

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Nagra v. Coast Mountain Bus Company
(TransLink),
2023 BCSC 2312*

Date: 20231222
Docket: S243746
Registry: New Westminster

Between:

Gurpreet Nagra

Plaintiff

And

**Coast Mountain Bus Company (TransLink)
and Unifor 111 (Unifor)**

Defendants

Before: The Honourable Mr. Justice Brongers

Oral Reasons for Judgment

In Chambers

Appearing on his own behalf:

G. Nagra

Counsel for the Defendant Coast Mountain
Bus Company (TransLink):

S.R. Anis

Counsel for the Defendant Unifor 111
(Unifor) appearing by videoconference

D. Cieloszczyk

Place and Date of Trial/Hearing:

New Westminster, B.C.
December 1, 2023

Place and Date of Judgment:

Vancouver, B.C.
December 22, 2023

[1] **THE COURT:** There are three parties to this proceeding.

[2] The first is Gurpreet Nagra. Mr. Nagra is the plaintiff in the underlying action.

[3] The second is Coast Mountain Bus Company Limited (“CMBC”). Mr. Nagra used to work for CMBC as a transit operator.

[4] The third is Unifor, Local 111 (“Unifor”). When Mr. Nagra worked for CMBC, Unifor was his union.

[5] Mr. Nagra is now suing CMBC and Unifor. In other words, Mr. Nagra's former employer and union are the two defendants to his action.

[6] CMBC and Unifor have each brought an application to strike and dismiss Mr. Nagra's notice of civil claim pursuant to Rule 9-5(1) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009. They argue that this Court has no jurisdiction over Mr. Nagra's claim, as it should have been brought before a labour arbitrator and/or certain administrative tribunals. CMBC also argues that Mr. Nagra's pleading does not set out sufficient facts to form the basis of a reasonable cause of action.

[7] Mr. Nagra, who is self-represented, opposes the applications. Mr. Nagra says that CMBC and Unifor have caused him damage through their acts and omissions, and that only this Court is equipped to address these matters. Mr. Nagra asks that the defendants' applications be dismissed.

[8] I heard CMBC and Unifor's applications on December 1, 2023. I took the matter under reserve until today so that I could fully review the application record and consider all of the parties' submissions.

[9] Having done so, I am of the view that Mr. Nagra's notice of civil claim does not set out a reasonable cause of action, and that this Court does not have jurisdiction over the subject matter of Mr. Nagra's claim. Accordingly, CMBC and Unifor's applications will be allowed, and Mr. Nagra's claim will be dismissed. The reasons for my conclusion are as follows.

Background

Mr. Nagra's Claim

[10] On April 12, 2022, Mr. Nagra filed a notice of civil claim. As it is short, I will set out this pleading in its entirety and quote from it verbatim.

Part 1: STATEMENT OF FACTS

Section 1. Employer (defendant 1)

1. Wrong termination of employment
2. Employer prescribed medical treatment without diagnosis
3. Employer failed to update treatment prescription, update diagnosis or failed to provide access to required medical services as expected in the industry (sleep efficiency of commercial drivers)
4. Employer did not support the employee for a medical appointment through the medical system, where wait time was about 18 months. Results of the medical examination/study were invalid.
5. Employer did not accept medical clearance which confirmed that there is no legal requirement in the province of British Columbia, Canada to comply with the treatment required by the employer.
6. Employer made multiple attempts to terminate employment over other issues which translated to false accusations and/or constructive dismissal.
7. Employer eventually terminated employment over confusion they created or with conflicting instructions from multiple supervisors. Declined grievance in or around June 2020.

Section 2. The Union (defendant 2)

1. The union failed to fulfill "duty of fair representation"
2. Inadequate representation at job site, without disclosing his qualifications, overruled medical clearance or questioned medical clearance provided by qualified medical professional
3. The union failed to arrange independent medical examination, proposed by them.
4. The union prevented legal representation arranged by the employee and the union failed to arrange legal representation.
5. The union offered an arbitration in year 2020 and have not arrange till March 2022.

Section 3. Notes

1. Above all, case will test if a Canadian union, delivers on claims Canada makes in the international community such as human rights, worker's rights and medical treatments for the workplace injuries.

Case will test if the union is enjoying unlimited power, above the Canadian laws, for the wrong reasons.

2. It is expected that claim will be resolved through other means. This claim has been filed in respect to time limits in place. Further documents and evidences will be provided as needs arise.

Part 2: RELIEF SOUGHT

1. Employee (plaintiff) lost wages from April 2019 to the present (\$150,000.00 or more; the employer and/or the union)
2. Employee suffered memory loss due to sleep disturbances over 5 years (the employer and/or the union, amount undisclosed)
3. Employee lost benefits and pensions (\$50,000.00 or more; the employer and/or the union, amount undisclosed)
4. Negative impact of future earnings and job success rate (the employer and/or the union, amount undisclosed)
5. Loss of dignity (the employer and/or the union, amount undisclosed)

Part 3: LEGAL BASIS

1. The B.C. *Labour Relations Code*, RSBC 1996, c. 244
2. *Human Rights Code*, RSBC 1996, c. 210
3. *Workers Compensation Act*, RSBC 2019, c. 1
4. *Employment Standards Act*, RSBC 1996, c. 113

The Parties Affidavits

[11] All three parties filed affidavits in respect of this application. CMBC's affidavit was made by its senior labour relations advisor. Unifor's two affidavits were made by its president and a member of its grievance committee. Mr. Nagra made his own affidavit.

[12] Filing affidavits on an application to strike is permissible, although there are limits upon the use the Court can make of them. They flow from Rule 9-5(2), which provides that no evidence is admissible on an application under Rule 9-5(1)(a). As such, evidence cannot be considered to determine whether a notice of civil claim discloses a reasonable cause of action.

[13] However, evidence can be considered in order to determine whether a notice of civil claim is:

- (1) unnecessary, scandalous, frivolous or vexatious (Rule 9-5(1)(b));

(2) liable to prejudice, embarrass or delay the fair trial or hearing of this proceeding (Rule 9-5(1)(c)); or

(3) is an abuse of the process of the court (Rule 9-5(1)(d)).

[14] I will not fully set out the content of the affidavits that were filed, especially since the parties do not agree on all of the relevant facts. However, it is possible to distill from the affidavits the basic background to the parties' dispute, and to summarize its key factual aspects as follows:

(1) Mr. Nagra began working for CMBC as a transit operator in March 2017.

(2) Mr. Nagra suffered from sleep issues.

(3) At some point Mr. Nagra's fitness to be a transit operator came into question.

(4) Mr. Nagra and CMBC could not agree on how he should be treated and accommodated in the workplace.

(5) Mr. Nagra made some health and safety complaints to the Workers' Compensation Board of British Columbia (i.e., WorkSafeBC) regarding his working conditions.

(6) CMBC terminated Mr. Nagra's employment in April 2020.

(7) Unifor initially brought forward a grievance against CMBC on behalf of Mr. Nagra in respect of his termination.

(8) Unifor later decided not to pursue Mr. Nagra's grievance against CMBC.

The Law on Applications to Strike

[15] The principles to be applied on a Rule 9-5 application to strike are well established. They were helpfully summarized by Justice D. MacDonald in *Gaucher v. British Columbia Institute of Technology*, 2021 BCSC 289, at paragraphs 54 to 62.

[16] While I will not reproduce this summary, I will highlight the following. The test under Rule 9-5(1) is whether it is "plain and obvious" that the action is certain to fail due to a radical defect in the pleading. This defect must relate to any of the four matters set out in subrules 9-5(1)(a), (b), (c), or (d). If any of these grounds are established, the Court may, in its discretion, strike the pleading and dismiss the underlying action.

[17] Before doing so, however, the court should consider granting the responding party leave to amend the defective pleading. This, too, is a matter of discretion. As noted by our Court of Appeal in *Jones v. Bank of Nova Scotia*, 2018 BCCA 381, at paragraph 35:

The exercise of that discretion may require consideration, including the degree to which the pleadings are deficient, of the extent to which the deficiencies may be addressed by an obvious or straightforward amendment, the apparent merit of the claim that may be made out with amendment and the prejudice that may be incurred by dismissing the claim.

[18] Since the main reason CMBC and Unifor seek to dismiss Mr. Nagra's claim is the Court's alleged lack of jurisdiction, it is also worth highlighting the principles that apply to consideration of such an argument on an application to strike.

[19] Briefly put, a claim that clearly falls outside of the jurisdiction of the Court can be struck pursuant to Rule 9-5, as it will be considered to be unreasonable within the meaning of 9-5(1)(a), or embarrassing as per 9-5(1)(c): *McGregor v. Holyrood Manor*, 2014 BCSC 679, at paragraph 114, affirmed 2015 BCCA 157. In addition, where jurisdiction has been given to an administrative tribunal, an attempt to use the civil courts to circumvent that jurisdiction can be struck as an abuse of process as per 9-5(1)(d): *Independent Contractors and Business Association v. British Columbia (Transportation and Infrastructure)*, 2019 BCSC 1201, at paragraph 32, varied on appeal on other grounds, 2020 BCCA 243.

Analytical Framework

[20] Given the manner in which the parties presented their submissions, the first question that must be addressed is whether Mr. Nagra's notice of civil claim

particularizes sufficient facts to formulate one or more complete causes of action. If the answer is yes, the analysis will shift to whether these causes of action fall within the jurisdiction of this Court.

[21] If the answer is no, however, that does not end the matter. The Court will then have to consider whether leave should be given to afford Mr. Nagra the opportunity to amend his pleading. In this particular case, that question will also require consideration of the jurisdictional issues raised by CMBC and Unifor. Leave to amend will have to be denied if it is plain and obvious that there are no aspects of Mr. Nagra's claim that fall within this Court's jurisdiction in any event.

Analysis

Part 1 - Sufficiency of Mr. Nagra's Pleadings

[22] Even when read as generously as possible, Mr. Nagra's notice of civil claim is manifestly deficient.

[23] As has been noted, it is very short. While brevity and concision can be a virtue, Mr. Nagra's pleading is devoid of factual details in the extreme. The "Statement of Facts" contains mainly conclusory statements and vague assertions that are more in the nature of argument than a proper factual narrative. Most significantly, it lacks a clear description of material facts which, if proven, would demonstrate a reasonable cause of action. Under "Legal Basis", Mr. Nagra has done nothing more than list the titles of four provincial statutes. It is also not possible to discern from this pleading why any of the "Relief Sought" should be granted if this legislation is applied to the few facts that Mr. Nagra has mentioned.

[24] Simply put, the notice of civil claim does not comply with the basic pleading requirements of Rule 3-1(2). These include a concise statement of: (a) the material facts giving rise to the claim; (b) the relief sought against each named defendant; and (c) the legal basis for the relief sought. It also does not meet the objective of pleadings, which is to clearly define the issues of fact in law to be determined by stating the material facts with certainty and precision in their natural

order so as to disclose the elements essential to the cause of action being advanced: *Sahyoun v. Ho*, 2013 BCSC 1143, at paragraphs 15 to 33.

[25] In making these findings I acknowledge that Mr. Nagra is not a lawyer. However, while courts may extend some indulgence to self-represented litigants, it is expected that there will be sufficient compliance with the Rules to ensure fairness to the other parties and to permit the court to fairly manage the proceedings before it: *Sahyoun*, at paragraph 60. Such compliance is not present here.

[26] In sum, I find that it is plain and obvious that Mr. Nagra's notice of civil claim does not disclose a reasonable claim, contrary to Rule 9-5(1)(a). It is also plain and obvious that this pleading may prejudice, embarrass or delay the fair trial or hearing of the proceeding as per Rule 9-5(1)(c). Accordingly, I will order that the notice of civil claim be struck.

Part 2 - Jurisdiction over Mr. Nagra's Claim

[27] I turn now to the question of whether the Court should exercise its discretion to permit Mr. Nagra to amend his notice of civil claim in order to bring it in compliance with Rule 3-1.

[28] As I have noted earlier, the answer here depends especially on whether Mr. Nagra's dispute with the defendants is within the Court's jurisdiction. CMBC and Unifor argue that it is not. If they are correct, then there would be no point in affording Mr. Nagra the opportunity to revise his notice of civil claim if the Court cannot deal with his action on its merits in any case.

[29] In considering this question, I will again read Mr. Nagra's original pleading as generously as possible. Doing so, it is apparent that there are five aspects to Mr. Nagra's dispute with the defendants that he wishes to litigate.

[30] Three of Mr. Nagra's claims are for compensation from CMBC. They are for alleged: (1) wrongful dismissal; (2) workplace injuries; and (3) breaches of employment standards.

[31] Mr. Nagra's fourth claim is for compensation from Unifor for alleged unfair representation.

[32] Finally, Mr. Nagra's fifth claim is for compensation in respect of alleged human rights violations. It is directed at both CMBC and Unifor.

[33] I will address each proposed claim in turn.

1. Mr. Nagra's wrongful dismissal claim

[34] First, Mr. Nagra alleges that he was wrongfully and constructively dismissed by CMBC, and he seeks damages for lost wages, benefits and pensions (notice of civil claim, part 1, section 1, paragraphs 1, 6, and 7; part 2, paragraphs 2 and 3; part 3, paragraph 1). CMBC submits that such relief can only be sought by Mr. Nagra before a labour arbitrator pursuant to the *Labour Relations Code*, RSBC 1996, c. 244 ("*Labour Code*").

[35] I agree with CMBC.

[36] There is no dispute that Mr. Nagra was a unionized employee of CMBC and that his terms of employment were the subject of a collective agreement. As required by s. 84 of the *Labour Code*, the collective agreement provides for labour arbitration as the final mechanism for resolution of disputes, including those in relation to dismissal of an employee. Accordingly, this aspect of Mr. Nagra's claim must first be brought before a labour arbitrator. It cannot simply be litigated before this Court.

[37] This principle is well established in Canadian law. It stems from the Supreme Court of Canada's decisions in *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929 and *Bisailon v. Concordia University*, 2006 SCC 19. It was recently applied by our Court of Appeal in *Masjoody v. Trotignon*, 2022 BCCA 135, affirming 2021 BCSC 1502. At paragraph 29 of the Court of Appeal's decision, it was noted that s. 89 of the *Labour Code* specifically authorizes arbitration boards to address contraventions of collective agreements by making awards of money and reinstating employees.

[38] Before concluding with this issue, however, I note that counsel for CMBC alerted me to a recent decision of this Court in the matter of *Hartley v. SNC-Lavalin*, 2022 BCSC 2106. In that case, the chambers judge declined to dismiss a claim for damages arising from an alleged incident of sexual harassment in a unionized workplace on the basis that the matter ought to be subject to arbitration. As I understand the reasons for decision, the judge felt it was not plain and obvious that there was no genuine issue for trial since, on the evidence before him, it was arguable that the plaintiff might be left without a remedy if her claim was struck. While counsel for CMBC fairly raised the existence of this decision in accordance with her duty as an officer of the court, she says it is distinguishable from the case at bar and that the same result should not follow here.

[39] In my view, the considerations that apparently led the chambers judge not to exercise his discretion to strike the claim in *Hartley* are not present in this case. In particular, there is no persuasive indication that the remedies being sought by Mr. Nagra from CMBC could not otherwise be awarded by a labour arbitrator in accordance with the collective agreement and the *Labour Code*. Furthermore, there are no exceptional circumstances that might justify departing from the well-established principle that when the essential character of a dispute arises from the interpretation, application, administration, or alleged violation of a collective agreement, the arbitrator's exclusive jurisdiction to resolve that dispute must be respected by the Court.

[40] In sum, I conclude that Mr. Nagra should not be permitted to amend his notice of civil claim to advance a wrongful dismissal claim against CMBC. If he wishes to pursue this dispute, he must do so before a labour arbitrator rather than the Court.

2. Mr. Nagra's workplace injuries claim

[41] Second, Mr. Nagra seems to allege that he suffered workplace injuries for which he should be compensated by CMBC pursuant to the *Workers Compensation Act*, RSBC 2019, c. 1 (notice of civil claim, part 1, section 1, paragraphs 2 to 5; part 1, section 3, paragraph 1; part 2, paragraphs 2 and 4; part 3, paragraph 3). CMBC

submits that such relief can only be sought by making claims to the Workers' Compensation Board of British Columbia ("WCB").

[42] I agree with CMBC.

[43] By operation of ss. 122 and 127 of the *Workers Compensation Act*, claims for compensation for workplace injuries are not to be brought against employers before the courts. Instead, the legislation establishes what is effectively a no-fault insurance scheme whereby injured employees must apply for relief in accordance with the statute, a process that involves making a claim for compensation to the WCB. This includes claims in respect of personal injuries, mental disorders, bullying and harassment.

[44] The Court's lack of first instance jurisdiction in respect of these matters was clearly noted in *Deol v. Dreyer Davison LLP*, 2020 BCSC 771, at paragraph 89:

[89] I agree with the defendants that insofar as the plaintiff seeks to claim damages for personal injury, comparable to a claim in tort, arising out of and in the course of her employment, these claims would not be within the court's jurisdiction at first instance and must either be struck or referred to WCAT for determination on its jurisdiction.

[45] In sum, I conclude that Mr. Nagra should not be permitted to amend his notice of civil claim to advance a claim in respect of his alleged workplace injuries against CMBC. If he wishes to pursue this dispute, he must do so by making a claim before the WCB, as he has apparently done in the past.

3. Mr. Nagra's breaches of employment standards claim

[46] Third, Mr. Nagra seems to allege generally that CMBC violated the *Employment Standards Act*, RSBC 1996, c. 113 (notice of civil claim, part 3, paragraph 4). CMBC submits that such claims may only be made to the Director of Employment Standards ("Director"), or a labour arbitrator.

[47] I agree with CMBC.

[48] The question of whether a civil claim can be made before the Court in respect of alleged violations of the *Employment Standards Act* was decided by our Court of Appeal in *Macaraeg v. E Care Contact Centers Ltd.*, 2008 BCCA 182. It found that the answer to this question is no. It explained its conclusion at paragraphs 102 and 103 as follows:

[102] When a statute provides an adequate administrative scheme for conferring and enforcing rights, in the absence of providing for a right of enforcement through civil action expressly or as necessarily incidental to the legislation, there is a presumption that enforcement is through the statutory regime and no civil action is available.

[103] In this case, the *ESA* [*Employment Standards Act*] provides a complete and effective administrative structure for granting and enforcing rights to employees. There is no intention that such rights could be enforced in a civil action.

[49] In sum, I conclude that Mr. Nagra should not be permitted to amend his notice of civil claim to advance a claim in respect of any alleged violations by the CMBC of the *Employment Standards Act*. If he wishes to pursue this dispute, he must do so by making a complaint to the Director with the B.C. Employment Standards Branch, or by raising the matter with a labour arbitrator.

4. Mr. Nagra's unfair representation claim

[50] Fourth, Mr. Nagra alleges that Unifor unfairly represented him, and that he should be compensated accordingly (notice of civil claim, part 1, section 2, paragraphs 1 to 5; part 1, section 3, paragraph 1; part 2, paragraphs 1 to 5; part 3, paragraph 1). Unifor submits that such relief can only be sought by Mr. Nagra before the Labour Relations Board (“LRB”) pursuant to the *Labour Code*.

[51] I agree with Unifor.

[52] In British Columbia, the duty of a union to fairly represent employees within a collective bargaining unit is codified at s. 12 of the *Labour Code*. That legislation also provides a statutory mechanism for employees to bring complaints of unfair representation against unions, which includes the possibility of adjudication before the LRB: ss. 13, 136, 137, 138, and 139(r) of the *Labour Code*.

[53] The LRB's jurisdiction to hear such complaints is exclusive, and s. 137 of the *Labour Code* expressly ousts the jurisdiction of the courts as follows:

137(1) Except as provided in this section, a court does not have and must not exercise any jurisdiction in respect of a matter that is, or may be, the subject of a complaint under section 133 or a matter referred to in section 136, and, without limitation, a court must not make an order enjoining or prohibiting an act or thing in respect of them.

[54] The courts' lack of jurisdiction over unfair representation complaints is perhaps most clearly stated by this Court in *Bakaluk v. Western Star Trucks*, 2004 BCSC 417, at paragraph 9:

[9] Since the decision of the British Columbia Court of Appeal in *Mulherin v. U.S.W.A. Local 7884* (1987), 1987 CanLII 2739 (BC CA), 12 B.C.L.R. (2d) 251, leave to appeal refused [1987] 1 S.C.R. xi, it has been clear that issues arising with respect to the duty of fair representation are within the exclusive jurisdiction of the Labour Relations Board and are not divisible between labour boards and courts.

[55] That said, s. 137(2) does provide for an exception to the LRB's exclusive jurisdiction so as to ensure that the Court may address situations where there is a risk of immediate danger of serious injury to an individual or physical damage to property. It is worded as follows:

137(2) This Code must not be construed to restrict or limit the jurisdiction of a court, or to deprive a court of jurisdiction to entertain a proceeding and make an order the court may make in the proper exercise of its jurisdiction if a wrongful act or omission in respect of which a proceeding is commenced causes immediate danger of serious injury to an individual or causes actual obstruction or physical damage to property.

[56] At the hearing of this matter, Mr. Nagra urged the Court to apply this exception in respect of his claim against Unifor. However, neither his own affidavit, nor those tendered by the defendants, contain any evidence that Mr. Nagra is in immediate danger of serious injury or that there is any property at risk stemming from acts or omissions of Unifor in respect of its representation of Mr. Nagra. In the absence of evidence of such emergencies, I can see no justification for this Court to assume its exceptional authority under s. 137(2) of the *Labour Code* to address a matter that the Legislature clearly intended to be dealt with by the LRB.

[57] In sum, I conclude that Mr. Nagra should not be permitted to amend his notice of civil claim to advance a claim in respect of any alleged unfair representation by Unifor. If he wishes to pursue this dispute, he must do so by making a complaint to the LRB.

5. Mr. Nagra's human rights violation claim

[58] Fifth, Mr. Nagra seems to allege that his human rights protected by the *Human Rights Code*, RSBC 1996, c. 210, were violated by both CMBC and Unifor, and that he should be compensated accordingly (notice of civil claim, part 1, section 1, paragraphs 2 to 5; part 1, section 3, paragraph 1; part 2, paragraph 5; and part 3, paragraph 2). CMBC submits that such relief can only be sought by Mr. Nagra before the British Columbia Human Rights Tribunal (“Tribunal”).

[59] I agree with CMBC.

[60] Section 21 of the *Human Rights Code* provides that any person who believes that their rights under that legislation were contravened may file a complaint before the Tribunal. They are not permitted to bring such a complaint before the Court. This is because the Supreme Court of Canada stated in *Seneca College of Applied Arts and Technology v. Bhadauria*, [1981] 2 S.C.R. 181, that there is no tort of discrimination, a principle that was reaffirmed in *Honda Canada Inc. v. Keays*, 2008 SCC 39.

[61] As a result, it is beyond dispute that a claim for relief in respect of an alleged *Human Rights Code* violation, including one in relation to an alleged wrongful dismissal due to disability, cannot be made before the Court. This was stated unequivocally in *Hall v. Trueblue, DBA Labour Ready*, 2017 BCSC 2004, at paragraph 36:

[36] The Human Rights Tribunal has exclusive jurisdiction to hear and determine all complaints of prohibited employment discrimination within the province. As the defendant correctly submits, this Court has no jurisdiction to determine whether the alleged wrongful termination of the plaintiff was allegedly due to disability. Any part of the Notice of Civil Claim relating to a matter falling within the exclusive jurisdiction of the Human Rights Tribunal,

including in particular the plaintiff's allegation that she was wrongfully terminated from employment due to disability, should be struck.

[62] In sum, I conclude that Mr. Nagra should not be permitted to amend his notice of civil claim to advance a human rights violation claim against CMBC or Unifor. If he wishes to pursue this dispute, he must do so before the Tribunal, or possibly a labour arbitrator (see: *Parry Sound (District) Social Services Administration Board v. O.P.S.E.U. Local 324*, 2003 SCC 42).

Conclusion

[63] In conclusion, it is plain and obvious that all five aspects of Mr. Nagra's dispute with CMBC and Unifor fall outside of the subject matter jurisdiction of this Court. Accordingly, there would be no utility in permitting Mr. Nagra to amend his notice of civil claim as it would still not disclose a reasonable cause of action. Mr. Nagra will not be given leave to amend this pleading.

Disposition

[64] For all of these reasons, I make the following orders:

1. The defendants' applications are allowed.
2. The plaintiff's notice of civil claim is struck and dismissed, without leave to amend.

[65] Would the parties like to make any submissions on costs?

[SUBMISSIONS ON COSTS FROM 9:37:23 A.M. TO 9:40:26 A.M.]

[66] THE COURT: So I will provide my decision and reasons with respect to costs of this matter.

[67] CMBC and Unifor's applications to strike have been allowed. As the successful parties, they are presumptively entitled to an award of costs.

[68] While I can see no valid basis for departing from this principle, CMBC is not seeking an award of costs.

[69] Unifor, on the other hand, is seeking costs at Scale B. I will therefore grant Unifor its costs in respect of its application only to be assessed at Scale B. There will be no costs payable in respect of CMBC's application.

[70] Unless there are any questions, we are concluded.

[71] CNSL S. ANIS: No questions from us.

[72] GURPREET NAGRA: No questions, Justice.

[73] CNSL D. CIELOSZCZYK: No further questions, Justice.

[74] THE COURT: Thank you. We are adjourned.

“Brongers J.”