



APPLICATION FOR REVIEW OF ARBITRATION

APPLICABLE SECTIONS OF THE CODE: 145(2)

- Form LRB 33 (September 2017). Please type or print clearly. Attach extra pages if necessary.
- A party seeking review by the Board of an arbitration must use this form.
- For further information refer to Information Bulletin #25 or call the Labour Relations Board at (780) 422-5926 (Edmonton) or (403) 297-4334 (Calgary).
- Any personal information provided herein is collected under the authority of section 33(c) of the *Freedom of Information and Protection of Privacy Act* ("FOIP"), for the purpose of processing your application to the Labour Relations Board. Any further personal information received in written or oral submissions will be collected under that authority. The collection, use and disclosure of this information is managed pursuant to FOIP. Any information provided to the Board that is relevant to the application must in the normal course be provided to all affected parties to the application, so all parties know the case to be heard and have an opportunity to respond. Questions about the collection or use of personal information can be posed to the Board Officer appointed to your file, or the Board's FOIP Coordinator at 501, 10808 99 Avenue, Edmonton, AB, T5K 0G5, or (780) 422-5926.

Date of Application: October 4, 2017

POSTED	
File No.	Support Doc No.
Date	Posted By <i>RR</i>

APPLICANT INFORMATION (trade union, employer, party to the arbitration)

Legal Name: United Food and Commercial Workers Canada Union Local 401	
Mailing Address: April Albrecht, Senior Labour Relations Officer, UFCW Local 401, #100, 46 Hopewell Way NE Calgary, AB	Telephone Number: 403.291.1047
Postal Code: T3J 5H7	Fax Number: 402.250.3412
Name of Contact Person (and Law Firm, if applicable): Leanne Chahley, Blair Chahley Lawyers	
Address (if different from above): #203, 10265 - 107 Avenue Edmonton, AB	Telephone Number: 780.964.2461
Postal Code: T5G 5J2	Fax Number: 1.877.835.8920

RESPONDENT INFORMATION (other party to the arbitration. Add page if multiples)

Legal Name: Sobeys West Inc. (Safeway Operations)	
Mailing Address: Kelsey Cols, Labour Relations Manager, Sobeys West Inc., 1020 - 64 Avenue NE, Calgary, AB	Telephone Number: 403.730.3031
Postal Code: T2E 7V8	Fax Number: 403.730.3306
Name of Contact Person (and Law Firm, if applicable): Damon Ballely, McLennan Ross LLP	
Address (if different from above): 1000 First Canadian Centre 350 - 7 Avenue SW, Calgary AB	Telephone Number: 403.543.9120 / 403.303.9105
Postal Code: T2P 3N9	Fax Number: 403.543.9150

ARBITRATOR OR ARBITRATION CHAIR

Name: Dev Chankasingh	
Mailing Address: 279 Darlington Crescent Edmonton, AB	Telephone Number: 587.521.5420
Postal Code: T6M 2T1	Fax Number: 587.521.5450

MATTER UNDER REVIEW

Date of Decision, Order, Directive, Declaration, Ruling or Proceeding under Review: September 5, 2017

Date of Written Reasons for above (if different): same, September 5, 2017 (attached)

The applicant shall attach a copy of the Decision, Order, Directive, Declaration, or Ruling (if in writing), and any Written Reasons, with this Form.

GROUND OF REVIEW

Do you allege you were denied a fair hearing?

Yes No

Do you allege the award was unreasonable because of a lack of intelligibility or transparency, or because it falls outside the range of possible acceptable outcomes that are defensible in respect of the facts and law?

Yes No

Describe the nature of the alleged breach or error alleged above. Provide sufficient detail to describe what is at issue:

It is submitted that the award of the arbitrator is unreasonable as it falls outside of the range of possible acceptable outcomes that are defensible in respect of the facts and law; in particular in that the arbitrator failed to apply the appropriate principles of progressive discipline and rehabilitation in this case.

It is submitted that current arbitral jurisprudence that appears to support termination of very senior employees with clear disciplinary records, in this case an employee of 45 years seniority, for minor theft in the retail food industry is out of step with the law and the principles of progressive discipline and rehabilitation in labour relations. It is submitted that it is far out of step with the general of application of progressive discipline by arbitrators and the Courts in non-union situations in Alberta and across Canada for much more serious workplace offences (including dishonesty related offences), and as such requires review and adjustment before it is reasonable. The Union submits that the failure of the arbitrator to give overriding weight to the mitigating factors in this case, especially but not limited to the grievor's 45 years of seniority and clear disciplinary record, and instead upholding the termination of the grievor's employment is outside of the defensible range of acceptable possible outcomes.

REMEDY

What remedy are you seeking?

An order setting aside the decision of the arbitrator and remitting the matter to a new arbitrator or, alternatively, to the same arbitrator to be considered again.

EVIDENCE

Review by the Board must be on the Record. The Record will be filed by the Arbitrator. For information about the content of the Record, see Information Bulletin #25 and the Rules of Procedure. No evidence other than the Record may be referred to in a review, except by order of the Board.

Do you propose the Record should be limited, as only a portion of the Record is necessary to determine the issues raised by your application?

Yes No

If yes, what limitations do you propose?

Evidence outside the Record will only be permitted in exceptional circumstances. Do you wish to introduce evidence outside the Record?

Yes No

What evidence do you wish to introduce, and why does it fall within an exception discussed in Information Bulletin #25?

Do you consent to this matter being heard by a Chair/Vice-chair sitting alone? Yes No

FOR BOARD USE ONLY:

Board File Number: _____

Checked by _____ Received by _____ Input by RR

Signature of Applicant: _____

Print Name: Leanne Chahley

Position: Legal Counsel for the Union

Date of Signing: October 4, 2017

Complete and deliver to:

Labour Relations Board
#501, 10808 - 99 Avenue
Edmonton, AB T5K 0G5
Fax: (780) 422 - 0970

Labour Relations Board
#308, 1212 31 Avenue, N.E.
Calgary, AB T2E 7S8
Fax: (403) 297 - 6884

**THE APPLICANT MUST SERVE THE RESPONDENT(S)
AND THE ARBITRATOR/ARBITRATION CHAIR**

*(Applications can be faxed to the Board.
The Board does not require original applications.)*