CITATION: Sobeys Capital Inc. v. United Food and Commercial Workers International Union, Local 633, 2026 ONSC 936
DIVISIONAL COURT FILE NO.: 385/25-JR
DATE: 20260213

ONTARIO

SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

R. Lococo, S. Nakatsuru, M. Kurz JJ.

BETWEEN:	
SOBEYS CAPITAL INC. Applicant	*Christopher D. Pigott and Lennie Lejasisaks*, for the Applicant
– **and** –	
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, LOCAL 633 and ONTARIO LABOUR RELATIONS BOARD Respondents	*James Craig and Georgina Watts*, for United Food and Commercial Workers International Union, Local 633 *Aaron Hart*, for Ontario Labour Relations Board HEARD at Toronto: October 28, 2025

M. Kurz J.

Introduction

[1] This is an application by Sobeys Capital Inc. ("Sobeys") for judicial review of a decision of the Ontario Labour Relations Board ("OLRB" or the "Board") dated August 20, 2024 (the "Main Decision"), reported at 2024 CanLII 86553 (ON LRB). The OLRB certified the Respondent, United Food and Commercial Workers International Union, Local 633 ("Local 633"), as a craft bargaining unit for the meat department workers of the Sobeys supermarket located at 125 the Queensway, Toronto (the "Queensway Store"), under s. 9(3) of the Ontario *Labour Relations Act, 1995*, S.O. 1995, c. 1, Sched. A ("*OLRA*"). The OLRB further found, in the alternative, that Local 633 was an appropriate bargaining unit under s. 9(1) of the *OLRA*. Sobeys's request for reconsideration of the Main Decision by the OLRB was refused on April 17, 2025 (the "Reconsideration Decision"), reported at 2025 CanLII 46606 (ON LRB).

[2] Sobeys asks that the Main Decision and the Reconsideration Decision (collectively the "Decisions") be quashed and set aside and that Local 633's application for certification be

dismissed. In the alternative, it requests that Local 633's application for certification be remitted to another panel of the OLRB for a fresh hearing and determination in accord with directions from this court.

[3] Sobeys argues that the decision of the OLRB was unreasonable and contrary to the principles for certification set out in previous Board decisions, whether for craft locals or other bargaining units. Sobeys points out that Local 633 has not applied for stand-alone craft union certification of a supermarket meat department for over three decades, since 1984. The only times Local 633 has applied for craft union certification were in conjunction with another local of the same union that represents the balance of the subject supermarket's employees.

[4] Sobeys further contends that the OLRB's alternate route to certification conflated the test for an appropriate bargaining unit under s. 9(1) of the *OLRA* with that for a craft unit under s. 9(3). The end result is an "absurd" one, leaving Sobeys to bargain with a unit of 15 unionized meat department workers, representing only eight percent of the Queensway Store's employees, while the balance of its approximately 200 employees remain non-unionized. The absurdity includes the OLRB's failure to explain why the Queensway Store's meat department workers differ so significantly from its other employees and why the Decisions do not create the risk that other small groups' applications for certification in the Queensway Store will proliferate.

[5] Local 633 responds that the Decisions are reasonable. It says that the Board did not deviate from the principles for craft unit certification set out in its previous decisions. It further points to authorities that call for the OLRB to look at the quality and not just the quantity of representation by a union local. While Local 633 has not applied for stand-alone certification of a group of supermarket meat department employees since 1994, it and its predecessor local have been representing many such units for decades and have been certified as such, in conjunction with another union local, Local 175, representing the remaining supermarket employees.

[6] Regarding the OLRB's determination that it is an appropriate bargaining unit, Local 633 says that the OLRB reasonably and appropriately looked to its long and rich history of collective bargaining on behalf of supermarket meat department employees to find little risk of collective bargaining fragmentation. Finally, Local 633 asserts that the Decisions do not create an absurd outcome. It says that Sobeys is a sophisticated and well-resourced grocery chain, while it (Local 633) has extensive experience negotiating on behalf of meat department employees. The OLRB's finding that the proposed bargaining unit will not likely cause labour relations problems is entitled to deference. Thus, the Decisions do not create an absurd result.

[7] For the reasons that follow, I find that the OLRB's Decisions are reasonable in regard to each of its craft unit, appropriate bargaining unit and "absurd result" determinations. Accordingly, I would dismiss this application.

Background

[8] Sobeys is a major grocery chain. It operates the Queensway Store, with about 200 employees, including 15 meat department workers. The Queensway store has nine different departments, including the meat department. What is described in these reasons as the Queensway

Store's meat department consists of meat cutters, meat clerks, seafood operators and seafood clerks. All of those employees but the seafood clerks report directly to the Queensway Store's meat manager. But the seafood clerks report to the seafood operator, meaning that they indirectly report to the meat manager.

[9] The OLRB found that Local 633 and its predecessor local have represented supermarket meat workers for decades and that Local 633 continues to do so. The Board added that United Food and Commercial Workers International Union, Locals 633 and 175, work in collaboration "in various ways surrounding [collective] bargaining", with Local 175 representing the non-meat department employees. Nonetheless, Local 633 is a separate local union, with its own executive. It is the bargaining agent for the meat department employees in those stores where Local 175 represents the other supermarket workers.

Applicable Authorities

[10] There is no dispute that this application for judicial review must be determined on a standard of reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at para. 10; *Turkiewicz (Tomasz Turkiewicz Custom Masonry Homes) v. Bricklayers, Masons Independent Union of Canada, Local 1*, 2022 ONCA 780, 476 D.L.R. (4th) 421, at para. 53, leave to appeal refused, 2023 CanLII 67201 (S.C.C.).

[11] At para. 13 of *Vavilov*, the majority of the Supreme Court of Canada found that the reasonableness standard is "robust". It applies to ensure that "courts intervene in administrative matters only where it is truly necessary to do so". Its starting point is "the principle of judicial restraint" which demonstrates respect for the distinct role of administrative decision makers, while avoiding a "rubber-stamping process".

[12] A reasonableness analysis is concerned with the decision-making process and its outcomes: *Vavilov*, at paras. 83 and 87. A reasonableness analysis looks to the rationale for the decision and the outcome to which it led: *Vavilov*, at para. 83. "[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." A reviewing court must defer to such a decision: *Vavilov*, at para. 85. The reviewing court must ask "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility—and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision": *Vavilov*, at para. 99.

[13] A reasonableness analysis examines both the reasoning process that led to the outcome and the outcome itself. In doing so, the reviewing court must not engage in a disguised correctness determination. The court may not create its own yardstick and then use it to measure what the administrator did: *Vavilov,* at para. 83. The court must be attentive to and respectful of the specialized knowledge of the administrator: *Vavilov*, at para. 93.

[14] The applicant bears the burden of demonstrating unreasonableness, including that any shortcomings or flaws "are sufficiently central or significant to render the decision unreasonable": *Vavilov*, at para. 100.

[15] Labour relations boards are entitled to the highest levels of judicial deference to matters within their exclusive jurisdiction: *Maystar General Contractors Inc. v. International Union of Painters and Allied Trades, Local 1819*, 2008 ONCA 265, 90 O.R. (3d) 451, at para. 42. In *Maystar*, the Ontario Court of Appeal found that the certification of labour unions in the construction industry are such matters. That reasoning applies equally to labour unions in the supermarket food industry.

[16] In *Ball v. McAulay*, 2020 ONCA 481, 452 D.L.R. (4th) 213, the Court of Appeal stated at para. 43 that "[f]ew tribunals have received more judicial deference than labour tribunals and nothing in *Vavilov* detracts from this posture".

Issues

[17] This application raises the three following issues:

1. Was the OLRB's determination of the *OLRA* s. 9(3) craft unit analysis reasonable?

2. Was the OLRB's determination of the *OLRA* s. 9(1) appropriate bargaining unit analysis reasonable?

3. Did the Decisions create an absurd outcome?

Issue No. 1: Was the OLRB's Determination of the *OLRA* s. 9(3) Craft Unit Analysis Reasonable?

[18] Section 9(3) of the *OLRA* reads as follows:

> **Crafts units**
>
> (3) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or crafts shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to the skills or craft, and the Board may include in the unit persons who according to established trade union practice are commonly associated in their work and bargaining with the group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made.

[19] Sobeys argues that the Decisions, which certified Local 633 as a craft unit for the Queensway Supermarket, are contrary to previous OLRB decisions under s. 9(3). Those decisions required a union seeking certification of a craft unit to prove that it commonly bargains on behalf of the craft unit, separate and apart from other employees.

[20] Sobeys asserts that s. 9(3) represents a "craft worker" exception to the OLRB's general principle. That principle attempts to avoid union representation of small labour units in larger workplaces unless they meet the strict requirements of s. 9(3), as interpreted by the Board's decision in *International Brotherhood of Electrical Workers Local Union 1687 v. Kidd Creek Mines Ltd.*, 1984 CanLII 937 (ON LRB) ("*Kidd Creek Mines*").

[21] In *Kidd Creek Mines*, the OLRB rejected an application from a local of the International Brotherhood of Electrical Workers to establish a craft unit for maintenance electrical workers at a particular mine. The Board did so because the union had failed to meet the test of the predecessor provision of s. 9(3)[1] since it lacked a sufficient history of commonly bargaining separately for maintenance electrical workers in mining or manufacturing: at para. 63.

[22] In coming to this decision, the OLRB found, at para. 57, that the *OLRA*'s craft unit provision requires an applicant trade union to satisfy the following test:

1. It must "*already commonly* bargain separately and apart from other employees" (emphasis in original); and

2. It must have traditionally represented employees with the craft skills of the proposed members of the unit.

[23] Those two conditions, taken together, require the OLRB to look to the history of the union's collective bargaining for the particular craft to determine whether separate bargaining is already a common and established practice. In *Kidd Creek Mines*, the Board explained, at para. 62, that the rationale for that test is the legislature's intent to preserve the status quo of already existing craft bargaining units rather than extend craft representation rights.

[24] Sobeys points out that the Board opined in *Kidd Creek Mines*, at para. 57, that the *OLRA*'s craft unit provisions "effectively preclude the development of new craft unions and, in our view, limit the extension of craft bargaining patterns beyond their traditional boundaries." Therefore, a union seeking certification as a craft unit must "put before the Board a coherent body of collective bargaining experience to demonstrate that it *commonly* bargains on behalf of such employees, separately and apart from other employees": at para. 61 (emphasis in original).

[25] Sobeys adds that despite its long history of representing supermarket meat department workers, Local 633 has not applied for a separate "meat department" bargaining unit since 1994.

[26] Local 633 responds that Sobeys ignores both facts and precedent as it attempts to simply re-argue what it twice unsuccessfully argued before the OLRB. While Local 633 had not separately applied for stand-alone certification of a meat department since 1994, the OLRB found that it and its predecessor local have a long and ongoing history of representing supermarket meat department employees. Local 633 points out that it represents numerous supermarket meat department

[1] The previous provision, s. 6(3) of the *OLRA*, contained identical wording to the present s. 9(3).

employees in Ontario. At para. 39 of the Main Decision, the OLRB cited evidence presented by Local 633:

> [T]hat it bargains on behalf of approximately 60 existing bargaining units at Metro grocery stores, and at least 15 or 16 Loblaws grocery stores. The Union entered into evidence some examples of collective agreements that show it representing meat department employees over the years, including to the present day.

However, as stated above, it has not applied for union certification for supermarket meat workers absent another, larger union local, Local 175, for over three decades, since 1994.

[27] Local 633 also asserts that its relationship with its sister local of the same union, Local 175, which typically represents non-meat department workers in grocery stores, does not disentitle it from separately representing meat departments in the same stores. When joint certification occurs, there are separate collective agreements, with separate provisions, for the two locals in the same stores.

[28] Local 633 further argues that the decision in *Kidd Creek Mines* does not close the door on new certification of craft unions. Rather it was a decision made on the specific facts before the Board at the time it was made. There, the proposed union local did not meet the craft unit test. It failed to put before the Board "a coherent body of collective bargaining experience to demonstrate that it *commonly* bargains on behalf of such employees, separately and apart from other employees" (emphasis in original): at para. 61. The union in *Kidd Creek Mines* could only point to one of 161 mines operating in Canada at the time in which it had an established presence. Even there, the OLRB found that the union "bargains together with a number of other trade unions, and the bargaining unit it represents is not a pure unit of electricians for whom the I.B.E.W. bargains by themselves, but a mixed group of electricians and others": at para. 63.

[29] Even looking beyond Canada and beyond the mining industry, the applicant union in *Kidd Creek Mines* was unable to demonstrate an established presence or consistent craft bargaining practice. Rather, the OLRB described the subject union's bargaining history in the craft sector it sought to be certified, maintenance electricians, as: "isolated, sporadic, unrepresentative, and decidedly *uncommon*": at para. 66 (emphasis in original).

[30] Furthermore, Local 633 argues that *Kidd Creek Mines* must not be read as if it represents a blanket prohibition on the new certification of craft union locals. In fact, as set out above, there have been a number of Local 633 certifications since that decision was released. For example, in *United Food and Commercial Workers International Union Local 633 v. H. W. Gluck Limited (Keswick I.G.A.)*, 1987 CanLII 3127 (ON LRB), the Board certified Local 633 as a craft unit for meat department workers at the Keswick IGA supermarket. That certification was granted despite Local 633's relationship with Local 175, which represented all other workers at that supermarket. The OLRB wrote, at para. 9:

> In the instant application, the bargaining unit sought by Local 633 is the same unit which, on the history of the cases above referred, the Board previously has found to satisfy the conditions of section 6(3) [now s. 9(3)] of the Act when the employees

> are represented by Local 633. The unit is one deemed by section 6(3) to be appropriate for collective bargaining. It was in these circumstances and for these reasons that the Board made its finding in paragraph *5* of its September 2, 1987, decision that a unit comprised of the respondents full-time meat department employees was a unit appropriate for collective bargaining.

[31] The OLRB came to the same conclusion in 1994 in *United Food and Commercial Workers International Union, Local 633 v. Longo Brothers Fruit Markets Inc.*, 1994 CanLII 9975 (ON LRB). At para. 5, the OLRB found that: "… the meat cutters and wrappers at Longo Brothers Fruit Markets Inc. continue to exercise technical skills and continue to be members of a craft by reason of which they are distinguishable from the other employees" (citations omitted).

[32] Furthermore, the OLRB was explicit in *Kidd Creek Mines* that negotiation in conjunction with another union local will not defeat a claim to craft unit certification. The OLRB wrote at para. 14: "[o]f course, the fact that the I.B.E.W. may find it expedient to negotiate in conjunction with other unions may not weaken its claim to a craft unit under section 6(3); nor would the Board wish to create a disincentive to engaging in joint bargaining."

[33] The point was made in the Reconsideration Decision, which referred to the relationship between Locals 633 and 175. The OLRB found that the fact that those locals bargain in concert is not fatal. Rather, as the OLRB stated at para. 14: "it is consistent with the Board's longstanding recognition of UFCW's ability to elect whether to seek all employees in a grocery store, or to separate the meat department from the rest of the employees." The Board cited the uncontradicted evidence of a former President and Servicing Representative of Local 633, who was on its negotiation committee and had participated in 12 or 13 rounds of bargaining on its behalf. That witness stated, without contradiction, that Local 633 continues to be its own separate local, has its own executive and is the bargaining agent for approximately 75 meat department bargaining units in Ontario.

[34] Local 633 further asserts that it does not represent any supermarket workers other than meat department employees, a fact which is noted in the Decisions. While it may enter into collective agreements in parallel with Local 175, and those separate agreements may be memorialized in the same booklet for convenience, the OLRB has previously found that those facts were no impediment to certification: *Graphic Communications International Union, Local 500M v. Quebecor World Islington, Quebecor World Inc.*, 2001 CanLII 2775 (ON LRB), at para. 11.

[35] Local 633 also emphasises that *Kidd Creek Mines* should be understood within the context of subsequent OLRB decisions, particularly *International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators, Local 173 v. Niagara Falls Imax Theatre*, 1995 CanLII 9922 (ON LRB). At para. 18 of that decision, which was issued 11 years after *Kidd Creek Mines* and cited that authority, the OLRB, deciding on craft certification under what is now s. 9(3), stated that it:

> … does not gauge bargaining history by looking at how many bargaining units an applicant has or the number of collective agreements reached. **The issue for the**

> **Board is the quality of the bargaining history**: Among other factors the Board may consider who the applicant has represented historically, how long that history is, and whether the applicant has been consistent in maintaining its practice of representing only those for whom it is claiming craft status. [Emphasis added.]

[36] Local 633 asserts that the Board did just that in this case, considering its long history of bargaining on behalf of meat department workers, whether alone or in conjunction with Local 175, as cited above.

[37] Furthermore, in its Reconsideration Decision, the Board found that the Main Decision does not contradict the principles set out in *Kidd Creek Mines*. As it stated at para. 17 of the Reconsideration Decision:

> Rather, it represents a preservation of the *status quo.* It must be acknowledged that, notwithstanding the Board's general aversion to emergent craft bargaining units, the Ontario Legislature has not repealed subsection 9(3) of the Act. In short, I do not agree with the Employer that there is a statutory or policy-based impediment to the Union seeking its historical craft unit in the circumstances. Furthermore, notwithstanding the Board's comments in *Kidd Creek*, respecting the restrictive nature in which the Board ought to treat craft unionization, this did not stop the Board from granting meat department certificates thereafter (See for example, *995584 Ontario Ltd. c.o.b. as LOEB Club Plus Pembroke*, [1994] O.L.R.D. No. 1912 and *Longo Brothers Fruit Markets Inc.*, [1994] OLRB Rep. March 266).
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> Analysis of the s. 9(3) Issue

[38] The OLRB is a specialist tribunal with long and deep expertise in the certification of unions, including craft unions under s. 9(3) and its predecessor provision.

[39] Here, it closely considered the history of Local 633, which has represented only supermarket meat department employees for decades, and the quality of its representation.

[40] As set out by Local 633, the Board's decision to certify Local 633 does not deviate from the principles of its previous decisions about certification of craft units, including *Kidd Creek Mines.* The Board considered the quality as well as the duration of Local 633's representation of supermarket meat department workers. I agree that Local 633's cooperative relationship with Local 175 does not operate as a bar to its certification. They remain separate bargaining units. Nor does the absence of a recent application for sole certification disentitle Local 633 from making this application.

[41] Looking to the quality of its bargaining history on behalf of supermarket meat department workers and the fact that it has continuously represented meat workers for many decades and continues to do so, the Board reasonably decided that Local 633 met the qualifications set out in s. 9(3). For so long as s. 9(3) remains in force, there is no statutory or policy-based impediment to Local 633 continuing its history of representing craft workers in circumstances such as those before this court.

[42] For the reasons set out above, including those offered by Local 633, which I adopt, I find that the Decisions regarding the application of s. 9(3) to the facts of this case are reasonable. They align with the Board's previous jurisprudence, including both *Kidd Creek Mines* and *Niagara Falls Imax Theatre*.

<u>Issue No 2:</u> Was the OLRB's Determination of the *OLRA* s. 9(1) Appropriate Bargaining Unit Analysis Reasonable?

[43] My findings regarding the OLRB's craft unit reasoning are sufficient to dispose of the issues in this application save that regarding the question of whether the Decisions lead to an absurd result. Nonetheless, I will consider its s. 9(1) analysis.

[44] Section 9(1) of the *OLRA* reads as follows:

> **Board to determine appropriateness of units**
> 9 (1) Subject to subsection (2)[2], upon an application for certification, the Board shall determine the unit of employees that is appropriate for collective bargaining, but in every case the unit shall consist of more than one employee and the Board may, before determining the unit, conduct a vote of any of the employees of the employer for the purpose of ascertaining the wishes of the employees as to the appropriateness of the unit.

[45] Sobeys argues that the Decisions unreasonably imported a s. 9(3) analysis into the determination of a s. 9(1) issue. In doing so, Sobeys asserts, the OLRB conflated the two tests.

[46] Sobeys asserts that the OLRB determined that Local 633 was an appropriate bargaining unit for the meat workers of the Queensway Store, based on the local's history of bargaining for craft unions. The Board relied on that history to find little risk that certification would result in fragmentation of bargaining units within this workplace even though it would leave the Queensway Store with one union for its 15 meat department workers and no union for the balance of its 200 workers.

[47] Sobeys says that the Board ignored both its previous rulings and the evidence before it to arrive at its s. 9(1) conclusion. Sobeys cites, for example *International Brotherhood of Electrical Workers v. Casino Rama Services Inc.*, 2009 CanLII 3266 (ON LRB), where the Board wrote, at para. 35:

> The onus of establishing that its proposed bargaining unit is appropriate lies on the IBEW. In the absence of evidence to the contrary, the Board's experience leads it to conclude that granting a departmental unit will lead to undue fragmentation of

[2] Section 9(2) is irrelevant to the court's analysis in this case.

> bargaining units within this workplace unless there is no reasonable prospect that a union will succeed in organizing the other employees in the workplace.

[48] Despite this experience, Sobeys argues, the Decisions effectively create a reverse onus in favour of unionization. They do so in the absence of evidence which would refute the threat of bargaining fragmentation. The Board failed to offer anything but conclusory statements in support of its findings.

[49] Furthermore, Sobeys claims that if the Board's s. 9(1) analysis were accepted, it would allow for a "watered down" s. 9(3) analysis to suffice under s. 9(1).

[50] Local 633 disagreed that the OLRB applied a "watered down" s. 9(3) analysis. Rather, Local 633 contends that the Board looked at its long history of representing supermarket meat department workers without creating any labour problems in the unionized grocery stores in which it operated. Thus, the Board found insufficient evidence of the risk of future labour problems if Local 633 were certified. Further, while there has been a historical presumption that departmental unionization could cause labour fragmentation, exceptions exist to that presumption, where, like here, historical practice overcomes the presumption. Rather than a reversal of the onus, not to mention precedent, Local 633 argues that the Board's s. 9(1) decision is grounded in the totality of the evidence before the Board, including Local 633's history of collective bargaining on behalf of its members working in supermarkets.

Analysis of the s. 9(1) Issue

[51] In arriving at the Decisions, the OLRB considered its precedent in *Canadian Union of Public Employees v. Hospital for Sick Children*, 1985 CanLII 899 (ON LRB). There, at para. 17, the Board described the balancing of factors which it should apply in a s. 9(1) analysis,[3] including:

> whether the employees have a community of interest having regard to the nature of the work performed, the conditions of employment, and their skills; the employer's administrative structures; the geographic circumstances; the employees' functional coherence, or interdependence or interchange with other employees; the centralization of management authority; the economic advantages to the employer of one unit versus another; the source of work; the right of employees to a measure of self-determination; the degree of employee organization and whether a proposed unit would impede such organization; any likely adverse effects to the parties and the public that might flow from a proposed unit, or from fragmentation of employees into several units, and so on.

[52] At para. 23 of *Hospital for Sick Children*, the Board summarized its test as: "does the unit which the union seeks to represent encompass a group of employees with a sufficiently coherent

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[3] That test was also adopted in *United Food and Commercial Workers International Union, Local 175 v. Aim Health Group Inc./McKesson Canada*, 2014 CanLII 46041 (ON LRB), at para. 58.

community of interest that they can bargain together on a viable basis without at the same time causing serious labour relations problems for the employer."

[53] As the OLRB found in this case, all the employees at the Queensway Store have certain terms and conditions of employment in common, including the proximity of their workspaces, shared lunch and break rooms, and common workplace rules, policies, procedures and pay scales. Nonetheless, employees from different departments have little interaction. Further, while the Queensway Store's employees have certain tasks in common, each department has its own specific responsibilities.

[54] Those facts allowed the Board to find that the level of functional integration of the primary duties of the Queensway Store's various departmental employees would not lead to labour relations harm if Local 633 were to be certified. The Board added that because of the specific delineation of responsibilities in each of the Queensway Store's departments, there was little risk of confusion of responsibilities between the various departments. That finding was available to the Board, particularly in light of its deep expertise in labour relations.

[55] Further, the Board looked to Local 633's long history of collective bargaining, both alone and in conjunction with Local 175. It found no evidence of labour problems as a result of Local 633's certification, whether alone or along with Local 175. In doing so, the OLRB reviewed a number of previous cases in which certification was denied to small units because of a risk of fragmentation[4] and distinguished them from the facts of this case. Again, those findings were available to it on the evidence.

[56] I add that there was little risk of other departments of the Queensway Store seeking to emulate Local 633 in attempting to unionize as a departmental unit. The Board found that no other employees of that store belonged to a craft which would be eligible for certification under s. 9(3). As the Board wrote at para. 47 of the Main Decision:

> In other words, unlike the Meat Department, there is no evidence of any of the other departments belonging to a craft or possessing a specialized skill that has a similar history of bargaining separately and being represented by a dedicated union, such as Local 633. Instead, the normal practice is for the Board to grant an "all employee" certificate for the remainder of a grocery store's departments in addition to granting one to Local 633 for the meat department. Therefore, the concerns that the Board normally has respecting departmental bargaining units do not have the same likelihood of resulting in concrete labour relations concerns in this case since

[4] For example: *International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United Stated, its Territories and Canada, Local 58 v. Audio Visual Services (Canada) Corporation*, 2017 CanLII 62239 (ON LRB); *Canadian Union of Public Employees v. The Governing Council of the University of Toronto*, 2019 CanLII 3027 (ON LRB); *Chemistry Graduate Students' Association of the University of Ottawa v. University of Ottawa*, 1981 CanLII 1015 (ON LRB).

it cannot be said that a meat department bargaining unit will set a precedent for other single department bargaining units at the Queensway Store in the future.

[57] For those reasons, I find that the Board's decision under s. 9(1) was reasonable.

Issue No. 3: Did the Decisions Create an Absurd Outcome?

[58] Sobeys's final argument is that the Decisions create an "absurd outcome" because they would require Sobeys to manage a small bargaining unit, consisting of about eight percent of the Queensway Store's employees while the 92 percent balance of store employees are not represented by a union at all. Sobeys asserts that the Board failed to explain why the meat department is so different from other departments that it is entitled to separate unionization status in the absence of another union to represent all the other Queensway Store employees.

[59] Local 633 responds that Sobeys is a sophisticated and well-resourced grocery chain, which is quite capable of managing the collective bargaining of 15 employees. For its part, Local 633 has extensive experience negotiating on behalf of meat department employees. In light of the OLRB's finding that the proposed bargaining unit will not likely cause labour relations problems, the Decisions do not create an absurd result.

Analysis of the Absurdity Issue

[60] Sobeys arguments for absurdity rely in large measure on its arguments, cited above, regarding what it sees as the unreasonableness of the OLRB's s. 9(3) and 9(1) determinations. The "absurd" result, as Sobeys defines it, is a small, unionized department in a larger non-unionized employment environment.

[61] One problem with that argument is that I have found that those s. 9(3) and s. 9(1) determinations were, in fact, reasonable.

[62] I add that the Board considered the objections of Sobeys within the context of its own deep expertise in labour relations. While aware of the anomaly of a small, unionized unit within a larger non-unionized store, it found that this model can work. Furthermore, as cited above, its decision is not a precedent for the certification of other departments of the Queensway Store. None of those other departments have the history of prior craft certification which would allow it to successfully apply for craft certification under s. 9(3).

[63] Furthermore, if Local 175 were to apply to unionize the balance of the Queensway Store, it would simply place those stores in line with other stores supporting dual unionization.

[64] Accordingly, I do not find that the Decisions create an absurd result.

Conclusion

[65] For the reasons cited above, I would dismiss this application.

Costs

[66] The parties have agreed that if Local 633 were successful, Sobeys would pay it costs of $8,500. I would so order. No costs are sought by or against the OLRB.

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M. Kurz J.

I agree

_____
R. Lococo J.

I agree

_____
S. Nakatsuru J.

Date: February 13, 2026

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BETWEEN:

SOBEYS CAPITAL INC.

Applicant

– **and** –

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, LOCAL 633, and ONTARIO LABOUR RELATIONS BOARD

Respondents

REASONS FOR JUDGMENT

M. Kurz J.

Date: February 13, 2026