Court of King's Bench of Alberta

Citation: Sobeys Capital Incorporated v Miscellaneous Employees, 2025 ABKB 633

Date: 20251103
Docket: 2501 17137
Registry: Calgary

Between:

Sobeys Capital Incorporated

Applicant

- and -

Miscellaneous Employees, Teamsters Local Union No. 987 and Alberta Labour Relations Board

Respondents

Reasons for Decision
of the
Honourable Justice Colin C.J. Feasby

I. Introduction

[1] Sobeys Capital Incorporated ("Sobeys") is one of the largest grocery store operators in Canada. Teamsters Local Union No. 987 (the "Teamsters") represents employees who work at Sobeys distribution centre, refrigerated warehouse, and drive trucks delivering goods from those locations to Sobeys grocery stores in Calgary. After the collective agreement between Sobeys and Teamsters expired, the Teamsters went on strike and Sobeys locked the Teamsters out.

[2] At first, the Teamsters picketed at the Sobeys distribution centre and refrigerated warehouse. But these locations attract no public attention. On October 15, 2025, the Alberta Labour Relations Board ("ALRB") permitted the Teamsters to picket at Sobeys company-owned grocery stores in Calgary: ***Miscellaneous Employees, Teamsters Local Union No. 987 v Sobeys Capital Incorporated***, 2025 ALRB 126 (the "ALRB Decision"). The ALRB concluded that the role of some Teamsters in delivering goods to the Sobeys grocery stores made those locations places of work and thus legitimate places to picket.

[3] Sobeys applies for a stay of the ALRB Decision until a judicial review of the ALRB can be heard and decided by this Court. Sobeys complains that the picketing at grocery stores is causing irreparable harm to their reputation, disturbing the peace, and intimidating customers and employees. Sobeys says that a stay of proceedings should have the effect of preventing picketing at Sobeys grocery stores. To remove any doubt about what Sobeys wants, they ask in the alternative for an injunction to restrain the Teamsters from picketing until the judicial review is over. The Teamsters submit that a stay or injunction would infringe their *Charter* right to freedom of expression and give Sobeys an unjustified advantage in the labour dispute.

[4] This case first requires me to decide the correct standard to apply in the first stage of the injunction test. Must Sobeys establish a serious issue to be tried or a strong *prima facie* case? Once that is decided, I must apply the correct injunction test to the facts of the case.

II. The Sobeys-Teamsters Labour Dispute

[5] Sobeys operates retail grocery stores across Canada. Sobeys brands include Sobeys, Safeway, IGA, and FreshCo. Some Sobeys grocery stores are company stores and others are operated by franchisees. Sobeys operates a large warehouse in Rocky View County called the "Retail Support Centre" and a refrigerated warehouse in the industrial part of southeast Calgary called the "Calgary Refrigerated Warehouse."

[6] The Teamsters represent 251 employees who work at the Retail Support Centre, Calgary Refrigerated Warehouse, and drive trucks from those locations to Sobeys grocery stores. The Teamsters do not represent grocery store employees. Most of the grocery store employees are represented by the United Food and Commercial Workers Canada Union, Local 401 ("UFCW"). Some of the grocery store employees are represented by the Bakery, Confectionary, Tobacco Workers, and Grain Millers Internation Union.

[7] The collective agreement between Sobeys and the Teamsters expired on April 19, 2025. On September 18, 2025, the Teamsters commenced a strike, and Sobeys locked the Teamsters out. From the start of the strike, the Teamsters have been picketing at the Retail Support Centre and the Calgary Refrigerated Warehouse. The picketing at those locations is governed by agreed picketing protocols.

[8] On September 29, 2025, the Teamsters applied to the ALRB pursuant to the *Labour Relations Code*, RSA 2000, c L-1, sections 84 and 84.1 for permission to picket at Sobeys grocery stores. There were two grounds for the application. First, the Teamsters submitted that Sobeys grocery stores were the Teamsters' "places of employment" and, as such, picketing was permitted. Second, the Teamsters argued in the alternative that if the Sobeys grocery stores were not their places of employment, they should nevertheless be permitted to engage in secondary picketing at Sobeys grocery stores.

[9] The ALRB held a hearing on October 3, 2025 and rendered a decision on October 15, 2025. The ALRB held "that the Sobeys Banner Stores are a place of employment under section 84(1) of the *Code* for the striking and locked-out members of Local 987 employed by Sobeys." This ruling had the effect of permitting the Teamsters to picket at Sobeys company grocery stores, not Sobeys franchised grocery stores. The Teamsters commenced picketing at the Castleridge Safeway on October 16, 2025 and have been picketing Sobeys company grocery stores on a rotating basis ever since.

III. What is the Correct Interlocutory Injunction Test?

A. The Standard Tripartite Test and the *Woods* Exception

[10] Sobeys has framed the relief that it is seeking as a stay pending the Court's determination of the pending judicial review. The stay, according to Sobeys, would have the effect of prohibiting the Teamsters from picketing at Sobeys grocery stores because it is the ALRB Decision that permitted the picketing. Though the primary relief sought by Sobeys is in a technical sense a stay, it would, in effect, be an injunction restraining picketing by the Teamsters at Sobeys grocery stores. Sobeys asks, in the alternative, for "an interim Order to restrain picketing at Sobeys Banner Stores pending the outcome of the Judicial Review." To summarize, Sobeys asks for a stay that would have the effect of restraining picketing or, in the alternative, an injunction restraining picketing.

[11] The three-part test for a stay and the three-part test for an interlocutory injunction are essentially the same because a stay is a form of injunction. The leading case on the test for injunctions, ***RJR-MacDonald Inc v Canada (Attorney General)***, [1994] 1 SCR 311, was a stay case and confirmed at 334 that "the same principles should be applied by a court whether the remedy sought is an injunction or a stay." The only difference is at the first stage of the test where for a stay the focus is on the merits of the pending appeal or judicial review, not the merits of a yet to be adjudicated controversy. This means that in the present case, the first part of the test must focus on the merits of Sobeys' judicial review application, not whether the Teamsters are engaged in tortious actions. Sobeys' evidence concerning the Teamsters' actions is relevant to the second and third parts of the test.

[12] The standard interlocutory injunction test asks three questions:

(a) is there a serious issue to be determined?

(b) will the applicant suffer irreparable harm if the stay is refused? and

(c) does the balance of convenience favour the granting of the injunction?

American Cyanamid Co v Ethicon Ltd, [1975] AC 396 (HL); ***Manitoba (AG) v Metropolitan Stores Ltd***, [1987] 1 SCR 110; and ***RJR*** at 347-49.

[13] The standard injunction test is modified in some circumstances. For example, an injunction to restrain alleged defamatory statements is subject to a different and much more stringent test: ***Bonnard v Perryman***, [1891] 1 QB 571 (CA).[1] Mandatory injunctions are another exception where at the first stage of the injunction test an applicant must show a "strong *prima facie* case": ***R v Canadian Broadcasting Corp***, 2018 SCC 5 at para 15. The strong *prima facie* case standard is also used for injunctions to restrain trade and *Mareva* injunctions: ***City Wide Towing and Recovery Service Ltd v Poole***, 2020 ABCA 305 at para 26; ***Lloyd Gardens Inc v Chohan***, 2023 ABCA 328 at para 9.

[14] Justices Sopinka and Cory in ***RJR*** at 338 adopted an exception to the first part of the interlocutory injunction test stated by Lord Diplock in ***NWL Ltd v Woods***, [1979] 1 WLR 1294 (the "***Woods*** Exception"). Diplock LJ in ***Woods*** at 1307 recognized that there should be an exception to the serious issue to be tried standard in the first stage of the interlocutory injunction test where "the grant or refusal of the interlocutory injunction will have the practical effect of putting an end to the action." When this is the case, a judge may "engage in an extensive review of the merits": ***RJR*** at 338. This is what we refer to as the strong *prima facie* case standard.

[15] Sopinka and Cory JJ observed that, "[c]ases in which the applicant seeks to restrain picketing may well fall within the scope of this exception.": ***RJR*** at 338. Justice Sharpe, writing extra-judicially, explained in *Injunctions and Specific Performance*, at §3:29 why the higher strong *prima facie* case standard required by the ***Woods*** Exception often applies in picketing cases:

> The strike or event giving rise to picketing typically will have passed or been resolved long before it is possible to have a full-blown trial and it is misleading to suggest that the rights of the parties will be determined other than at the interlocutory stage. Moreover, the impact of an injunction in such cases will often impinge upon constitutional rights. In such circumstances, it is submitted that the court is entitled to consider the merits more fully and decide the case on the basis of the legal rights of the parties rather than on the balance of convenience.

[16] Justice Hughes, as she then was, in ***Telus Communications Inc v Telecommunications Workers Union***, 2005 ABQB 719 at paras 15-22 considered whether Telus had to establish a strong *prima facie* case of nuisance at the first stage of the interlocutory injunction test on an application to vary an injunction restraining picketing. She concluded at para 22 that Telus "must establish a strong *prima facie* case...." Her decision was affirmed without comment on her use of the strong *prima facie* case standard: ***Telus Communications Inc v Telecommunications Workers Union***, 2006 ABCA 397. Consistent with Hughes J's analysis in ***Telus***, Justice Donald observed in ***Prince Rupert Grain Ltd v Grain Workers' Union, Local 333***, 2002 BCCA 641 at para 27: "in cases where the order may effectively provide the whole of the relief sought

[1] For a recent statement of the strict ***Bonnard v Perryman*** test, see ***Yu v 16 Pet Food & Supplies Inc,*** 2023 BCCA 397 at paras 71-72 *per* Marchand J, as he then was, and ***Peterson v McNallie***, 2024 ABKB 127 at para 10 adopting Marchand J's statement of the test. The Alberta Court of Appeal recently expressed reservations concerning this approach in ***DeCourcy v Korlak***, 2025 ABCA 299 at para 6 though the Court only referred to ***Peterson***. Both Robert J Sharpe, *Injunctions and Specific Performance*, (Toronto: Thomson Reuters, online) at §5:2 and Randy Pepper *et al*, *Canadian Defamation Law and Practice* (Toronto: Thomson Reuters, online) at §6:2 comment favourably on the statement of the interlocutory injunction test to be used in defamation matters by Marchand J in ***Yu***.

in the action, and particularly in picketing cases, the threshold test is much higher: whether the applicant has established a strong *prima facie* case."

[17] Sobeys relies on three Ontario picketing cases where the serious issue to be tried rather than the strong *prima facie* case standard was used: ***Bank-Strox Renovation Inc v Laborers' International Union of North America, Local 183***, 2020 ONSC 4911; ***Brookfield Properties Ltd v Hoath***, 2010 ONSC 6187; and ***Titan Tool & Die Limited v Unifor and its Local 195, et al***, 2025 ONSC 2162. Though each of these cases states the standard interlocutory injunction test and applies the serious issue to be tried standard at the first stage, none of the cases contemplate the possibility that a different standard might apply. This suggests to me that, for whatever reason, in each case the picketing party failed to argue that the strong *prima facie* case standard should be used and the court did not raise the issue on its own accord. Without a reasoned explanation as to why the court used the serious issue to be tried standard, these cases are of little assistance.

[18] The correct approach to determining if the ***Woods*** Exception applies, in my opinion, is to ask whether granting the requested interlocutory relief will have the practical effect of granting final relief. The caselaw indicates that, in many picketing cases, granting interlocutory relief may amount to final relief. But that it is a matter of observation, not a firm rule. Before deciding on the appropriate standard to apply at the first stage of the three-part test, I must consider whether in the present circumstances granting interlocutory relief would amount in practical terms to granting final relief.

B. Does the Stay Sought by Sobeys Amount to Final Relief?

[19] To start with, the ***Woods*** Exception is concerned with the "practical effect" of the interlocutory relief not whether in a technical sense there is something left for the parties to fight over. That means that in the present case the question that must be answered is: What is the practical effect of a stay of the ALRB Decision or an injunction to restrain picketing?

[20] A stay of the ALRB Decision would prevent picketing at Sobeys company grocery stores until the Court has rendered a decision in the judicial review of the ALRB Decision. The judicial review will require a half-day special chambers application. Based on the Court of King's Bench website last updated on October 28, 2025, the first half-day special chambers application date available in Calgary is in April 2026. As a practical matter, given the time required to obtain a half-day special chambers application and the normal time required for a judge to render a reserved decision in a judicial review proceeding, a stay of the ALRB Decision or an injunction restraining picketing at the Sobeys company grocery stores would last between six and eight months.

[21] Picketing at the Sobeys company grocery stores only has value for the Teamsters so long as the labour dispute continues. Once the labour dispute is over, there is no practical reason to fight over whether picketing should have been allowed at the Sobeys company grocery stores. The length of the Sobeys-Teamsters labour dispute cannot be known but given the time that it takes to hear and decide a judicial review proceeding, there is a significant likelihood that if a stay or injunction is granted, the strike will be over before the judicial review is decided by the Court. As a practical matter, there is no point to the judicial review of the ALRB Decision once the labour dispute is over. To stay the ALRB Decision or enjoin picketing for 6-8 months would have the practical effect of granting final relief to Sobeys. The circumstances of the present case call for the application of the strong *prima facie* case standard.

[22] I note that at the time this application was heard, Sobeys had not asked the Court administration for an expedited hearing of the judicial review and as of the date of this decision, the judicial review hearing has not been scheduled. Perhaps my view on whether interlocutory relief amounted to final relief would have been different if Sobeys had acted with urgency and sought an expedited hearing from the Court. But I must take the facts as they are not as they might have been.

IV. Should the Court Grant Sobeys an Injunction

A. Does Sobeys Have a Strong *Prima Facie* Case?

[23] Since Sobeys' application is for a stay of the ALRB Decision pending completion of the judicial review or an injunction restraining picketing pending completion of the judicial review, the relevant question is whether Sobeys has a strong *prima facie* case in respect of the judicial review. Sobey's judicial review application focuses on what it considers to be the ALRB's legal errors because the ALRB proceeded on facts that were mostly agreed between the parties: ALRB Decision, para 4. The legal errors alleged by Sobeys' concern the ALRB's interpretation and application of the *Code*.

[24] Sobeys submits that the ALRB erred in concluding that the Sobeys company grocery stores are the Teamsters' "places of work" which, in turn, means that picketing at those locations is lawful. Sobeys says that this conclusion is an error because it is inconsistent with a prior ALRB case with similar facts that interpreted s 84(5) of the *Code* differently. Sobeys contends that the ALRB made an arbitrary and unreasonable distinction between Sobeys company grocery stores and Sobeys franchised grocery stores when it permitted picketing at Sobeys company grocery stores. Sobeys submits that its ownership of the Sobeys company grocery stores is not a relevant consideration for the ALRB under s 84(6) of the *Code* which provides the criteria to be considered when determining a place of work under s 84(5).

[25] The starting point or presumption is that the standard of review for the ALRB Decision that the judicial review judge will apply is reasonableness: ***Canada (Minister of Citizenship and Immigration) v. Vavilov***, 2019 SCC 65 at para 23. Review on the correctness standard is required for constitutional questions and general questions of law of central importance to the legal system as a whole: ***Vavilov*** at paras 55-62. The ALRB Decision does not address the constitution except as an aid for statutory interpretation or raise a question of law of central importance to the legal system. The standard of review for the ALRB Decision will almost certainly be reasonableness. The question for present purposes, then, is whether Sobeys can show a strong *prima facie* case that the ALRB Decision is unreasonable.

[26] The majority in ***Vavilov*** explained at para 85 that "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." Before I address Sobeys' specific concerns, I must say that my general impression of the ALRB Decision is that it is written in clear language, thoughtfully engages with the issues raised by the parties, and demonstrates that the decision-makers had a good understanding of the relevant law.

[27] Sobeys submits that the ALRB Decision is inconsistent with ***Centennial Packers v United Food and Commercial Workers, Local 373A***, [190] Alta. L.R.B.R. 164. Employees of Centennial Packers, a meat packing company, including delivery drivers, picketed at restaurants owned by third parties where Centennial Packers meat products were delivered. The ALRB held

at para 5 that "mere delivery of Centennial's products to restaurants does not make them the employment places of Centennial employees. On the limited facts before us, we do not find the restaurants to be an employment place of Centennial employees."

[28] Before I consider if the ALRB failed to follow ***Centennial Packers***, it is necessary to observe that the principles of *stare decisis* do not apply to administrative decisions in the same way as to court decisions. The majority in ***Vavilov*** explained at para 131 that "[w]hether a particular decision is consistent with the administrative body's past decisions is also a constraint that the reviewing court should consider when determining whether an administrative decision is reasonable." Departure from administrative precedent may be reasonable if it is justified. The ***Vavilov*** majority continued at para 131, "[w]here a decision maker *does* depart from longstanding practices or established internal authority, it bears the justificatory burden of explaining that departure in its reasons."

[29] The ALRB explained that it did not follow ***Centennial Packers*** for two reasons. First, the restaurants in Centennial Packers were owned by third-parties which is not the case with Sobeys company grocery stores. Second, ***Centennial Packers*** was an interim decision that did not consider *Charter* values. The ALRB explained its reasoning at para 67:

> As indicated above, Sobeys argues that the Board in *Centennial Packers* found that delivery of a product to a customer's location does not make that location a place of employment. There are sound policy reasons for this principle and the Board finds no reason to depart from it. However, it is important to understand the limits of what the Board held in *Centennial Packers*. In that case, a union and its members picketed the locations of third-party restaurants where employees of the employer involved in the labour dispute sometimes delivered its products: see *Centennial Packers* at paragraph 5. Further, the Board noted at paragraph 20 that the decision was "an interim decision arrived at without considering any Charter of Rights [*sic*] implications", which were not argued.

[30] I will come back to the question of ownership of the delivery location and its relevance to the determination of an employee's "place of work" as that question duplicates a separate ground of unreasonableness argued by Sobeys.

[31] The ALRB interpreted the term "places of work" in s 84(5) of the *Code* using *Charter* values. A decision-maker may use *Charter* values to resolve ambiguity: ***Bell ExpressVu Limited Partnership v. Rex***, 2002 SCC 42 at para 28. *Charter* values, however, may not be used "to create ambiguity when none exists": ***R v Clarke***, 2014 SCC 28 at para 1; ***Wilson v British Columbia (Superintendent of Motor Vehicles)***, 2015 SCC 47 at para 25.

[32] The ALRB observed the direction in ***Doré v Barreau du Québec***, 2012 SCC 12 at para 17 that "administrative decision-makers ... must consider *Charter* values in exercising discretion" and noted that "[p]icketing has been found by the Supreme Court of Canada to engage 'one of the highest constitutional values: freedom of expression...': see ***Pepsi-Cola Canada Beverages (West) Ltd v RWDSU, Local 558***, 2002 SCC 8 at para 32": ALRB Decision at para 45. The ALRB then concluded that "it may adopt a reasonable interpretation of the *Code* that is consistent with *Charter* values over an interpretation that is not, but the Board must still apply the plain language of the *Code* consistent with the principles of interpretation": ALRB Decision at para 12.

[33] The term "places of work" is not defined in the *Code*. "Places of work" is something that takes its meaning from repeated application to different fact scenarios. ALRB Decision at para 50 observed that "'places of employment' is a flexible concept that varies depending on context.'" The ALRB quoted a summary of its decisions on "places of work" from ***BioWare ULC v United Food and Commercial Workers Canada Union, Local No 401***, 2023 ALRB 7 at para 37 as follows:

> What is clear from the Board's jurisprudence referred to above, and the cases cited therein, is that an employee's place of employment can vary depending on the nature of the work. In particular, the cases highlight different considerations that may apply to employees that regularly work at multiple sites, employees that are mobile and may not have any regular work site, and employees that work at a common site with employees of other employers. For example, a customer's site may be a place of employment in some circumstances (see ***Attorney-General (Canada) v Elevator Constructors, Loc. 12***, [1973] 1 W.W.R. 766 (Alta. S.C.)), but not others (see ***Centennial Packers Ltd.***, [1990] Alta. L.R.B.R. 164).

[34] The ALRB considered the *Charter* value of freedom of expression in its determination of whether Sobeys company grocery stores were the Teamsters' places of work pursuant to s 84(5). Sometimes the use of *Charter* values is controversial, but in this case the ALRB's consideration of the *Charter* value of freedom of expression is consistent with what the *Code* directs the ALRB to do. Section 84(6) provides that "[w]hen the Board makes a determination or order under subsection (5) it shall consider the following: ... (d) the right to peaceful free expression of opinion." The fact that the ALRB characterized its consideration of freedom of expression to be a *Charter* value as opposed to something that was statutorily required is of no practical consequence.

[35] The ALRB emphasized at para 46 that even though it was considering the *Charter* value of freedom of expression, it "must still apply the plain language of the *Code* consistent with the principles of interpretation." At para 47, the ALRB stated that it "must consider the striking or locked out employees' place of employment broadly in light of ... freedom of expression, but in a manner that is still consistent with the language of the *Code*." Though the ALRB considered the *Charter* value of freedom of expression, it recognized that the boundaries of its interpretive discretion were set by the text of the *Code*. The ALRB's interpretive approach is consistent with the Supreme Court's view that text is the "anchor" of statutory interpretation: see, for example, ***Kosicki v Toronto (City)***, 2025 SCC 28 at para 37.

[36] Sobeys submits that the ALRB made an unreasonable distinction between Sobeys company grocery stores and Sobeys franchised grocery stores. Sobeys states that the delivery driver activities are the same at both Sobeys company grocery stores and Sobeys franchised stores. Sobeys contends that if Sobeys franchised stores are not the Teamsters' "places of work" neither can the Sobeys company stores be their "places of work." Sobeys argues that the ALRB Decision "resulted in circumstances where identical work performed by the same drivers could result in different legal outcomes depending solely on the ownership structure of the delivery destination." This is arbitrary and makes no sense, according to Sobeys, because picketing is allowed at Sobeys company grocery stores and not Sobeys franchised stores "even though the work performed, the employees involved, and the nature of the dispute remain the same."

[37] A question to be considered on judicial review is whether the ALRB's use of ownership as a criterion in determining whether the Sobeys company grocery stores were one of the Teamsters' places of work for the purpose of s 84(5) of the *Code* was reasonable. Sobeys says that according to s 84(6) of the *Code* ownership is not a relevant consideration for determining places of work under s 84(5). Section 84(6) of the *Code* provides as follows:

> (6) When the Board makes a determination or order under subsection (5) it shall consider the following:
>
> (a) the directness of the interest of persons and trade unions picketing in respect of a labour dispute or difference;
>
> (b) violence or the likelihood of violence in connection with picketing in respect of a labour dispute or difference;
>
> (c) the desirability of restraining picketing in respect of a labour dispute or difference so that the conflict, dispute or difference will not escalate;
>
> (d) the right to peaceful free expression of opinion.

[38] Though s 84(6) of the *Code* does not use the word "ownership," it instructs the ALRB to consider the directness of the interest of the trade union that is picketing. Ownership is something that goes to the directness of the interest of the trade union that is picketing. Based on the arguments before the Court at this preliminary stage, the ALRB's use of ownership as a factor to determine if the Sobeys company grocery stores were some of the Teamsters' places of work appears reasonable. As such, the distinction the ALRB made between Sobeys company grocery stores and Sobeys franchised grocery stores also appears reasonable, not arbitrary.

[39] I find that Sobeys has not shown a strong *prima facie* case that the ALRB Decision is unreasonable. Some of the Teamsters drive trucks delivering goods to the Sobeys company grocery stores and spend time at those locations unloading the goods. The ALRB conclusion that this reality combined with Sobeys' ownership of the Sobeys company grocery stores makes those locations some of the Teamsters' places of work appears to be reasonable at this early stage of the judicial review proceeding.

[40] Since I have found that Sobeys has not demonstrated that it has a strong prima *facie case*, I am not required to consider the second and third parts of the injunction test. I nevertheless provide my reasoning on those parts of the test in the following sections of these Reasons just in case I am incorrect that Sobeys must show a strong *prima facie* case. Had the standard been serious issue to be tried, Sobeys would have cleared the bar, though just barely.

B. Will Sobeys Suffer Irreparable Harm?

[41] The second stage of the injunction test requires me to consider if Sobeys will suffer irreparable harm if the stay or injunction restraining picketing is not granted. Lord Diplock held in ***American Cyanamid*** at 408 that "[i]f damages in the measure recoverable at common law would be adequate remedy and the defendant would be in the financial position to pay them, no interlocutory injunction should normally be granted...." Sopinka and Cory JJ in ***RJR*** at 315 explained that "'[i]rreparable' refers to the nature of the harm suffered rather than its magnitude. It is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other." The Alberta Court

of Appeal has used the shorthand "harm not compensable in damages" to explain the usual meaning of "irreparable harm": ***Unifor, Local 707A v Suncor Energy Inc,*** 2018 ABCA at para 8.

[42] Sobeys claims that it will suffer various kinds of harm including lost sales, loss of goodwill or reputational damage, and damage to its business relationships with property managers. Sobeys also claims that its employees and customers are being harassed and intimidated. There can be little doubt that Sobeys' claims of harm have some validity because inflicting harm to gain economic leverage is one of the reasons that people picket. While financial losses caused by picketers persuading consumers to avoid Sobeys is not irreparable harm because it is compensable in damages, the other harms asserted by Sobeys are of the sort courts have found to be irreparable: see, for example, ***Brookfield Properties v Hoath***, at para 56.

[43] I am satisfied that if a stay or injunction is not granted, Sobeys will suffer irreparable harm. I will address the magnitude of the harm to Sobeys as part of the balance of convenience analysis.

C. Which Party Does the Balance of Convenience Favour?

[44] The third stage of the test requires the Court to determine which of the parties will suffer the greater harm from the granting or refusal of an interlocutory injunction: ***Metropolitan Stores*** at para 36; ***Denis v Sauvageau***, 2022 ABCA 166 at para 33.

[45] The harm to the Teamsters from the granting of the requested stay or injunction is the loss of their constitutional right to freedom of expression at a time that right has the potential to play a pivotal role in a labour dispute. Chief Justice McLachlin and Justice Lebel, writing for the Court, in ***Pepsi*** at para 34 explained the importance of freedom of expression to unionized employees in a labour dispute:

> Free expression in the labour context thus plays a significant role in redressing or alleviating this imbalance [in power between employer and employees]. It is through free expression that employees are able to define and articulate their common interests and, in the event of a labour dispute, elicit the support of the general public in the furtherance of their cause: *KMart*, *supra*. As Cory J. noted in *KMart*, *supra*, at para. 46: "it is often the weight of public opinion which will determine the outcome of the dispute".

[46] Granting the stay or injunction to restrain picketing would consign the Teamsters to picketing at the Retail Support Centre and Calgary Refrigerated Warehouse, both of which are in locations that will not garner significant public attention. Picketing at Sobeys company grocery stores is how the Teamsters can make the public aware of the labour dispute and exert leverage on Sobeys. The loss of the right to picket at Sobeys company grocery stores would cause significant harm to the Teamsters.

[47] I have already found that Sobeys will suffer irreparable harm if the requested stay or injunction to restrain picketing is not granted. The question that must be addressed now is the magnitude of the harm to Sobeys. Sobeys adduced affidavit evidence of harm from several Sobeys company grocery store managers or managers in training as well as Sobeys' Director of Labour Relations. The extent of the harm to Sobeys is disputed by the Teamsters affiant. Given that there is conflicting evidence that has not been tested by cross-examination, I am not in a good position to discern which evidence is correct.

[48] Leaving aside the conflicting evidence, I am persuaded that the potential harm to Sobeys is not as significant as the potential harm to the Teamsters because the ALRB has the power and ongoing jurisdiction to regulate picketing at the Sobeys company grocery stores to address many of the concerns raised by the Sobeys affiants. This was pointed out by the ALRB at para 57 of the ALRB Decision:

> The Board also wishes to highlight at this point its ability to regulate picketing pursuant to section 84(5)(b). The Board considers the same factors listed in section 84(6) when determining whether and how to regulate picketing. For the reasons provided above, the Board views the striking or locked-out place of employment broadly, subject to the limits imposed by the plain language of the *Code*. However, the Board may be inclined to impose greater restrictions on picketing at locations to which striking or locked-out employees have a weaker connection. This is consistent with the considerations in section 84(6)(b) and (c) of the *Code* about violence or the likelihood of violence, and the desirability of restraining picketing in respect of a labour dispute or difference so that the conflict does not escalate. [Emphasis added].

[49] Sobeys applied to the ALRB on October 20, 2025 for an order that the Teamsters cease and desist their picketing at Sobeys company store locations. The cease and desist application cited many of the same harms complained of in the present application. The ALRB scheduled a hearing for October 24, 2025, but it was adjourned *sine die* on October 23, 2025 after a resolution conference between the parties was presided over by one of the ALRB Vice Chairs. The Originating Notice for the present application seeking a stay or injunction restraining picketing was filed the next day.

[50] The ALRB is better placed than the Court to address problems with picketing. The ALRB has subject-specific experience and expertise, the capacity to convene hearings or settlement conferences on short notice, and a statutory framework that allows it to grant targeted relief. The Court has the jurisdiction to grant a stay or an injunction restraining picketing pending completion of the judicial review, but those are all or nothing remedies. Sobeys asks the Court to use its hammer when the ALRB stood ready with a scalpel.

[51] Some of Sobeys' evidence of harm concerned the effect of the picketing on the employees of the Sobeys company grocery stores. These concerns are expressed by affiants who are store managers or management trainees, not the employees themselves. Further, it is clear from the ALRB Decision at para 65 that UFCW which represents most of the employees at the Sobeys company grocery stores supports the Teamsters.

[52] The Teamsters' loss of their constitutional right to freedom of expression at a critical juncture in the labour dispute outweighs any harm that may be suffered by Sobeys because of continued picketing at the Sobeys company grocery stores. Sobeys' ability to seek further orders from the ALRB to address concerns with the Teamsters' picketing activities mitigates the extent of any potential harm to Sobeys.

V. Conclusion

[53] Sobeys has not met the strong *prima facie* case threshold, so its application for a stay or injunction restraining picketing pending the completion of the judicial review proceeding is dismissed. If I am wrong and Sobeys was only required to meet the serious issue to be tried

standard, I would still not have granted the requested relief because the balance of convenience favours the Teamsters.

[54] I award costs to the Teamsters. If the parties are unable to agree on the amount of costs, they may provide written submissions of three pages or less supported by a Bill of Costs.

Heard on the 31st day of October, 2025.
Dated at the City of Calgary, Alberta this 3rd day of November, 2025.

Colin C.J. Feasby
J.C.K.B.A.

Appearances:

Rebecca J. Silverberg, McLennan Ross LLP
for the Applicant

Clayton H. Cook, McGown Cook
for the Respondent

Tim Nessim
for the Alberta Labour Relations Board