IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Unite Here, Local 40 v. Civeo Premium Services Employees LP,* 2024 BCSC 178

Date: 20240202
Docket: S225212
Registry: Vancouver

Between:

Unite Here, Local 40

Petitioner

And

Civeo Premium Services Employees LP,
British Columbia Regional Council of Carpenters,
Pacific Atlantic Pipeline Construction Ltd.,
Trans Mountain Pipeline L.P. by its general partner Trans Mountain Pipeline ULC, Coastal Gaslink Pipeline Limited Partnership,
British Columbia Labour Relations Board

Respondents

Before: The Honourable Justice Whately

On judicial review from: A decision of the British Columbia Labour Relations Board on April 29, 2022 (*Civeo Premium Services Employees LP v. British Columbia Regional Council of Carpenters*, 2022 BCLRB 49)

Reasons for Judgment

In Chambers

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Counsel for British Columbia Regional Council of Carpenters:	L.K. Weston

Counsel for Civeo Premium Services Employees LP:	A. Zwack
Counsel for Trans Mountain Pipeline L.P.:	C.T. Munroe
Place and Dates of Trial/Hearing:	Vancouver, B.C. September 18–19, 2023
Place and Date of Judgment:	Vancouver, B.C. February 2, 2024

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Introduction

[1] This is a judicial review of a decision issued by the Labour Relations Board (the "Board") on April 29, 2022, *Civeo Premium Services Employees LP v. British Columbia Regional Council of Carpenters*, 2022 BCLRB 49 (the "Reconsideration Decision"). The decision at issue is a reconsideration of the Board's earlier decision on the merits, indexed as 2021 BCLRB 164 (the "Merits Decision"). The petitioner, Unite Here, Local 40 ("Local 40") applies for an order setting aside the Reconsideration Decision, and asks that it be remitted back to the Board to determine appropriate remedies.

[2] Local 40's position can be summarized as follows:

a) The Board denied Local 40 procedural fairness by failing to address certain remedies it sought at the reconsideration phase.

b) The Board was patently unreasonable when it concluded that the remedies awarded by the original panel in the Merits Decision were consistent with the principles of the *Labour Relations Code*, R.S.B.C. 1996, c. 244 [*Code*].

[3] For the reasons that follow, I dismiss Local 40's petition. I find that the Board's decision-making process was procedurally fair, and that the written reasons sufficiently articulated the basis for the decision, even if it did not explicitly discuss or dismiss each remedy sought by Local 40. Further, I find that the Board was not patently unreasonable when it decided that the Merits Decision upheld the principles of the *Code*.

Background

[4] The factual background of this matter is relatively straightforward.

[5] In the spring of 2021, two trade unions, Local 40 and the British Columbia Regional Council of Carpenters ("BCRCC"), each sought to represent employees at several remote work camps in British Columbia; operated by Civeo Premium

Services Employees LP (“Civeo”). The camps include 9A Lodge, P2 Lodge, Trans Mountain Merritt Camp (also called 5A Lodge), and 7 Mile Lodge (collectively, the “Work Camps”). 9A and P2 Lodges are both located between one and a half and two hours outside of Houston, BC. Trans Mountain Merritt Camp is located just outside of Merritt, BC. 7 Mile Lodge is located near Burns Lake, BC.

[6] Local 40 subsequently accused the employer of the Work Camps, Civeo, of favouring BCRCC over Local 40, and unfairly facilitating BCRCC’s representation campaign thereby disadvantaging Local 40’s efforts.

[7] The procedural background of this matter is complex, involving several separate decisions of the Board over the course of several months, which overlapped with ongoing events between Civeo and the unions.

[8] On Friday, June 4, 2021, Local 40 asked Civeo for access to the Work Camps beginning on Monday, June 9, 2021, for the purpose of organizing its employees. Local 40 requested a response from Civeo by 4:30 p.m. on that same day (June 4). Civeo replied on June 4 by asking for an extension for a formal response to Local 40’s request for access.

[9] Shortly after Local 40’s request for access, Civeo reached out to the second union, BCRCC, to see if they had an interest in representing its employees.

[10] In the late afternoon of June 9, 2021, Local 40 applied to the Board for access to the Work Camps under s. 7(2) of the *Code* (the “Access Application”).

[11] Less than 30 minutes later, on June 9, 2021, Civeo advised Local 40 that it had reached an agreement with BCRCC with respect to the representation of the Work Camp employees.

[12] On June 21, 2021, Civeo and BCRCC completed negotiations for a voluntary recognition agreement, subject to ratification by the employees. Civeo provided BCRCC with its employees contact information for the purposes of obtaining support for the agreement.

[13] On July 5, 2021, BCRCC confirmed to Civeo that the employees had ratified the voluntary recognition agreement.

[14] On July 10, 2021, Local 40 filed a second application with the Board, alleging that the voluntary recognition agreement between Civeo and BCRCC was an unfair labour practice contrary to s. 6(1) of the *Code* (the "s. 6(1) Application").

[15] In the s. 6(1) Application, Local 40 claimed that Civeo made overtures to BCRCC in order to prevent Local 40 from organizing and representing its employees. Local 40 further claimed that Civeo's actions sought to impose a union of its choice upon its employees, rather than allowing them to choose their own union. Accordingly, Local 40 sought the following remedies with respect to Civeo:

a) An order that Civeo breached s. 6(1) of the *Code;*

b) An order that the collective agreement between Civeo and BCRCC be declared invalid in all affected Work Camps;

c) An order that Civeo reimburse Local 40 for lost dues that otherwise would have been obtained but for the alleged breach;

d) An order that Local 40 be granted a remedial certification for all affected Work Camps, or in the alternative, be provided a sufficient window of time and a contact list to speak one-on-one with affected employees about the benefits of unionization;

e) If the Board granted the above orders, an order that Civeo post a communication stating that if the employees decide to unionize with Local 40, Civeo will bargain with the employees and Local 40 in good faith until an agreement is reached; and

f) An order that the employer post and distribute the Board's decision to all employees.

[16] Local 40 argued before the Board that remedial certification was warranted in this case, and anything short of this would not remedy Civeo's breach.

[17] On October 12, 2021, the Board issued the Merits Decision with respect to Local 40's s. 6(1) Application. In the Merits Decision, the Board addressed both the s. 6(1) Application and the Access Application, although it ultimately found it did not need to adjudicate the Access Application.

[18] In the Merits Decision, the Board agreed that Civeo improperly interfered with Local 40's early attempts to organize its employees by entering into a voluntary recognition agreement with BCRCC immediately after Local 40 contacted Civeo management, contrary to s. 6(1) of the *Code*.

[19] However, it stated the following about remedial certification as a remedy (Merits Decision at para. 60):

> At the hearing into this matter, the Union sought remedial certification, taking the position that only that remedy was capable of adequately undoing the Employer's breach. Whether or not I have jurisdiction to order remedial certification in favour of Local 40 pursuant to Section 14(4.1), I would decline to do so. There is no evidence before me that any employees of the Employer sought representation by Local 40.

[20] Instead, the Board sought to level the playing field as between Local 40 and BCRCC in their respective bids to win the support of Civeo's employees, and "so far as possible, [restore the parties] to the position in which they would have been but for the breach": Merits Decision at para. 61.

[21] To that end, the Board ordered the following remedies:

a) that the voluntary recognition agreement between Civeo and BCRCC be cancelled;

b) that Civeo post a copy of the Merits Decision in a conspicuous place at the Work Camps;

c) that Civeo provide Local 40 with the same employee contact information it provided to BCRCC; and

d) that Civeo provide Local 40 with at least 3 days of access to each of the Work Camps on terms to be negotiated between Civeo, Local 40 and the camp owners. The Board retained jurisdiction to determine terms of access if the parties were unable to agree.

[22] On October 15, 2021, in compliance with the Board's order, Civeo provided Local 40 with its employee contact information, and posted the Merits Decision at the Work Camps.

[23] Local 40 and Civeo agreed that, despite their respective efforts, they were unable to agree on the terms of Local 40's access to the Work Camps and that access did not occur.

[24] On or about October 21, 2021, BCRCC applied to the Board for certification to represent the employees of the Work Camps.

[25] Neither the petitioner nor the respondents provided details regarding the parties' failure to agree on terms of access to the Work Camps prior to BCRCC's application for certification on October 21, 2021.

[26] Generally, I was advised by the respondents that, due to the remote location of the Work Camps and the safety concerns of the camp owners, providing access was not a simple matter. In any event, the reasons as to why access was not provided, exercised or agreed to, did not form part of the argument before me.

[27] On October 26, 2021, Local 40 applied to the Board for reconsideration of the Merits Decision. In its application for leave and reconsideration, Local 40 stated that the remedies ordered by the Board in the Merits Decision were not adequate to level the playing field between the two unions, and were inconsistent with the principles of the *Code*. As part of its reconsideration application, Local 40 sought the following remedies from the Board:

a) an order for remedial certification in favour of Local 40 with respect to Civeo's employees at the Work Camps;

b) an order barring BCRCC from applying for certification or taking other steps to organize until 90 days after Local 40 exercises access and makes its own efforts to organize; and

c) an order that BCRCC destroy any employee contact information obtained, and be prevented from relying on union cards or other evidence of support gathered as a result of Civeo's breaches of the *Code*.

[28] Local 40 did not seek the remedies set out in paragraphs (b) and (c) before the Board in the Merits Decision (the "Additional Remedies").

[29] On November 16, 2021, the Board issued a letter confirming BCRCC's certification, and attaching said certification dated November 8, 2021. During the hearing, I observed that BCRCC's application for certification, and the Board's consideration of the circumstances surrounding BCRCC's organization efforts were running on parallel, but seemingly separate tracks.

[30] On January 6, 2022, the Board issued a further decision setting out the terms of access pursuant to its order in the Merits Decision, indexed as 2022 BCLRB 3 (the "Supplemental Decision"). The Supplemental Decision sets out terms of access to the Work Camps for Local 40, but also acknowledged BCRCC's successful certification. For clarity, the Supplemental Decision arose not from Local 40's original Access Application, but rather from the access remedy awarded in the Merits Decision. The Board had retained jurisdiction to decide the terms of access if the parties were unable to agree, which they were.

[31] On April 29, 2022, the Board issued the Reconsideration Decision concerning six applications for leave, and reconsideration relating to the Merits Decision and the Supplemental Decision; including Local 40's application for leave and reconsideration of the remedy ordered in the Merits Decision. The Board's decision regarding Local 40's application is the subject of this judicial review.

Procedural Fairness

[32] In its petition, Local 40 states that it was denied procedural fairness because the Board did not address the Additional Remedies it sought at the reconsideration phase of the proceedings.

[33] Local 40 elaborated in its submissions that it does not take the position that the Board's reasons in the Reconsideration Decision were flawed or illogical. Rather, Local 40 states that the reasons simply "do not exist" in terms of explaining why the Board decided that the remedies ordered in the Merits Decision were adequate.

[34] As a result, Local 40 states that because there are no reasons, this is a matter of procedural fairness and denial of natural justice.

[35] The respondents argue that when evaluating the adequacy of reasons, as opposed to the absence of reasons, the standard of review is patent unreasonableness.

[36] Local 40 relies on *Burke v. Newfoundland and Labrador Association of Public and Private Employees,* 2010 NLCA 12 [*Burke*], as authority for its position that the Board's failure to address each remedy sought in its application is procedurally unfair and suggests that the situation in this case is on all fours with *Burke.*

[37] In *Burke,* the Court of Appeal allowed an appeal of a trial judge's refusal to set aside a decision of the Newfoundland and Labrador Labour Relations Board (the "Newfoundland Board"). In the decision under judicial review, the Newfoundland Board rejected—without an oral hearing—the appellant's claim that his union acted in a manner that was arbitrary, discriminatory, or in bad faith while representing him in a grievance process.

[38] The Court found that the Board's decision was unreasonable because it made conclusory statements only and gave no indication that it had considered or addressed Burke's allegations.

[39] The Court commented on a tribunal's duty to be responsive to the "essential arguments" before it:

> [67] A decision that is unresponsive to the case presented cannot be said to meet the standard of "justification, transparency and intelligibility" within the **Dunsmuir** test of reasonableness. The essential submissions made should not be ignored. If they are regarded by the tribunal as frivolous or irrelevant to the issues in dispute, the tribunal should say so. If they are not, but rather, are simply unpersuasive, the tribunal should be expected to give at least a rational reason for why they are not persuasive. Such a requirement is inherent in the **Dunsmuir** focus on "the process of articulating reasons" to see if the result is supported by a chain of reasoning that is reasonable.

[40] The Court continued:

> [68] It might also be added that the absence of any reasoning responding to the essential allegations made by Mr. Burke raises the question as to whether the Board may not have met its duty, as a matter of procedural fairness, to provide written reasons for its decision (See *Labour Relations Act*, RSNL 1990, c. L-1, s. 12(1)). This case was not presented or argued – or dealt with by the applications judge - specifically on the basis of the inadequacy of the Board's reasons as an aspect of procedural fairness. Nevertheless, it would be hard to say that reasons which do not respond to the essential allegations made would be adequate. …
>
> [69] Though each submission need not be considered at length or be given detailed analysis, the decision "must make it clear" that the basic submissions were considered. As Goudge J.A. observed in **Clifford v. Ontario Municipal Employees Retirement System,** 2009 ONCA 670 at para 30, reasons must "show that the tribunal grappled with the substance of the matter".

[41] The difficulty with Local 40's position is that an administrative tribunal is not required to consider and comment on <u>every</u> issue raised by the parties in order to show that it "grappled with the substance of the matter."

[42] Specifically, I am not convinced that once the Board has decided to dismiss an application for reconsideration, it is then under an obligation to address every remedy sought by a party <u>in the event that the reconsideration had been granted.</u>

[43] I am also not convinced that not addressing such remedies is tantamount to a complete absence of reasons leading to procedural unfairness.

[44] The Court's statements in *Burke* have limited application to the current situation because:

a) In *Burke,* the Board had dismissed a complaint in circumstances where no hearing on the merits had been held. At issue here is a reconsideration decision made after the Board had already issued a decision on the merits.

b) The Court in *Burke* was concerned with whether the "essential arguments" in the original complaint had been ignored, and did not base its decision on whether all remedies sought at the reconsideration phase had been properly addressed.

[45] Trans Mountain Pipeline L.P. by its general partner Trans Mountain Pipeline ULC ("Trans Mountain"), one of the respondents and owner of one of the Work Camps, submits that an administrative tribunal is not required to consider and comment on every issue raised by the parties, citing *Ma v. British Columbia (Employment Standards Tribunal),* 2016 BCSC 2097 at para. 35, as authority:

> … I am mindful of the Supreme Court of Canada's statement in *Construction Labour Relations Assn. (Alberta) v. Driver Iron Inc.*, 2012 SCC 65 at para. 3, that "administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons. For reviewing courts, the issue remains whether the decision, viewed as a whole in the context of the record, is reasonable.

[46] Trans Mountain also refers Justice Abella's statement on this point in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board),* 2011 SCC 62 at para. 16:

> Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion (*Service Employees' International Union, Local No. 333 v. Nipawin District Staff Nurses Assn.*, 1973 CanLII 191 (SCC), [1975] 1 S.C.R. 382, at p. 391). In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine

> whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.

[47] The respondents made another argument in response to Local 40's claim of procedural unfairness centring on the fact that the Additional Remedies sought by Local 40 at the reconsideration phase were not proper remedies in any event.

[48] The Additional Remedies, which the Board did not address, purport to restrain BCRCC as opposed to just Civeo. The respondents point out that BCRCC was not a party to the Merits Decision, and so any reconsideration of that decision could not include remedies against them. The respondents state that Local 40 required the leave of the Board to seek new remedies against BCRCC.

[49] I was advised during the hearing that it is the Board's practice not to provide reasons when denying leave. Therefore, the respondents argued that it is open to me to infer that the Board either:

a) disregarded any remedies sought by Local 40 that were not properly related to the decision under review; or

b) denied leave to seek the Additional Remedies without providing reasons.

[50] *RG Properties Ltd.,* B.C.L.R.B. No. B378/2003 (Leave for Reconsideration of B.C.L.R.B. No. B252/2003) sets out the basis for why the Board is not required to provide reasons addressing the grounds for reconsideration when denying leave: the Board has already provided a reasoned decision on the merits of the dispute; reconsideration of that decision is discretionary; and the basis on which the Board exercises its discretion is well established.

[51] Regardless of whether leave was required and implicitly denied, or whether the Additional Remedies were disregarded because they were not properly related to the decision under reconsideration, I do not find that the Board's failure to address each remedy sought by Local 40 is equivalent to a failure to address the "essential arguments."

[52] It may have been open to the Board to review the Additional Remedies and methodically dismiss them one by one consequent upon its finding that the original decision should stand, but I do not find that it was required to do so.

[53] As such, I do not find that the failure to address the Additional Remedies was a breach of Local 40's procedural fairness.

Adequacy of Remedies in Merits Decision

[54] If I do not find that the Board denied it procedural fairness, the petitioner states that in the alternative, the Board failed to provide a tenable line of analysis in its decision that could support the conclusion that the remedies in the Merits Decision were adequate or consistent with *Code* principles.

[55] Local 40 agrees with the respondents that the standard I must apply when assessing the adequacy of reasons is patent unreasonableness, and further agrees that this is a deferential standard. Local 40 does not dispute that the Board is an expert tribunal and courts should pay significant deference on matters of labour relations, including the substantive issues in this case.

[56] This is consistent with caselaw, for example, in *Howie v. British Columbia (Labour Relations Board),* 2017 BCSC 1331, the Court remarked at para. 56:

> In the context of a judicial review of a Labour Relations Board reconsideration decision, the Court of Appeal has held that if the Board concludes the original decision is not inconsistent with the principles expressed or implied in the Code or in any other Act dealing with labour relations, the court's role is limited to determining whether that finding is patently unreasonable, unfair or incorrect: *United Steelworkers, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, Local 2009 v. Auyeung*, 2011 BCCA 527 at para. 33. This conclusion was grounded, in part, on deference to the Board's highly specialized expertise. In this regard, the Chiasson J.A. for the Court explained, at para. 34:
>
> > In my view, this approach to judicial review is consonant with the scheme of the legislation. It reflects the highly specialized jurisdiction of the Board and leaves the Board, rather than the court, to determine matters at the core of industrial relations.

[57] Local 40 states that even applying significant deference, the Reconsideration Decision is so flawed that no amount of curial defence can justify letting it stand, because:

a) the Board failed to explain how it concluded that the remedies granted in the Merits Decision were adequate, which rendered the decision opaque and unintelligible; and

b) the outcome was itself unreasonable because it did not remedy the statutory breach at issue, which is contrary to the Board's mandate of enforcing the *Code*.

[58] In the Merits Decision, the Board cancelled the voluntary recognition agreement negotiated between Civeo and BCRCC. Local 40 states that so little time passed between the Merits Decision on October 12, 2021, and BCRCC's application for certification on October 21, 2021, that it is clear that this remedy did not "level the playing field."

[59] Further, the Board ordered Civeo to provide Local 40 with the same employee contact information it had already provided to BCRCC, but Local 40 argues that it was impossible for them to make use of that information in the same manner as the BCRCC, who had access to it for three months.

[60] For example, Local 40 asserts that BCRCC must have used the membership cards it obtained while the voluntary recognition agreement was still in force to cement its efforts to certify following the cancellation of the voluntary recognition agreement.

[61] Both Civeo and BCRCC deny this. They state that at this time, the *Code* required a membership application to proceed to a representation (or secret ballot) vote before the union was certified. While this has subsequently changed, in this case, a secret ballot was conducted, and Civeo and BCRCC maintain that the membership cards were not the basis of ratification.

[62] Prior to the change to a single-step certification system, certification proceeded in two steps: (1) employees in the bargaining unit had to indicate their support by signing membership cards, and (2) employees restated their intention to unionize by secret ballot vote. As such, there may still have been an opportunity to rely on the membership cards. However, I accept that that the employees had to vote and effectively reiterate their wish to join BCRCC. The basis of the certification was not the membership cards alone.

[63] BCRCC states that in Local 40's application for standing at the certification hearing, Local 40 made this allegation, but failed to put forward any evidence that membership cards were used improperly. BCRCC also points out that a judicial review of the Reconsideration Decision is not the correct forum to allege that BCRCC had engaged in impugnable activity with respect to its certification process.

[64] Both Civeo and BCRCC also point to the fact that Local 40 failed to present any evidence showing that it made any efforts of its own to contact employees using the information provided.

[65] In fact, BCRCC states that the Work Camp employees demonstrated their desire for representation by BCRCC on three separate occasions; first, when the voluntary recognition agreement was ratified, second by the secret ballot, and third, when the collective agreement was ratified after the certification process. Civeo and BCRCC argue that there is no evidence that a single employee sought, or wanted representation by Local 40 at any point during the relevant time period.

[66] Local 40 states that while access was ordered, access did not occur prior to BCRCC's certification application. Local 40 submits that it is clear from this fact that there was no basis for employee free choice of bargaining agent at that time, as guaranteed by the *Code*. The difficulty with this argument is that there is insufficient evidence before this Court as to why terms of access were not agreed to, or why some form of access was not exercised or granted. Without additional context or evidence, the mere fact that access did not occur within a particular time period

cannot be a basis for establishing that the access remedy originally issued in the Merits Decision was inconsistent with the *Code*.

[67] In the Reconsideration Decision the Board commented as follows:

> 17 Under Section 141 of the Code, an applicant must establish a good, arguable case of sufficient merit such that it may succeed on one of the established grounds for reconsideration: *Brinco Coal Mining Corporation*, BCLRB No. B74/93 (Leave for Reconsideration of BCLRB No. B6/93), 20 C.L.R.B.R. (2d) 44 ("*Brinco*"). For leave to be granted, an application for reconsideration must raise a serious question as to the correctness or fairness of an original decision. Reconsideration is not an opportunity for an applicant to present its case before a different panel of the Board in hopes of obtaining a different answer from the one given by an original panel.

[68] With respect to Local 40's application for reconsideration of the remedy in the Merits Decision, the Board continued:

> 19 The Board does not generally interfere with exercises of remedial discretion on reconsideration, unless it finds the remedy is inconsistent with Code principles: *Salade Etcetera! Inc. (a division of Vegpro International)*, 2020 BCLRB 109 (Leave for Reconsideration of 2020 BCLRB 34), para. 59 ("Salade").

[69] The Board stated in the Reconsideration Decision that:

> 27 Local 40 argues the remedies given in the Merits Decision did not achieve the stated intention of "levelling the playing field" between itself and BCRCC, because BCRCC was advantaged from having been voluntarily recognized by the Employer. We find, however, that while it might not have been possible to perfectly "level the playing field" between Local 40 and BCRCC, the remedies given by the original panel in the Merits Decision significantly addressed the ways BCRCC was advantaged. In that regard, the BCRCC VRA was cancelled, access was ordered, and the Employer was required to give Local 40 the same employee contact information as BCRCC had.

[70] Remedial certification was a central issue before the original panel at the merits stage. It declined to order remedial certification as sought by Local 40 because it found that the statutory requirements of s. 14(4.1) of the *Code* were not met.

[71] The Board reviewed the original panel's reasoning for denying this remedy, and then went on to discuss the other "significant remedies designed to put Local 40

in the position it would have been, but for [Civeo's] breach". The Board determined that the remedies granted in the Merits Decision "significantly addressed the ways BCRCC were advantaged" given the circumstances. Accordingly, the Board was not persuaded the remedies granted in the Merits Decision, taken as a whole, were inappropriate in the circumstances or inconsistent with *Code* principles, or that remedial certification was the only appropriate remedy: Reconsideration Decision at paras. 26–28.

[72] In *United Steelworkers, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, Local 2009 v. Auyeung*, 2011 BCCA 527 at para. 33 [*United Steelworkers*], the Court of Appeal stated as follows:

> If the Board concludes the original decision is not inconsistent with the principles expressed or implied in this *Code* or in any other Act dealing with labour relations, a court on judicial review is entitled to determine whether that conclusion is patently unreasonable, unfair or incorrect. If it is not, there the matter should end.

[73] The Court goes on to highlight that whether an original decision is consistent with the *Code* is precisely the kind of determination that is at the core of industrial relations in a unionized setting, and within the Board's highly specialized jurisdiction: *United Steelworkers* at para. 34. Under the *Code*, the grounds for review of such an original decision are limited, and should not be expanded on judicial review: *United Steelworkers* at para. 35.

[74] *United Steelworkers* reiterates the importance of the reviewing court paying deference to the Board's expertise and not conducting its own assessment of what should have been ordered in the decision on the merits.

[75] The Additional Remedies put to the reconsideration panel were not before the original panel in the Merits Decision and therefore the Board's decision not to address the Additional Remedies is not proof or evidence of a failure of the Board to articulate how the original remedies did not uphold the principles in the *Code.*

[76] I agree with the submissions of the respondents that it may have been appropriate for the Board to consider the Additional Remedies in the event that: 1) it determined the Merits Decision should be overturned, and 2) it wished to consider imposing new or additional remedies as proposed by Local 40. This did not occur.

[77] With respect, it appears that Local 40's primary argument is not that the Board failed to properly articulate how the remedies ordered against Civeo in the Merits Decision were consistent with the *Code*. Rather, the argument seems to be that because BCRCC was ultimately successful in achieving certification, it is obvious that the remedies were inadequate. I cannot find that this is a proper basis upon which to find that the Board's Reconsideration Decision was patently unreasonable.

[78] I find that there was a tenable line of analysis in the Reconsideration Decision that supported the Board's determination that the original remedies upheld the principles of the *Code*. The reasons reflect the specialized expertise of the Board in governing its own policy and the interpretation of the *Code*. I do not find that the reasons were opaque or unintelligible, or patently unreasonable.

Conclusion

[79] For the reasons stated above, I find that the Reconsideration Decision was not procedurally unfair nor patently unreasonable. I therefore decline to set it aside or remit it back to the Board for consideration of further remedies.

[80] I dismiss Local 40's petition, and the orders sought therein, with costs to the respondents.

"J. Whately J."