In the Court of Appeal of Alberta

Citation: United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 496 v Strike Group Limited Partnership, 2026 ABCA 42

Date: 20260213
Docket: 2501-0140AC
Registry: Calgary

Between:

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local No. 496 and Alberta Labour Relations Board

Respondents

- and -

Strike Group Limited Partnership

Appellant

The Court:

The Honourable Justice Jo'Anne Strekaf
The Honourable Justice Alice Woolley
The Honourable Justice Tamara Friesen

Memorandum of Judgment

Appeal from the Order by
The Honourable Justice M. R. Gaston
Dated the 17th day of April, 2025
Filed on the 9th day of May, 2025
(Docket: 2501-04340)

Memorandum of Judgment

The Court:

[1] The appellant Strike Group Limited Partnership (Strike) appeals the decision granting an interlocutory injunction staying the Alberta Labour Relations Board's (ALRB) counting of ballots cast by Strike's employees with respect to joining the respondent union, the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada Local No. 496 (Local 496).

[2] The vote occurred after Local 496 applied on April 9, 2021 to be a certified bargaining agent for a unit of Strike's employees.

[3] For the reasons that follow, the appeal is dismissed.

Background

[4] Strike performs construction and maintenance work, and at the time of Local 496's certification application was building a compressor station for a client in Didsbury. Part of the work associated with the construction of the compressor station occurred at an off-site fabrication shop in Crossfield operated by Strike. Local 496 took the position that Strike's Crossfield fabrication shop employees were not engaged in construction work and, therefore, should not be included in the proposed bargaining unit. Strike disagreed, arguing the Crossfield workers were engaged in construction and should be included in the bargaining unit along with its Didsbury employees.

[5] The parties put that issue, along with other disagreements regarding the composition of the proposed bargaining unit, to the ALRB for resolution.

[6] Prior to the ALRB's decision, in 2021, a vote was held that included both the Didsbury and Crossfield employees. The ballots were sealed pending resolution of the parties' dispute.

[7] The ALRB proceedings took place in June 2021 and February 2022. On March 30, 2022, the ALRB issued a "bottom line" decision that the Crossfield fabrication shop employees fell within the proposed bargaining unit, with reasons to "follow in due course". On April 21, 2022, based "solely upon the consent of the parties", the ALRB stayed the counting of the ballots "pending issuance of the Board's written reasons".

[8] The ALRB did not issue its reasons until February 24, 2025, nearly three years after the bottom line decision, and nearly four years after Local 496 filed its certification application.

[9] Local 496 sought a stay at the ALRB to prevent the counting of the vote pending an application for judicial review of the decision. It emphasized the prejudice that would arise if the vote was counted and it subsequently succeeded in its application for judicial review. It submitted that the passage of time and the transient nature of the construction industry meant that the Didsbury employees included in the bargaining unit may no longer work at Strike. Conducting a revote of those employees would be practically impossible.

[10] On March 17, 2025, the ALRB denied Local 496's application for a stay. It said that a revote would not necessarily prejudice Local 496. It emphasized that "time is of the essence in labour relations matters" and "the need for expedition in the resolution of such matters". It acknowledged the delay in providing its final reasons, but said that delay only affected the counting of the vote because the parties consented to a stay after the March 30, 2022 bottom line decision was issued. In its view, a further delay pending judicial review would likely "be substantial" and would create "uncertainty in the workplace and for these parties".

[11] On March 18, 2025, Local 496 filed its application for judicial review, and on March 19, 2025, it filed an application for an interlocutory injunction staying the ballot counting.

Decision Under Appeal

[12] The chambers judge held the court had the authority to issue a stay despite the decision of the ALRB to deny one. She relied on the decision of *Siksika Health Services v Health Sciences Association of Alberta*, 2017 ABQB 683 at paras 6-10 for the proposition that the court had a residual discretion not to apply the doctrines of *res judicata* and issue estoppel in particular circumstances. She held that "discretion ought to be exercised in these circumstances". She further identified the court's original jurisdiction to issue a stay in Rule 3.23 of the *Alberta Rules of Court*, Alta Reg 124/2010 which empowers a court to "stay the operation of a decision or act sought to be set aside under an originating application for judicial review pending final determination of the originating application".

[13] To determine whether to grant a stay, the chambers judge applied the test from *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 at 334, which requires an applicant to demonstrate there is a serious issue to be tried on judicial review, they will suffer irreparable harm if the stay is not granted and the balance of convenience favours granting a stay.

[14] The chambers judge found Local 496 had an arguable position on judicial review, which was sufficient to establish a serious issue to be tried.

[15] She also found Local 496 had established it would suffer irreparable harm if a stay was not granted. She noted that if Local 496 were successful in its judicial review, and if the ballots had already been counted, there would be no ability to determine which ballots were cast by just the Didsbury employees. She acknowledged Strike's position that a re-vote would then "be conducted of the same employees that voted in 2021 in accordance with the Board policy". In her view,

however, a revote could not undo the damage done if the votes were counted but Local 496 prevailed in its application for judicial review given the transient workforce in the construction industry, and broader economic changes between 2021 and 2025:

> Obviously, any vote conducted 5 to 6 years following the initial vote of employees, all of whom may or may not be located, will not duplicate the results of the initial vote. The parties agree that the workforce in question is somewhat transient. In 2021, employees in Alberta were still experiencing the effects of the COVID pandemic on their employment circumstances. And the current economic context is different than it was in 2021. These observations are not speculative, but a reasonable conclusion in the circumstances. Any revote will not reflect the employees' positions around the time of the certification application
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> Thus, the amalgamation and counting of the votes of the combined Didsbury and Crossfield employees constitutes irreparable harm. It cannot be repaired monetarily, nor can it be reasonably replaced by a re-vote so many years later. I am satisfied that the amalgamation and counting of the sealed votes while the judicial review is pending is irreparable harm in these circumstances. The Union has satisfied the second tranche of the *RJR* test.
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> [emphasis added]

[16] Finally, the chambers judge concluded the balance of convenience favoured granting a stay. She found the arguments based on the need for expediency did not "ring true in the context of this matter," where the ALRB took "almost three years to issue its reasons". On the same basis, she rejected the argument that issuing a stay in this case would create a precedent contradicting prior ALRB decisions and policy. The long delay in issuing reasons made this case exceptional, such that "it is unlikely that a precedent would be set by the granting of the stay such that other parties could generally rely on it".

[17] In the alternative, if it was determined she was wrong about whether she had jurisdiction to hear the stay application, she considered whether the ALRB's decision to refuse a stay was reasonable. Unfortunately, in so doing she seems to have conflated at least in part the submissions made by Strike to the ALRB with the ALRB decision itself – that is, she appears in part to have analyzed the reasonableness of Strike's submissions rather than of the ALRB's analysis. The ALRB decision aligned with Strike's submissions in some respects, but not in totality.

[18] The aspect of the chambers judge's decision that addresses the substance of the ALRB analysis is with respect to irreparable harm and the balance of convenience. Overall, her critique of the finding that irreparable harm had not been established, and the balance of convenience did not favour a stay, focused on the exceptional circumstances of this case which blunted the relevance of the need for timely decisions as a matter of policy:

> In summary, it is not reasonable for the Board to use its own policies to justify its denial of the stay when it clearly itself did not follow them, as demonstrated by its delay in issuing the reasons at issue in this judicial review and its permission to effect a three year stay that existed while the parties awaited its decision. The Board by its own delayed reasons has demonstrated that this case is exceptional in these circumstances.

Submissions and Standard of Review

[19] Strike submits the chambers judge erred in her assessment of irreparable harm and the balance of convenience on the record, and by not properly accounting for applicable labour relations considerations and case law. It further submits the chambers judge erred by not reviewing the ALRB's actual stay decision, and by failing to defer to the ALRB's expertise in relation to whether a stay ought to be granted.

[20] The ALRB submits the Court ought to adopt an approach that respects its statutory authority to oversee the certification process and its expertise.

[21] Local 496 submits the chambers judge made no error of law or principle, or any palpable or overriding error of fact, and that her decision ought not to result in appellate intervention.

[22] The chambers judge's decision to grant an interlocutory injunction is discretionary and entitled to deference on appeal, with intervention "justified only for an error of law or principle, where there are palpable and overriding errors of fact, or where the exercise of the discretion is unreasonable": *Alberta Union of Provincial Employees v Alberta*, 2019 ABCA 320 at para 5 citing *R v Canadian Broadcasting Corp,* 2018 SCC 5 at para 27.

Analysis

[23] The chambers judge made no reviewable error. The extreme delay in the ALRB issuing the reasons for its decision makes this case exceptional. That delay, combined with the accepted transience in employment in the construction sector, and the effect of Local 496 potentially prevailing in its judicial review application, provided a sound basis for the chambers judge's finding of irreparable harm, and for her assessment of the balance of convenience. There was no palpable and overriding error.

[24] The chambers judge applied the correct legal test with respect to interlocutory injunctions, and made no error of principle in her application of that test. Her observation that a vote ought to capture the wishes of affected employees at the time of certification has foundation in ALRB decisions: see, eg, *JV Driver Installations Ltd and UA, Local 488 (Re),* [2001] Alta LRBR LD-011 at para 5. Further, the exceptional circumstances of this case, combined with the fact that the chambers judge's primary analysis was not a review of the ALRB's stay decision, mean issues respecting proper deference to the ALRB's expertise do not arise.

[25] The parties do not contest the Court's jurisdiction to grant the stay, with the result that the chambers judge's error in conflating the Strike submissions with the ALRB decision was made in *obiter* and has no impact on her decision's overall reasonableness.

[26] The appeal is dismissed.

Appeal heard on December 8, 2025

Memorandum filed at Calgary, Alberta
this 13th day of February, 2026

Strekaf J.A.

Woolley J.A.

Friesen J.A.

Appearances:

C.H. Cook
for the Respondent, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada Local No. 496

K. McGreer
for the Respondent, Alberta Labour Relations Board

T.W.R. Ross, KC
Z. Dietrich
for the Appellant