

CITATION: Winegardner v. Ontario Labour Relations Board et al, 2026 ONSC 2580
DIVISIONAL COURT FILE NO.: DC-25-00000627-00JR
DATE: 20260504

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

O'BRIEN, BROWNSTONE and A. KAUFMAN JJ.

BETWEEN:)
)
RONALD WINEGARDNER) *Self-Represented* Applicant
Applicant)
)
)
– and –)
)
)
ONTARIO LABOUR RELATIONS) *Andrea Bowker* for Ontario Labour Relations
BOARD AND UNIFOR INC) Board
Respondents.)
) *Erin Masters* for Unifor
) **HEARD over Videoconference in Toronto:**
) April 30, 2026

THE COURT

REASONS FOR DECISION

Overview

[1] The applicant Mr. Winegardner was a member of the respondent union Unifor. He brought an application before the Ontario Labour Relations Board (the Board) alleging Unifor breached the duty of fair representation it owed to him. He alleged the union’s handling of and decision to withdraw the grievance related to the termination of his employment was arbitrary, discriminatory or in bad faith. In an initial decision dated December 5, 2024, the Board dismissed the application. It subsequently dismissed a request to reconsider the decision.

[2] Mr. Winegardner was employed by General Motors. Since 1984, he had been in the bargaining unit covered by the collective agreement between General Motors and Unifor. Mr. Winegardner went on medical leave in 1999 and did not return. Throughout his medical leave, he received wage replacement benefits from General Motors’ disability insurers. He relocated to the Philippines during his leave.

[3] While on leave, Mr. Winegardner also participated in General Motors' health benefit plan administered by Green Shields Canada (GSC). He obtained reimbursement for prescription drug claims. In 2021, GSC advised Mr. Winegardner that it had investigated his prescription drug claims and concluded 1500 claim receipts were invalid and not eligible for reimbursement. GSC demanded Mr. Winegardner reimburse \$225,218.12. Mr. Winegardner, through a lawyer, denied the accusations, but GSC did not accept his explanations.

[4] In 2023, Mr. Winegardner attempted to return to work. General Motors started its own investigation into the allegations of benefits fraud, found GSC's findings to be substantiated, and terminated his employment.

[5] The union filed a grievance challenging the termination decision. It pursued the grievance through the four-step grievance process in the collective agreement but ultimately withdrew the grievance on the basis that the grievance would likely be unsuccessful at arbitration.

[6] The Board dismissed Mr. Winegardner's application in response to a motion brought by the union. The union asked that the application be dismissed without a hearing for failing to disclose a *prima facie* breach of the duty of fair representation under s. 74 of the *Labour Relations Act, 1995*, S.O. 1995, c. 1 (the *Act*). The Board agreed, finding Mr. Winegardner had not pleaded any material facts that could establish the union acted in a discriminatory or bad faith manner.

[7] In response to the request for reconsideration, the Board found Mr. Winegardner was attempting to re-argue his case. It stated Mr. Winegardner did not raise any issues or alleged errors that would fall within the Board's powers on reconsideration.

[8] The standard of review to be applied to the Board's decisions is reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65. For the following reasons, we find the Board's decisions to be reasonable.

Analysis

Were the Board's decisions unreasonable because the union failed to conduct an investigation into the allegations against the applicant?

[9] Mr. Winegardner submits he was fired because of "untested accusations by a company he never worked for" and that the union failed to conduct its own investigation or consult with a lawyer before withdrawing the grievance. He states the Board erred by accepting that the union met its duty of fair representation in these circumstances.

[10] The duty of fair representation, as explained by the Board at para. 29 of its initial decision, requires a union to "give fair and objective consideration to whether a situation merits a grievance." The union is not required to file a grievance or take a grievance to arbitration just because the employee requests it. As the Board stated at para. 21, reproducing a passage from the leading case *Switzer v National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada)*, 1999 CanLII 20145 (ON LRB): "So long as it acts honestly, objectively and gives due consideration to matters which fall within the ambit of its responsibility as exclusive

bargaining agent, a union will not be held to account if it makes a mistake or a simple error in judgment. A union has a sort of limited ‘right to be wrong.’”

[11] The Board, therefore, did not need to consider whether the union conducted a sufficient investigation, nor whether a lawyer was consulted. It also did not need to expressly consider whether the union reviewed GSC’s investigation. Instead, the question for the Board was whether the union gave objective and due consideration to the information provided by Mr. Winegardner before deciding to withdraw the grievance. The Board found the union initially filed a grievance and pursued it through the four-step grievance process. It met with Mr. Winegardner, sought his response to the allegations, and provided those to the employer. When Mr. Winegardner provided an affidavit and other documents in November 2023, it provided the documents to, and met with, the employer. It also conducted its own assessment of the documents. In the end, based on that assessment, it concluded it would be fruitless to pursue the grievance to arbitration.

[12] It was reasonable for the Board to accept the union’s conclusion that the grievance would be unsuccessful at arbitration. The evidence Mr. Winegardner points to as supporting the merits of his grievance do not disclose any error on the part of the union or Board. For example, the November 6, 2023 affidavit Mr. Winegardner relies on to say he should be exonerated did not provide a basis for finding the union was acting unfairly or arbitrarily. The affidavit was not provided to GSC when it raised the allegations in 2021; it was only provided after Mr. Winegardner’s attempted return to work in 2023. It also was only seven paragraphs long, had limited detail, and was presumably sworn by Mr. Winegardner’s friends or supporters. It stated it was sworn by the affiants to “clear [Mr. Winegardner’s] name”.

[13] Overall, on the facts and record before the Board, it was open to the Board to find the union took sufficient steps in response to Mr. Winegardner’s termination. The Board was not required to find the union conducted an exhaustive investigation. Instead, it reasonably concluded that because the union gave fair, objective and due consideration to the information provided by Mr. Winegardner, it met the duty owed to him.

Was the Board’s decision unreasonable because the union representative was in a conflict of interest?

[14] Mr. Winegardner requested that the union representative responsible for his grievance, Dino Chiodo, recuse himself on the basis of an alleged conflict of interest. The asserted conflict arose from the applicant’s claim that Mr. Chiodo had participated in developing the health benefits trust that was later administered by GSC. In a letter dated June 1, 2021, Mr. Chiodo advised the applicant that he had served as Chair of the FCA Master Bargaining Committee at the time the health benefits trust was created. Mr. Winegardner maintained that this involvement disqualified Mr. Chiodo from acting on his behalf in the grievance process.

[15] Mr. Winegardner did not raise the alleged conflict of interest in his application before the Board. Nevertheless, some of the documents appended to the application included correspondence between Mr. Winegardner and Mr. Chiodo in which the conflict allegation was advanced. In its decision, the Board did not expressly address the alleged conflict of interest, aside from concluding

that no material facts had been pleaded that could establish that the union acted in a discriminatory manner or in bad faith: Initial decision, at para. 31.

[16] Mr. Winegardner raised the issue of Mr. Chiodo's alleged conflict for the first time as a distinct ground when seeking reconsideration of the Board's decision. In that context, he argued that Mr. Chiodo ought to have recused himself due to bias. The Board held that a request for reconsideration is not an opportunity to re-argue a case or to advance new allegations that could have been raised earlier. It further characterized the allegation of bias as a bald assertion, unsupported by evidence capable of meeting the applicable legal threshold.

[17] In these circumstances, it was reasonable for the Board to reject the bias argument. The applicant failed to properly plead the alleged conflict in his original application, and the evidentiary record did not disclose a reasonable apprehension of bias or bad faith on the part of the union or its representative. The Board was entitled to treat the reconsideration request as an impermissible attempt to relitigate the matter and to dismiss the bias allegation as unsubstantiated.

Was the Board's decision unreasonable in its treatment of the union's response to his allegation that his human rights were violated?

[18] Mr. Winegardner submits that the Board erred in its treatment of his allegation that the union did not adequately raise the issue that his human rights had been violated. We disagree.

[19] The issue was addressed in the Board's reconsideration decision, which stated:

14. The applicant baldly claims that the Union ignored "the plausible challenge of discrimination of [his] employment being terminated because of [his] disability". This, again, is the first time that the applicant has claimed that the Union discriminated against him on the basis of his disability. As stated, raising new issues on reconsideration is improper and will not be allowed except in exceptional circumstances. No such circumstances exist in the present matter. In any event, the claim as pleaded is entirely devoid of material facts and is therefore incapable, alone, of supporting the claim of discrimination being advanced.

[20] While Mr. Winegardner, in his submissions to the court, denied that he raised the issue for the first time at reconsideration, he did not point the court to any documentation indicating that he had raised the issue at first instance. There is therefore no basis for this court to interfere with the Board's determination that it was improper to raise the issue for the first time on reconsideration.

[21] Nonetheless, the Board went on to note that Mr. Winegardner pleaded no material facts in support of his discrimination claim. This conclusion is supported by the record before the Board. No material facts were provided to the Board (or to the court on review) that demonstrate a disability, nor that connect a disability to the reasons for Mr. Winegardner's termination. The Board's decision in this regard is reasonable.

Were the Board's decisions unreasonable due to insufficient reasons?

[22] Mr. Winegardner submits as a general proposition that the Board's reasons were deficient and that the Board used boilerplate language.

[23] A tribunal's reasons must be sufficient to justify its decision and explain the decision's rationale. They must demonstrate justification, transparency, and intelligibility. However, decisions are not assessed against a standard of perfection. They are to be read bearing in mind the statutory and factual contexts in which they operate. Reasons are not required to advert to every submission made and every piece of evidence placed before the tribunal: *Vavilov*, at paras. 81, 91-96.

[24] We find the Board's reasons to be sufficient. The reasons are coherent, consistent with governing case law, and indicate a thorough understanding of the factual matrix in which the decisions were made. We do not find the language used to be "boilerplate" or conclusory, but find they demonstrate a clear and specific engagement with the facts and applicable legal principles.

[25] Accordingly, we reject this ground of review.

Disposition

[26] The application is dismissed. The union does not seek costs and none are ordered.

Brownstone, J.

A. Kaufman, J.

Released: May 4, 2026

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