employee from the position of custodian after a parent complained about the employee's social media contact with their child. The employer challenged the arbitrability of the grievance on the basis that the collective agreement did not allow casual employees the right to grieve, or refer the termination to arbitration. The arbitration board declined jurisdiction based on the specific language in the collective agreement, which was found to exclude the grievor's ability to bring a grievance. A number of provisions of the collective agreement were considered. Most importantly, the specific rights and privileges of a casual employee articulated in the collective agreement did not include access to the grievance and arbitration procedures.

[44] In *Canadian Union of Public Employees, Local 1860 v Newfoundland and Labrador Housing Corp. (Hussey Grievance)* (2015), 261 LAC (4th) 81 (Nfld Arb Bd) [*Newfoundland*], the board declined jurisdiction relating to a grievance filed by a temporary labourer who was not employed at the date of the grievance. The language of the collective agreement was clear that only an employee could file a grievance. The grievor had been employed in temporary positions; however, his employment was terminated more than four months before the grievance was filed. The board held that because the grievor was not an employee at the point the grievance was filed, the grievance was not arbitrable.

[45] In its decision, the Arbitration Board found that the *Newfoundland* case was distinguishable because the grievance provision in the PCBA were more broadly cast. Rather than referring to an employee or employment status, the term "teacher" is used.

[46] In *Westin Harbour Castle Hotel v United Food and Commercial Workers International Union, Local 333 (Tabas Grievance)* (2010), 197 LAC (4th) 307 (Ont Arb Bd) [*Westin*], the board found that a grievance filed by a casual employee was not

arbitrable because the provision of the collective agreement provided that the grievance procedure was only available to employees and not “former employees (non-employees)”. The case involved a casual banquet employee (the grievor), who was no longer given casual work from the hotel. The hotel had chosen to hire other casuals instead of the grievor. The board concluded that there was no contractual basis for a former employee’s claim that he had a right to be re-hired again or to question why he was not hired again. There was simply no language in the collective agreement on which the union could “hang its hat”.

[47] Again, the Arbitration Board distinguished the *Westin* case on the basis that the language in the PCBA is not as restrictive in relation to the grievance procedure. The Arbitration Board cited Article 15.1.2 of the PCBA, which provides that a grievance may be filed alleging that “a discretionary decision made with respect to a teacher’s employment was made arbitrarily or in bad faith”. They reason that whether or not Mr. Dorion was employed at the time of the call to him, it certainly appears that in removing his name from the substitute teachers list, the School Division made a decision with respect to his employment. The Arbitration Board concluded that it is difficult to characterize the decision as anything other than one which was made with respect to Mr. Dorion’s employment.

[48] Again, I can find nothing unreasonable in the Arbitration Board’s conclusions that the provisions of the PCBA are broader than the language of the collective agreements in the cases cited by the School Division. Their reasoning is logical and based on an internally coherent and rational chain of analysis.

[49] In relation to the Arbitration Board’s ultimate conclusion that it had jurisdiction to hear the grievance, the decision bears the hallmarks of reasonableness in its justification, transparency and intelligibility and is justified in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov*, at para 99). The

Arbitration Board was guided by the specific wording of the PCBA, and its conclusion followed logically from its analysis.

[50] To follow the School Division's argument to the extreme would mean that as long as the School Division takes action on a day the substitute teacher is not working, the substitute teacher has no ability to bring a grievance. This might lead to a situation where the School Division waits to communicate decisions until a substitute teacher is not working to ensure the provisions of the PCBA need not be complied with. In my view, this is an arbitrary and undesirable result, and I agree with the Board that it does not accord with the broader context of substitute teachers, including their rights and obligations.

**Conclusion**

[51] The School Division's application for judicial review is dismissed. I order costs under Column 2 payable by the School Division to the STF in the amount of \$5,000.00.

\_\_\_\_\_  
"R.C. Wempe" J.  
R.C. WEMPE