



Jessie Bains <bainsj@gmail.com>

Re: Jessie Bains -and- Hospital Employees' Union -and- Provincial Health Services Authority (s. 12 - Case Nos. 2024-001334, 001437, 001478, 001491, 001578)

1 message

Jessie Bains <bainsj@gmail.com>

Tue, Mar 11, 2025 at 7:42 PM

To: "Wu, Emi LRB:EX" <Emi.Wu@lrb.bc.ca>, "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>

Cc: "ksmith@koskieglavin.com" <ksmith@koskieglavin.com>, "heu@heu.org" <heu@heu.org>, "bnederpel@heu.org" <bnederpel@heu.org>, "ivo.dimitrov@phsa.ca" <ivo.dimitrov@phsa.ca>

Attn: Stephanie Drake, Registrar

Re: Request for Reassignment of Panel Member – Section 12(1) Applications

Dear Ms.Drake,

I am writing to formally request that my Section 12 applications (Case Nos. 2024-001334M, 2024-001437E, 2024-001478M, 2024-001491T, and 2024-001576T) be reassigned to a panel member who has not been previously employed by or associated with public sector unions, particularly the BC Government and Service Employees' Union (BCGEU) and the Hospital Employees' Union (HEU).

As a former member of the BCGEU, I was directly represented by Rene-John Nicolas, who currently serves as a Vice-Chair of the Labour Relations Board. I now note that my applications have been assigned to Andres Barker, who was previously an articling student at the BCGEU for more than a year. This presents a reasonable perception of a conflict of interest, given my past representation and ongoing advocacy efforts.

Recently, I have been actively lobbying the provincial government to introduce legislation mandating financial transparency and accountability from public sector unions. Given that HEU is one of the largest donors to the current NDP government—providing 100% of its political contributions to the party in power—there is a strong public interest in ensuring my case is reviewed by an impartial panel member with no prior affiliation with these unions.

To be clear, this request is not a reflection on Mr. Barker personally. Rather, it is a necessary measure to uphold the principles of fairness, independence, and public confidence in the Labour Relations Board's adjudicative process. Given the well-documented bad faith representation I have received from HEU, it is entirely reasonable to ensure that my applications are assessed by an individual who is free from any potential bias or prior association with public sector unions.

I trust that this request will be given full consideration, and I look forward to your response confirming the reassignment of my applications to an appropriate panel member.

Sincerely,

Jessie Bains

On Tue, Mar 11, 2025 at 2:42 PM Wu, Emi LRB:EX <Emi.Wu@lrb.bc.ca> wrote:

Good Afternoon,

My apologies, the Union contact in the previously sent letter was incorrect. Please find attached the amended copy of the Board correspondence dated March 11, 2025.

Warm Regards,

Emi Wu (she/her)

Senior Executive Assistant



The Labour Relations Board acknowledges the traditional territories of the many diverse Indigenous Peoples in the geographic area we serve. With gratitude and respect, we acknowledge that the Board's office is located on the traditional unceded territories of the Coast Salish peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətaʔ (Tsleil-Waututh) Nations

From: Wu, Emi LRB:EX

Sent: Tuesday, March 11, 2025 1:14 PM

To: 'bainsj@gmail.com' <bainsj@gmail.com>; 'bneiderpel@heu.org' <bneiderpel@heu.org>; 'ivo.dimitrov@phsa.ca' <ivo.dimitrov@phsa.ca>

Cc: 'heu@heu.org' <heu@heu.org>

Subject: Jessie Bains -and- Hospital Employees' Union -and- Provincial Health Services Authority (s. 12 - Case Nos. 2024-001334, 001437, 001478, 001491, 001578)

Importance: High

Good Afternoon,

Please find attached Board correspondence dated March 11, 2025, with respect to the above-captioned matters.

Warm Regard,

Emi Wu (she/her)

Senior Executive Assistant



The Labour Relations Board acknowledges the traditional territories of the many diverse Indigenous Peoples in the geographic area we serve. With gratitude and respect, we acknowledge that the Board's office is located on the traditional unceded territories of the Coast Salish peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətaʔ (Tsleil-Waututh) Nations

5/6/25, 5:35 PM

Gmail - Re: Jessie Bains -and- Hospital Employees' Union -and- Provincial Health Services Authority (s. 12 - Case Nos. 2024-00133...



Jessie Bains <bainsj@gmail.com>

Re: Jessie Bains -and- Hospital Employees' Union -and- Provincial Health Services Authority (s. 12 - Case Nos. 2024-001334, 001437, 001478, 001491, 001578)

1 message

Jessie Bains <bainsj@gmail.com>

Wed, Mar 12, 2025 at 5:42 PM

To: "Wu, Emi LRB:EX" <Emi.Wu@lrb.bc.ca>

Cc: "ksmith@koskieglavin.com" <ksmith@koskieglavin.com>, "ivo.dimitrov@phsa.ca" <ivo.dimitrov@phsa.ca>

Subject: Further Response to Denial of Recusal Request**Dear Mr. Barker,**

Thank you for your response regarding my request for the recusal of the panel members in my Section 12 cases. While I acknowledge the Board's decision, I find it necessary to reiterate my concerns and the implications of this situation.

The denial of my request has not alleviated my apprehension regarding the potential for bias, given the historical connections between the panel members and the public sector unions involved. My efforts to hold these organizations accountable stem from a genuine need for transparency and fairness—not only in my case but for the broader labor community.

I respect the Board's authority and understand the complexities involved in adjudicating such matters. However, I urge you to consider the broader impact on public confidence in the Labour Relations Board. It is critical that all parties involved feel assured their cases are handled with absolute impartiality, particularly when previous affiliations could influence decision-making.

If the Board is standing firmly by its decision, I request that the written reasons for the denial be provided at your earliest convenience. Understanding the rationale behind this decision will allow me to consider my next steps, including potential avenues for appeal or further action.

Thank you for your attention to this matter. I remain hopeful that we can engage in an open dialogue on the importance of impartiality in the Board's proceedings.

Sincerely,
Jessie Bains

On Wed, Mar 12, 2025 at 4:17 PM Wu, Emi LRB:EX <Emi.Wu@lrb.bc.ca> wrote:

Good Afternoon,

Please find attached Board correspondence dated March 12, 2025, with respect to the above-captioned matters.

Warm Regards,

Emi Wu (she/her)

Senior Executive Assistant



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From: Wu, Emi LRB:EX

Sent: Tuesday, March 11, 2025 1:14 PM

To: 'bainsj@gmail.com' <bainsj@gmail.com>; 'bnederpel@heu.org' <bnederpel@heu.org>; 'ivo.dimitrov@phsa.ca' <ivo.dimitrov@phsa.ca>

Cc: 'heu@heu.org' <heu@heu.org>

Subject: Jessie Bains -and- Hospital Employees' Union -and- Provincial Health Services Authority (s. 12 - Case Nos. 2024-001334, 001437, 001478, 001491, 001578)

Importance: High

Good Afternoon,

Please find attached Board correspondence dated March 11, 2025, with respect to the above-captioned matters.

Warm Regard,

Emi Wu (she/her)

Senior Executive Assistant



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"BY EMAIL"

March 12, 2025

To Interested Parties

Re: Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001334M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001437E)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001478M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001491T)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001576T)

I write further to the Applicant's email of March 11, 2025, which I have treated as an application for the panel to recuse themselves due to a reasonable apprehension of bias. The application for recusal is denied. Written reasons will be provided in any final decision on the applications.

Yours truly,

LABOUR RELATIONS BOARD



Andres Barker
Associate Chair

/ew

INTERESTED PARTIES:

Jessie Bains (Applicant)
5961 129 Street
Surrey, BC V3X 0B9
Email: bainsj@gmail.com

Koskie Glavin Gordon
1630 – 1177 West Hastings Street
Vancouver, BC
V6E 2K3
ATTENTION: Kirby Smith
Email: ksmith@koskieglavin.com

(for the Union)

Provincial Health Services Authority
200-1333 W. Boardway
Vancouver, BC V6h 4C1
ATTENTION: Ivo Dimitrov
Email: ivo.dimitrov@phsa.ca

"BY EMAIL"

March 13, 2025

To Interested Parties

Re: Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001334M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001437E)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001478M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001491T)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001576T)

I write further to your letter to Chair Glougie asking that the adjudication of your files be reassigned from Vice-Chair Barker to another panel member "without any previous affiliation with public sector unions".

The Board does not entertain requests from parties to reassign their files to adjudicators with or without certain affiliations. Matters are assigned to panels and parties may make a request for that vice-chair to recuse themselves. Applications alleging bias are made to the panel hearing the matter and that panel decides that question at first instance. If a party disagrees with the decision not to recuse themselves, they may file an application for reconsideration when the reasons for that decision are issued.

As you are aware, Vice-Chair Barker has considered your request that he recuse himself from your case and has declined to do so. He has indicated that he will provide reasons for this decision in his final decision in this matter. This is in accordance with the Board's usual process as set out above. I note that vice-chairs are necessarily drawn from one side of the labour community or the other and are bound to have some prior affiliations with parties that come before it. The Board and the Court have found that this does not, in and of itself, give rise to a reasonable apprehension of bias: See, for example, *Sean Parr*, BCLRB No. B211/96 (Leave for Reconsideration of BCLRB No. B81/96).

Yours truly,

LABOUR RELATIONS BOARD



Stephanie Drake
Vice-Chair and Registrar

SD/jo

INTERESTED PARTIES:

Jessie Bains (Applicant)
5961 129 Street
Surrey, BC V3X 0B9
Email: bainsj@gmail.com

Koskie Glavin Gordon
1630 – 1177 West Hastings Street
Vancouver, BC
V6E 2K3
ATTENTION: Kirby Smith
Email: ksmith@koskieglavin.com

(for the Union)

Provincial Health Services Authority
200-1333 W. Boardway
Vancouver, BC V6h 4C1
ATTENTION: Ivo Dimitrov
Email: ivo.dimitrov@phsa.ca



Jessie Bains <bainsj@gmail.com>

Re: Jessie Bains -and- Hospital Employees' Union -and- Provincial Health Services Authority (s. 12 - Case Nos. 2024-001334, 001437, 001478, 001491, 001578)

1 message

Jessie Bains <bainsj@gmail.com>

Thu, Mar 13, 2025 at 12:20 PM

To: Jennifer.Glougie@lrb.bc.ca, "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>

Cc: "ksmith@koskieglavin.com" <ksmith@koskieglavin.com>, "ivo.dimitrov@phsa.ca" <ivo.dimitrov@phsa.ca>, "Wu, Emi LRB:EX" <Emi.Wu@lrb.bc.ca>, "McLoughlin, Emma LRB:EX" <Emma.McLoughlin@lrb.bc.ca>

Subject: Immediate Request for Reassignment of Panel Member due to Reasonable Apprehension of Bias**Jennifer Glougie, Chair BC Labour Relations Board**

Cc: Stephanie Ann Drake, Vice-Chair and Registrar

Dear Ms. Glougie,

I am writing to formally and urgently request the reassignment of my Section 12(1) applications (Case Nos. 2024-001334M, 2024-001437E, 2024-001478M, 2024-001491T, and 2024-001576T) to a different panel member without any previous affiliation with public sector unions, specifically the BC Government and Service Employees' Union (BCGEU) and the Hospital Employees' Union (HEU).

My original request dated March 11, 2025, was explicit: I sought a panel member free from prior associations with these unions. However, this was incorrectly treated as a recusal application by Mr. Barker himself, rather than a procedural reassignment request directed to the Board's administration. It is concerning and procedurally irregular for a panel member to decide their own potential bias without transparency or an independent assessment.

Mr. Barker's dismissal of my request without providing immediate reasons **exacerbates** my apprehension of bias. According to publicly available information, Mr. Barker's term expires on April 30, 2025, raising additional questions about the decision to assign him my applications so close to his departure, particularly given his past articling association with the BCGEU. This creates a significant perception of conflict of interest.

Transparency and procedural fairness demand that I am provided immediate, clear reasons for any refusal of my reassignment request—not at the conclusion of my cases, but now, when meaningful action can still be taken. The Labour Relations Board's credibility and the public's confidence depend on ensuring impartiality and avoiding even the appearance of bias.

Given these serious concerns and procedural irregularities, I insist that my applications be promptly reassigned to another impartial panel member.

For your reference and convenience, I have summarized the related correspondence below:

- March 11, 2025: Original request sent to Registrar Stephanie Drake, explicitly requesting reassignment.
- March 11, 2025: Notification from Emi Wu regarding the assignment of Andres Barker.
- March 12, 2025: Andres Barker denied recusal request without providing immediate reasons.
- March 13, 2025: Andres Barker further dismissed my request to revisit his recusal decision, again deferring reasons until the final decision.

I look forward to your swift action on this matter to uphold the integrity and independence of the Labour Relations Board.

Respectfully,

Jessie Bains 5961 129 Street Surrey, BC V3X 0B9 Email: bainsj@gmail.com

On Thu, Mar 13, 2025 at 11:08 AM Wu, Emi LRB:EX <Emi.Wu@lrb.bc.ca> wrote:

Good Morning,

Please find attached Board correspondence dated March 13, 2025, with respect to the above-captioned matters.

Warm Regards,

Emi Wu (she/her)

Senior Executive Assistant



The Labour Relations Board acknowledges the traditional territories of the many diverse Indigenous Peoples in the geographic area we serve. With gratitude and respect, we acknowledge that the Board's office is located on the traditional unceded territories of the Coast Salish peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətaʔ (Tsleil-Waututh) Nations

"BY EMAIL"

March 13, 2025

To Interested Parties

Re: Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001334M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001437E)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001478M)


Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001491T)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001576T)

I am responding to the Applicant's email of March 12, 2025. The Applicant's request for me to revisit my recusal decision is dismissed. As stated in my prior letter, reasons for my dismissal of the Applicant's recusal application will be in the final decision.

Yours truly,

LABOUR RELATIONS BOARD



Andres Barker
Associate Chair

/ew

INTERESTED PARTIES:

Jessie Bains (Applicant)
5961 129 Street
Surrey, BC V3X 0B9
Email: bainsj@gmail.com

Koskie Glavin Gordon
1630 – 1177 West Hastings Street
Vancouver, BC
V6E 2K3
ATTENTION: Kirby Smith
Email: ksmith@koskieglavin.com

(for the Union)

Provincial Health Services Authority
200-1333 W. Boardway
Vancouver, BC V6h 4C1
ATTENTION: Ivo Dimitrov
Email: ivo.dimitrov@phsa.ca



Jessie Bains <bainsj@gmail.com>

**Jessie Bains -and- Hospital Employees' Union – Provincial Health Services Authority
- Applications pursuant to Sections 10 and 12 of the Labour Relations Code (Case
Nos. 2024-001334, 1437, 1478, 1491, 1576 and 2025-000395E)**

1 message

Jessie Bains <bainsj@gmail.com>

Tue, Apr 8, 2025 at 10:53 PM

To: "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>

NOTICE OF CHALLENGE TO PANEL MEMBER ASSIGNMENT**BY EMAIL**

April 8, 2025

BC LABOUR RELATIONS BOARDSuite 600 – Oceanic Plaza
1066 West Hastings Street
Vancouver, BC V6E 3X1**To: Jennifer Glougie, Chair****Cc: Registrar, LRB, Andres Barker, Vice Chair, All Parties on Record**

TAKE NOTICE that I, **Jessie Bains**, the applicant in the above-noted matters, hereby **formally challenge** the Labour Relations Board's assignment of all six of my Section 12(1) applications to a single panel member, **Vice-Chair Andres Barker**.

These applications raise **distinct and serious allegations** involving representational failure and employer misconduct. Despite being **separately filed** and based on **unique factual foundations**, the Board has concentrated adjudication of all six matters under a **single adjudicator**, who has a prior affiliation with one of the unions where I was a member and a representative.

This assignment gives rise to a **reasonable apprehension of bias** and raises significant **procedural concerns** regarding impartiality, fairness, and the **appearance of neutrality**.

Relief Requested

I therefore respectfully request that the Board:

1. **Immediately reconsider and reverse** the current assignment, and allocate the cases among **multiple impartial panel members**;
2. **Provide a written explanation and justification** for the Board's decision last month to reassign five of my applications—previously filed independently at different time periods in 2024—and to assign my most recent application to the same panel member, thereby consolidating all six matters under a single adjudicator;
3. **Confirm** whether the Board determined that **no other Vice-Chair or adjudicator** was available or suitably qualified to preside over any of these cases, and provide the reasoning for such a determination;
4. **Confirm** whether **continuity, public confidence, and procedural safeguards** were meaningfully assessed prior to assigning Vice-Chair Barker to oversee the entirety of these proceedings.

Until this issue is addressed, I request that **no further procedural steps** be taken in these matters.

This Notice is submitted **without prejudice** to my right to pursue additional remedies or raise further procedural objections.

Dated this 8th day of April, 2025.

Respectfully submitted,
Jessie Bains
bainsj@gmail.com



Jessie Bains <bainsj@gmail.com>

Re: Jessie Bains -and- Hospital Employees' Union – Provincial Health Services Authority - Applications pursuant to Sections 10 and 12 of the Labour Relations Code (Case Nos. 2024-001334, 1437, 1478, 1491, 1576 and 2025-000395E)

1 message

Jessie Bains <bainsj@gmail.com>

Tue, Apr 8, 2025 at 10:57 PM

To: "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>, "Wu, Emi LRB:EX" <Emi.Wu@lrb.bc.ca>

Change of Title from my attached email to Vice-Chair Andres Barker

NOTICE OF FORMAL REQUEST FOR RECUSAL**BY EMAIL**

April 8, 2025

BC LABOUR RELATIONS BOARD

Suite 600 – Oceanic Plaza
1066 West Hastings Street
Vancouver, BC V6E 3X1

To: Vice-Chair Andres Barker**Cc: Registrar, LRB, Jennifer Glougie, Chair All Parties on Record**

TAKE NOTICE that I, **Jessie Bains**, the applicant in the above-noted matters, hereby **formally and respectfully request** that you **recuse yourself** from further involvement in these proceedings.

This request is grounded in the principle of **natural justice** and, more specifically, in the legal standard of **reasonable apprehension of bias**—which exists where a well-informed and objective observer could reasonably perceive that the decision-maker may not approach the matter with impartiality.

Grounds for Recusal**1. Prior Union Affiliation**

Your past articling relationship with the **BC Government and Service Employees' Union (BCGEU)**—an organization closely aligned with the **Hospital Employees' Union (HEU)** and I being a former member/representative of BCGEU, a direct respondent in these proceedings—raises an **objective concern about the appearance of impartiality**. In cases involving allegations of union misconduct and representational failure, any prior association with aligned unions justifiably **calls into question the neutrality** of the adjudicative process.

2. Exclusive Assignment Across Multiple Applications

It is both **procedurally irregular and troubling** that all six of my distinct and separately filed Section 12 applications have been assigned **exclusively to you** with **5 of them reassigned** just last month.. This consolidation, **without transparency or explanation**, raises legitimate concerns regarding the **fairness of the Board's administrative process** and the potential for **undue influence or predisposition**.

3. Imminent End of Term

Your current term as Vice-Chair is scheduled to conclude on **April 30, 2030**. While a longer term may suggest administrative continuity, the assignment of these complex and potentially protracted matters to a panel member with a defined end date—however distant—raises legitimate concerns about the **long-term capacity for impartial oversight**. It

also contributes to the **appearance of institutional bias**, particularly where unresolved issues may extend beyond the term's conclusion and lack continuity in adjudication.

Relief Sought

Given the above, I respectfully request that you **immediately recuse yourself** from these proceedings and that the Board **reassign the matters to alternative panel members** who are free from any prior affiliations that might give rise to a **reasonable apprehension of bias**.

This request is made **without prejudice** to my right to pursue any additional **procedural or legal remedies**.

Dated this 8th day of April, 2025.

Respectfully submitted,
Jessie Bains
bainsj@gmail.com

On Tue, Apr 8, 2025 at 10:31 PM Jessie Bains <bainsj@gmail.com> wrote:

NOTICE TO REGISTRAR – ACCEPTANCE OF NOTICES

BY EMAIL

April 8, 2025

BC LABOUR RELATIONS BOARD

Suite 600 – Oceanic Plaza
1066 West Hastings Street
Vancouver, BC V6E 3X1

To: Vice-Chair Andres Barker

Cc: Registrar, LRB, Jennifer Glougie, Chair All Parties on Record

TAKE NOTICE that I, **Jessie Bains**, the applicant in the above-noted matters, hereby **formally and respectfully request** that you **recuse yourself** from further involvement in these proceedings.

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Grounds for Recusal

1. Prior Union Affiliation

Your past articling relationship with the **BC Government and Service Employees' Union (BCGEU)**—an organization closely aligned with the **Hospital Employees' Union (HEU)** and I being a former member/representative of BCGEU, a direct respondent in these proceedings—raises an **objective concern about the appearance of impartiality**. In cases involving allegations of union misconduct and representational failure, any prior association with aligned unions justifiably **calls into question the neutrality** of the adjudicative process.

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It is both **procedurally irregular and troubling** that all six of my distinct and separately filed Section 12 applications have been assigned **exclusively to you** with **5 of them reassigned** just last month.. This consolidation, **without transparency or explanation**, raises legitimate concerns regarding the **fairness of the Board's administrative process** and the potential for **undue influence or predisposition**.

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administrative continuity, the assignment of these complex and potentially protracted matters to a panel member with a defined end date—however distant—raises legitimate concerns about the **long-term capacity for impartial oversight**. It also contributes to the **appearance of institutional bias**, particularly where unresolved issues may extend beyond the term's conclusion and lack continuity in adjudication.

Relief Sought

Given the above, I respectfully request that you **immediately recuse yourself** from these proceedings and that the Board **reassign the matters to alternative panel members** who are free from any prior affiliations that might give rise to a **reasonable apprehension of bias**.

This request is made **without prejudice** to my right to pursue any additional **procedural or legal remedies**.

Dated this 8th day of April, 2025.

Respectfully submitted,
Jessie Bains
bainsj@gmail.com

"BY EMAIL"

April 11, 2025

To Interested Parties

Re: Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001334M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001437E)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001478M)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001491T)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2024-001576T)

Jessie Bains (Applicant) -and- Hospital Employees' Union (Union) -
and- Provincial Health Services Authority (Employer)
(Section 12(1) - Case No. 2025-000359E)

I write further to the Applicant's recent letters to myself and the Board Chair once more requesting that I recuse myself from this matter. As previously communicated, I am not recusing myself and reasons for that decision will be provided in my final decision. I also advise that I will not be responding to any further recusal requests, and any challenge to this interim decision can be raised on reconsideration following the issuance of any final decision.

Yours truly,

LABOUR RELATIONS BOARD



Andres Barker
Associate Chair

AB/ew

INTERESTED PARTIES:

Jessie Bains (Applicant)
5961 129 Street
Surrey, BC V3X 0B9
Email: bainsj@gmail.com

Koskie Glavin Gordon
1630 – 1177 West Hastings Street
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ATTENTION: Kirby Smith
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(for the Union)

Provincial Health Services Authority
200-1333 W. Boardway
Vancouver, BC V6h 4C1
ATTENTION: Ivo Dimitrov
Email: ivo.dimitrov@phsa.ca

BY EMAIL

April 11, 2025

BC LABOUR RELATIONS BOARD

Suite 600 – Oceanic Plaza
1066 West Hastings Street
Vancouver, BC V6E 3X1

To: Andres Barker, Vice-Chair

Cc: Registrar, LRB; Jennifer Glougie, Chair; All Parties on Record

**Re: Jessie Bains -and- Hospital Employees' Union – Provincial Health Services Authority
Applications pursuant to Sections 10 and 12 of the Labour Relations Code
(Case Nos. 2024-001334, 1437, 1478, 1491, 1576 and 2025-000395E)**

**Subject: Objection to Jurisdiction — Demand for Oath of Office and Immediate
Justification for Refusal to Recuse**

Dear Mr. Barker,

This correspondence serves as a direct response to your letter dated April 11, 2025, in which you declined to recuse yourself and further indicated that no explanation for this decision would be provided until the issuance of a final determination.

Your refusal to provide immediate reasons for your decision not to recuse yourself is not only procedurally improper—it is a clear indication of your intent to unlawfully trespass upon this matter in breach of fundamental principles of natural justice and procedural fairness.

I hereby demand the following:

1. Your sworn oath of office to confirm the lawful basis for your involvement in this matter.
2. An immediate and detailed explanation for your refusal to recuse yourself, prior to the continuation of any further proceedings.

Until these demands are satisfied, no proceedings may lawfully continue, as any further action taken in this case while the issue of jurisdiction and impartiality remains unresolved would be null and void.

Your actions raise serious concerns regarding bias, abuse of authority, and contempt for the rights of the parties involved.

You are now formally put on notice: proceed without resolving this fundamental jurisdictional defect, and you do so under personal and professional liability.

Govern yourself accordingly.

Dated this 11th day of April, 2025

Respectfully submitted,

Jessie Bains

bainsj@gmail.com



Jessie Bains <bainsj@gmail.com>

Request to Accept and Acknowledge Attached Correspondence to Associate Chair Andres Barker

1 message

Jessie Bains <bainsj@gmail.com>

Fri, Apr 11, 2025 at 6:11 PM

To: "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>

BY EMAIL**April 11, 2025****BC LABOUR RELATIONS BOARD**Suite 600 – Oceanic Plaza
1066 West Hastings Street
Vancouver, BC V6E 3X1

To: Registrar, LRB

Cc: Jennifer Glougie, Chair: Andred Barker, Vice-Chair; All Parties on Record

Re: Jessie Bains -and- Hospital Employees' Union – Provincial Health Services Authority Applications pursuant to Sections 10 and 12 of the Labour Relations Code (Case Nos. 2024-001334, 1437, 1478, 1491, 1576 and 2025-000395E)

Dear Registrar,

I am writing to formally request that the enclosed correspondence addressed to Associate Chair Andres Barker be accepted into the record and acknowledged as part of the ongoing proceedings referenced in the Board's April 11, 2025 letter.

Given the serious procedural and jurisdictional concerns raised in the attached letter, including a formal demand for the Associate Chair's oath of office and immediate explanation for his refusal to recuse himself, I insist that this communication be treated with the urgency and gravity it warrants.

This communication directly responds to Mr. Barker's assertion that he will not provide further response regarding recusal prior to his final decision. Such a position is procedurally inappropriate and fundamentally prejudicial. Until the matters raised are fully addressed, **I assert that no further proceedings should lawfully continue.**

Please confirm receipt of this letter and its enclosure, and ensure it is promptly delivered to Associate Chair Barker and placed on file.

Dated this 11th day of April, 2025.

Respectfully submitted,Jessie Bains
bainsj@gmail.com**Andres Barker - Objection to Jurisdiction.pdf**

450K

BRITISH COLUMBIA LABOUR RELATIONS BOARD

JESSIE BAINS

(the “Applicant”)

-and-

HOSPITAL EMPLOYEES’ UNION

(the “Union”)

-and-

PROVINCIAL HEALTH SERVICES AUTHORITY

(the “Employer”)

PANEL: Andres Barker, Associate Chair

APPEARANCES: The Applicant, self-represented

CASE NOS.: 2024-001334, 2024-001437,
2024-001478, 2024-001491,
2024-001576, 2025-000359,
and 2025-000464

DATE OF DECISION: April 30, 2025

DECISION OF THE BOARD

I. NATURE OF APPLICATION

1 The Applicant filed seven applications (the “Applications”) pursuant to Section 12 of the *Labour Relations Code* (the “Code”) asserting the Union breached its statutory duty of fair representation.

2 A different panel was initially established to adjudicate the first five applications. Pursuant to Section 13 of the Code, that panel invited the Union and Employer to provide a response submission to those applications. The Board letter inviting submissions noted that the Applicant, without having specifically mentioned Section 10(1) of the Code, also alleged that he was denied the application of the principles of natural justice in respect of certain disputes relating to internal Union matters. The Union was therefore invited to provide submissions addressing that section of the Code as well. The Union addressed the merits of the first five applications under Section 10(1) of the Code, and the Applicant referred to Section 10(1) in his final reply. The Employer did not participate in the written submission process.

3 Submissions were not sought from the Union and Employer on the Sixth and Seventh applications.

4 I find I am able to decide this matter on the basis of the parties’ written submissions and without an oral hearing.

II. BACKGROUND

5 As noted, the Applicant filed seven applications under Section 12 of the Code. The Applicant asked for this panel to “strike” certain paragraphs of the Union’s response as being irrelevant. There is no specific process under the Board’s rules for striking portions of application submissions that is akin to the Supreme Court Civil Rules, and I have considered the entirety of the Union’s response to the extent it is relevant to the specific basis on which I have assessed and dismissed the Applications.

The Applicant’s Dismissal and the Initiation of the Grievance Process

6 On August 25, 2023, the Applicant filed a harassment grievance with the Employer (the “Harassment Grievance”) making a number of allegations about the Employer’s conduct. Following Step 3 of the grievance procedure, the Employer initiated the “Respectful Workplace” investigation process and hired an external investigator to consider the Applicant’s harassment allegations. The Investigator issued a “Summary of Conclusions” document on January 9, 2024. Within the document, the investigator concluded that all the allegations were unfounded and that an allegation the Applicant had made of racism constituted bad faith within the applicable Employer policy.

7 On March 4, 2024, the Employer terminated the Applicant's employment while alleging just cause on the basis the Applicant had allegedly filed the Harassment Grievance in bad faith. The Union grieved the dismissal (the "Termination Grievance"). Union Representative Chrystal Latham attended the dismissal meeting as the Applicant's representative and she would continue to represent the Applicant throughout the Termination Grievance.

8 The background to the Applications includes the history of communications between the Applicant and the Union. Many of the emails and letters that make up the background are lengthy, and my intention in reviewing them is not to exhaustively detail the content but rather to give a basic overview of their purpose and the chronology of events.

9 On April 17, 2024, the Applicant wrote to Robbin Bennett, Director of Membership Services, asking what will happen to several prior grievances he had filed around the job selection process (the "Selection Grievances") if the Termination Grievance was unsuccessful. Bennett stated the Selection Grievances would be redundant if the Termination Grievance was dismissed.

10 On April 22, 2024, Bennett responded to several emails from the Applicant in which she stated the Union's position that the Termination Grievance needed to be dealt with before the Selection Grievances. She further noted that the Union would be referring the Termination Grievance to arbitration and set out a summary from a prior email updating the Applicant on the status of his grievances.

11 On April 27, 2024, the Applicant emailed Bennett about various matters, including his disagreement with the decision to put the Selection Grievances on hold. At this early stage, the Applicant stated his belief the Union did not intend to pursue his reinstatement, was not taking his termination seriously, and was "diluting" his defence.

12 On April 29, 2024, Chris Dorais, Union Coordinator of Public Sector Servicing, responded to several emails from the Applicant. Dorais stated to the Applicant, among other things, that the Union had conduct of his grievance and would decide how to proceed and Union members do not direct Union representatives on matters of process, strategy, and resources. Dorais also stated he had agreed to proceed with the Termination Grievance and placed the other grievances in abeyance. The Union points out that in this email, Dorais stated to the Applicant he would not continue to respond to his numerous emails and directed him to ask his Union representative for an update in three weeks if he had not heard from her.

13 Under Article 9.09 of the parties' collective agreement, the Employer and the Union can refer a dispute about discipline to an "Industry Troubleshooter" process (the "ITS"), wherein the appointed "Troubleshooter", generally a labour arbitrator, investigates the difference, defines the issue, and makes written recommendations to resolve the matter. The parties referred the Termination Grievance to the ITS process under Article 9.09 with Arbitrator Christopher Sullivan acting as Troubleshooter ("Troubleshooter Sullivan").

14 On May 19, 2024, the Applicant wrote to Dorais requesting a representative from the Union's Legal Department to be assigned to represent him. He set out his complaints about Latham's representation, including that she did not promptly call him after they both attended the virtual termination meeting on March 4, 2024 and that she sided with the Employer on a number of his Selection Grievances.

15 On May 21, 2024, Brenda Van Der Meer, Coordinator of Public Sector Servicing, called the Applicant providing him with various updates. Later that day, the Applicant wrote to Van Der Meer thanking her for the phone call and stating that no Union representative had called him or agreed to an in-person meeting to discuss his grievances despite his emails.

16 On June 2, 2024, the Applicant wrote to Dorais claiming that Latham had "conducted herself in bad faith, demonstrated through personal hostility and political interference". On June 7, 2024, the Applicant wrote to Dorais stating that he did not get a reply to two prior emails in which he requested external legal counsel or another representative and he stated that the Union was supporting him in bad faith.

17 On June 12, 2024, the Applicant, Latham, Dorais, and Bennett attended a video conference meeting. The following day, Dorais wrote to the Applicant giving his own summary of the meeting. In the email, Dorais stated Latham would remain his representative and Van Der Meer would assist at the ITS hearing. Dorais also advised the Applicant he had informed other Union staff to not respond to the Applicant's emails going forward.

18 On June 13, 2024, the Applicant wrote to Dorais stating the Union was not acting in good faith by telling Union representatives to avoid communicating with him. Dorais responded the following day.

19 On June 20, 2024, the Applicant wrote to Union Secretary-Business Manager Lynn Bueckert, copying Latham, Dorais, and other persons with Union email addresses, to complain about Latham's representation due to her failure to respond to a request for the investigation findings as well as an asserted personal dislike of him and noting that, despite providing the Union with details, it had not assigned someone new. The Applicant had previously requested a copy of the investigation findings from Latham on June 15, 2024, as he already had the summary of evidence.

20 On June 28, 2024, the Applicant wrote to Latham, copying 30 other persons with Union email addresses, including members of the Provincial Executive, disagreeing with the Union's strategy for the upcoming ITS hearing and asserting that the Termination Grievance was "handled with blatant malice and political [interference]". Van Der Meer, who the Union says was covering for Dorais, responded on June 28, 2024, referred to Dorais' June 13, 2024 email communication, informed the Applicant that Latham would continue to represent him, and stated that Dorais had assigned her to assist Latham at the ITS hearing.

21 On July 4, 2024, the parties attended the ITS hearing before Troubleshooter Sullivan. The process included an attempted mediation which was not successful. The Union and the Employer presented their positions to Troubleshooter Sullivan and agreed to provide him with written submissions.

22 On July 8, 2024, prior to the provision of the written submissions, the Applicant wrote to the Union requesting to include in the Union's submissions a statement he had drafted. The Union agreed to do so.

23 The Applicant wrote to Dorais on July 15, 2024, expressing disagreement with a settlement offer made by the Union during the ITS mediation. Neither party stated in their submissions what specific terms were offered. The Applicant stated he was not willing to agree to a settlement unless he was reinstated or given a just financial settlement. He also expressed that he believed the Union was engaging in politically motivated or perfunctory representation and the Union wanted a financial settlement so that he was no longer a member. On July 15, 2024, Dorais responded to the Applicant.

24 On July 19, 2024, the Applicant emailed Bueckert, copying 29 others, asking for a lawyer to be assigned immediately to make submissions to Troubleshooter Sullivan. He accused Latham of lacking the necessary legal knowledge and understanding of allegations of "bad faith" in the context of his Termination Grievance. Within the email, the Applicant also accused the Union leadership of preferring a financial settlement over reinstatement for political reasons and he generally disparaged Latham's "good faith", "integrity", and "self-respect".

25 On July 20, 2024, the Applicant emailed Bueckert to provide further complaints about the quality of Latham's representation and to request that he be able to provide his own submissions to Troubleshooter Sullivan. He attached the submissions to the email.

26 On July 26, 2024, the Applicant emailed Bueckert again, copying a large number of Union staff, continuing to raise his concerns with Latham and asking that the Termination Grievance be assigned to external counsel.

27 On July 30, 2024, the Applicant emailed Bueckert asking for an update on the Termination Grievance as he had not yet received the Employer's submissions. He once more asked that the Termination Grievance be reassigned to external representation.

28 On August 2, 2024, the Union submitted its written submissions to Troubleshooter Sullivan, including the Applicant's statement.

29 Also on August 2, 2024, the Applicant sent two emails to Bueckert and various other individuals expressing his disapproval of the Union's representation.

30 On August 17, 2024, the Applicant emailed Bueckert and others, expressing his dissatisfaction with the Union's handling of the Termination Grievance, including his

ongoing requests for external legal representation. This included raising concerns with the Union making a counter-offer he did not approve of.

31 On August 19, 2024, the Applicant sent another email to Bueckert in which he continued to express his concerns to the Union and sought external representation.

32 On August 25, 2024, the Applicant emailed Bueckert to provide what he described as a formal complaint about Latham's representation. His email contained various complaints regarding Latham's representation. Some of the complaint appears to be related to the Applicant's ability to access local Union meetings. He also accused Latham of contributing to divisions within the local and speculated that she had asked an individual to rescind their resignation with the sole purpose of preventing the Applicant from assuming the role of the chair of the local.

33 On September 5, 2024, the Applicant wrote to Bueckert seeking confirmation that the "charge" from his August 25, 2024 email was moving forward.

34 On September 12, 2024, the Applicant wrote to Bueckert, copying various other Union representatives, again following up on his request for an investigation into Latham. On September 20 and 24, 2024, the Applicant again wrote to Bueckert, asking for an update on his request for an investigation into Latham. On September 25, 2024, he wrote again to Bueckert, again copying many others, expressing his dissatisfaction with the lack of response to his prior emails.

Matters Related to the Union Convention and the Outcome of the ITS Process

35 On September 24, 2024, Dorais wrote to the Applicant following several emails that the Applicant had sent to a multitude of individuals regarding his intention to attend the Union convention (the "Convention") without delegate status. In the email, Dorais accused the Applicant of being disrespectful and in some cases aggressive in his email, and stated that, as previously advised, staff reporting to Dorais would not be responding to the Applicant's emails or other communications.

36 On September 27, 2024, Troubleshooter Sullivan issued his report (the "ITS Report"). It is unnecessary to summarize the full details of the ITS Report. It will suffice to say that while Troubleshooter Sullivan found discharge would likely be found to be excessive, various other factors concerning the Applicant's behaviour had contributed to "fundamental and irreconcilable trust issues" between the Applicant and the Employer. Troubleshooter Sullivan gave recommendations for resolving the matter that did not include reinstatement as he believed the case before him represented "one of those unique cases where reinstatement is not an appropriate remedial outcome".

37 The Union states it reviewed the ITS Report and determined the recommendations represented a reasonable settlement of the dispute.

38 The Union states Van Der Meer met with the Applicant on October 2, 2024, and
then wrote to him advising the Union would be accepting the ITS Report
recommendations.

39 On October 2, 2024, the Applicant appealed the Union's decision. He expressed
disagreement with Troubleshooter Sullivan's recommendations and stated he expected
the Union to provide external representation and take the Termination Grievance to
arbitration.

40 On October 8, 2024, Dorais sent the Applicant an email attaching a letter
dismissing the Applicant's appeal and upholding the Union's decision to settle the
Termination Grievance based on the ITS Report recommendations. Dorais stated, in
part, that it was the Union's opinion an arbitrator would not likely award a greater sum
than that recommended in the ITS Report. Dorais concluded the letter by telling the
Applicant it would be advising the Employer the Union agreed with the
recommendations and would be closing the grievance files, and that was the conclusion
of the Union's appeal process.

Applicant's Exclusion from Union Affairs

41 On October 9, 2024, Dorais wrote to the Applicant concerning emails sent by him
from October 2 to 7, 2024, that related to the Applicant's attendance at Union local
meetings. Dorais' response included stating that it was appropriate for a Union
representative to advise the Applicant he was unable to attend a local meeting on the
Employer's property when the Employer had terminated his employment.

42 Also relevant to the Applicant's allegations are certain charges he laid under the
Union's Constitution against various Union officials and his attempts to attend the Union
Convention.

43 On October 11, 2024, Bueckert wrote to the Applicant advising him that he was
not credentialed by his local to attend the Union Convention. The full text of the letter is
as follows:

Subject: Confirmation of non-attendance

I write in response to various email communications addressed to
HEU's leadership and staff where you appear to request or claim
HEU Convention delegate or alternate status.

The purpose of this email is to confirm your non-attendance at
Convention, in that you have not been credentialed by your local to
Convention.

HEU will not issue a credential or any type of access to Convention
or official HEU events occurring in conjunction with Convention.

Accordingly, we expect you will not attend Convention or official HEU events occurring in conjunction with Convention.

Thank you very much for your anticipated cooperation.

44 The Applicant emailed Bueckert on October 20, 2024, stating he intended to attend the Convention as an observer.

45 On October 21, 2024, the Applicant attended the Convention, signed-in, and received a guest pass to observe from what he describes as the public area, though it does not appear this was an area open to members of the general public. Dorais informed the Applicant he had to leave the Convention because he was no longer a Union member. The Applicant says he explained he still had active grievances that remained unresolved and he had not received any official or non-official communication indicating his membership had been terminated. The incident ended with Dorais escorting the Applicant from the area.

46 Later that day, the Applicant wrote to Bueckert and Union President Barb Nederpel providing his summary of what occurred at the Convention.

47 With respect to the Applicant's charges, between May 10, 2024 and October 25, 2024, the Applicant filed charges on 13 separate occasions. The charges were against eight Union officials.

48 On October 31, 2024, Bill Pegler, Coordinator of Private Sector & Special Projects, wrote to the Applicant stating that his previously filed Article 19 charges would not proceed as he was no longer a member of the Union. In the letter, Pegler stated the Union did not revoke the Applicant's membership but rather the Constitution and Bylaws are definitive in respect of members whose employment had been terminated. Pegler cited the Constitution as stating Union members who had been suspended or terminated maintain their membership until they had exhausted all avenues of recourse, and at the time of the letter the Applicant had exhausted all such avenues. The letter concluded with the following:

Article 19 pertains to HEU members in good standing, and the proceedings contemplated by Article 19 are intended to apply to HEU members. In that you are no longer a member in good standing, Article 19 no longer applies to you.

This means you may not initiate an Article 19 complaint against an HEU member, nor can such a complaint be initiated against you.

Accordingly, the Article 19 charges you filed, the charges filed against you, and the investigation undertaken by Gary Caroline, will no longer proceed.

49 The Applicant disputes that his membership ended at the time of the Convention as he states his paystub shows he paid Union dues until the pay period ending November 7, 2024.

III. LAW AND POLICY OF THE CODE

Section 12 of the Code

50 The portion of Section 12 of the Code relevant to the Applications states as follows:

12(1) A trade union or council of trade unions must not act in a manner that is arbitrary, discriminatory or in bad faith

(a) in representing any of the employees in an appropriate bargaining unit, or

(b) in the referral of persons to employment

whether or not the employees or persons are members of the trade union or a constituent union of the council of trade unions. ...

51 The Board's approach to applications under Sections 12 and 13 of the Code is comprehensively set out in *James W.D. Judd*, BCLRB No. B63/2003 ("*Judd*"). As noted in *Judd*, Section 12 confers a focused right and protection upon employees (para. 26). The Board in *Judd* held that "it is not the Board's role to decide if a union was right or wrong as long as the union has not acted in an arbitrary, discriminatory, or bad faith manner" (para. 30).

52 What the Applicant must demonstrate in the present case is that the Union represented him in an arbitrary, discriminatory, or bad faith manner. Avoiding arbitrary representation encompasses three elements; a union must: ensure it is aware of the relevant information; make a reasoned decision; and not carry out representation with blatant or reckless disregard (*Judd*, para. 61). Discriminatory representation is that which is motivated by unequal treatment, including on the basis of the prohibited grounds in the *Human Rights Code*, R.S.B.C. 1996, c. 210, s. 25 or on the basis of personal favouritism (*Judd*, paras. 55-56). Bad faith representation will typically involve either representation with an improper purpose or representation with an intention to deceive the employee in a manner that affects the quality of the union's representation of the employee's interests (*Judd*, paras. 49-54).

53 Where a union decides not to proceed with a grievance due to relevant considerations, such as its own assessment that a grievance lacks sufficient merit, it is undertaking its job of representing its members as a whole and it is free to decide on the best course of action without that decision amounting to a violation of Section 12 (*Judd*, para. 42). This is because unions hold the discretion to make decisions regarding the negotiation and administration of the collective agreement, and the purpose of Section 12 is not to place those functions in the hands of the Board. An applicant may take issue with a union's conclusions, but the Board's assessment of whether a union made a reasoned decision does not include deciding if a union acted unreasonably in not pursuing a matter because, in the opinion of the Board, the applicant had an arguable case.

54 Where it concerns a union's decision to settle a matter, the Board has stated as follows:

... The grievor does not have a veto over whether or not the grievance should be settled, or what the terms of the settlement ought to be. It is of course best for the union to consult the grievor before agreeing to a settlement, though it is not necessarily required. Ultimately, however, whether to accept the settlement agreement is for the union to decide.

(*Judd*, para. 95)

55 As the Board further explained in *Judd*:

... An employer knows that the union could take any given case to arbitration if it wished. It also knows that the union is likely to accept a reasonable settlement if one is offered. With that type of relationship, the employer may be motivated to make reasonable offers to settle some matters by agreement, without litigating every issue. In that way, employees achieve the greatest gain with the least expenditure. By contrast, if individual employees could take every grievance to arbitration whenever they wished, the amount of litigation in the workplace would multiply and employees would very quickly find their collective resources depleted. ...

(para. 37)

56 The Applicant's allegations also raise issues with the level of detail particularized in the applications. In *Judd*, the Board held that there is an obligation on applicants to "show what happened, when it happened, how it happened, who said or did what and what aspects of the conduct are alleged to be arbitrary, discriminatory or in bad faith. If the facts set out in the complaint do not, by themselves, establish a violation of Section 12, the complaint should be dismissed" (para. 77).

57 The Board also requires applicants to do more than attach documents that accompany a general allegation. As noted in *Judd*, the Board does not investigate a union's conduct, and it is up to applicants to make their case within their application (para. 72). Similarly, in *John Murphy*, BCLRB No. B37/2005 (Leave for Reconsideration of BCLRB No. B359/2004), the Board held that it is not the Board's task to review documents submitted with an application to determine if an applicant might have a case:

I would add that it is not enough for a complainant to raise a bald allegation of impropriety and attach a body of documents and expect that the Board will divine how those documents demonstrate a breach of the Code or support the bald assertions of impropriety.

(para. 9)

58 In this respect, I note that the Applicant has attached many emails and correspondence to his applications but often does not precisely state what portions of the documents demonstrate a breach of the Code and how.

59 The basic requirement to provide an explanation of how a breach is alleged to have occurred is reinforced in the Board's Rules. Labour Relations Board Rule 2(2) requires that an application contain an outline of the facts and circumstances upon which the applicant intends to rely, including when and where relevant facts occurred and who engaged in the alleged breaches of the Code.

60 Finally, I also note that the Board's jurisdiction under Section 12 of the Code is limited to matters arising out of the collective agreement and the union's collective bargaining relationship with the employer (*Gustav Gonske*, BCLRB No. B249/93 (Leave for reconsideration denied, BCLRB No. B330/93), p. 12). Matters that properly relate to the internal affairs of a union are not matters governed under Section 12 of the Code. The Board's jurisprudence is clear that an application to review internal union matters is not within the scope of Section 12 (*Judith G. Thorne*, BCLRB No. 181/2012, para. 17). As the Board explained in *Linda Karpowich*, BCLRB No. B370/98, at paragraph 24:

The duty of fair representation is confined to an individual's employment and does not extend to review of internal union matters: *Charles Johnston*, BCLRB No. 7/75 [1975] 1 Can LRBR 362, at p. 371. Section 12(1)(a) is designed to protect individuals as employees, rather than as union members: *Vancouver General Hospital*, BCLRB No. 31/78, [1978] 2 Can. LRBR 508, at p. 513; and *Charles Johnston*, BCLRB No. 14/76, [1976] 1 Can. LRBR 321, at p. 330. ...

Section 10 of the Code

61 The relevant portion of Section 10(1) of the Code states as follows:

10(1) Every person has a right to the application of the principles of natural justice in respect of all disputes relating to

- (a) matters in the constitution of the trade union,
- (b) the person's membership in a trade union, or
- (c) discipline by a trade union.

* * *

62 The guiding principles of Section 10(1) of the Code were well-summarized in *United Brotherhood of Carpenters and Joiners of America Local 1998 and Local 1237*, BCLRB No. B77/2000. In that decision, the Board clarified that the focus in Section 10(1) is not on the substantive decisions made or the actions taken by a union, but on the process leading to the decision. Provided the natural justice requirements set out in Section 10(1) are met, a union's constitution is considered an internal matter between

the members and the union; disputes over the interpretation of or non-compliance with the constitution that do not raise issues of breaches of natural justice are outside the Board's jurisdiction (para. 51).

63 If the focus of an application is the substantive decision made by a union or the interpretation of a union's constitution, as opposed to the process leading to that decision, that matter must be pursued through the courts (*Terry Thompson*, BCLRB No. B444/2003, paras. 10-11).

64 I note that the Applicant did not invoke Section 10(2) in any of his applications, nor were the parties invited on the motion of the original panel to address Section 10(2) of the Code. It is therefore not considered in this decision.

IV. ANALYSIS AND DECISION

The First Application

65 The Applicant asserts the Union's removal of him from the Convention demonstrated an arbitrary and unjustified denial of his union rights, and in particular his right to attend the Convention as a member in good standing until all his grievances were resolved. He further says the Union's actions in removing him from the Convention were a blatant display of bad faith. He says he received no official communication regarding his membership status or the resolution of his grievances prior to his removal and this constitutes a violation of procedural fairness. The Applicant also asserts that Dorais lied when he claimed his membership had been terminated as termination of membership requires formal notification to the member but no notification was provided to him.

66 The Applicant alleges that his removal appears to be nothing more than a retaliatory action in response to charges he filed against the Union leadership. He says it directly violates the Union's Constitution and Bylaws which are designed to protect the rights of all members regardless of internal disputes.

67 As remedy, the Applicant asks that the Board acknowledges the Union's violation of his rights and that his status as a Union member in good standing be recognized.

68 The Union asserts the First Application should be dismissed for mootness as the Convention has passed and the Applicant is no longer a member, and there is therefore no longer a live controversy.

69 As it concerns Section 10(1) of the Code, the Union states it did not deny the Applicant natural justice when it did not permit the Applicant to attend its Convention as a delegate. The Union says it followed the requisite procedure in the Constitution and Bylaws governing access to Convention, which is not an automatic right possessed by each Union member, and all members must get authorization from their local to attend. The Union further says there is nothing in the Constitution regarding the right to attend

the Convention as an observer and therefore this matter falls outside the scope of the Board's review.

70 The Union further says the First Application does not engage the duty of fair representation, which is confined to an individual's employment and does not concern internal Union matters.

71 I first find the First Application does not raise issues that invoke Section 12 of the Code. As set out earlier in this decision, Section 12 does not provide the Board with the general statutory authority to investigate and regulate internal union affairs, and I find the Union's decision to bar the Applicant from the Convention is unrelated to its statutory obligations to represent the Applicant in his employment with respect to a specific collective bargaining relationship.

72 Regarding Section 10(1) of the Code, I first note this is not a circumstance where the Applicant's membership in the Union was terminated due to allegations of misconduct or through a formal trial process under the Constitution as a result of charges having been laid against him. Rather, the Applicant lost his employment and the Union chose to resolve his grievance in a manner that precluded reinstatement. The Union's decision to deny the Applicant access to the Convention given his employment status was therefore centered on the Union's interpretation and understanding of the Constitution, which was that the Applicant's membership had ended when it resolved the Termination Grievance.

73 I further note that the Applicant is entitled to natural justice with respect to the process followed by the Union in respect of disputes relating to matters in the Constitution of the Union, and not the outcome of that process. The Applicant does not specify what participatory process the Union Constitution affords him in a circumstance such as this one within which he was denied natural justice. Specifically, there is no assertion by the Applicant that the Constitution affords him something akin to the trial procedure wherein persons who have lost their employment and exhausted internal appeal remedies can maintain their Union membership or challenge the Union's decision to deem them no longer a member. As a result, what remains is the Applicant's disagreement with the Union's decision that he was no longer a member at the time the Convention was taking place and therefore he had no right to attend. This is not a matter of natural justice but rather one of the correct application of the Union Constitution. I am therefore unable to find the Union breached Section 10(1) of the Code.

74 To the extent the Applicant believes the Union was in error or being dishonest about his membership status because his wage statement says he paid union dues until November 7, 2024, which is after the date of the Convention, the Union has a differing opinion and it is beyond my jurisdiction under the focused grounds of Section 10(1) of the Code to adjudicate whether the Union was wrong in its assessment and therefore should have allowed the Applicant to attend the Convention.

75 I therefore dismiss the First Application.

The Second Application

76 The Applicant states the charges he filed against various members of the Union under Article 19 must continue as he was a member in good standing and the Constitution does not mandate dismissing charges if membership status changes after the filing of charges.

77 The Applicant further states the Union's refusal to proceed with the charges solely due to a change in his membership status is arbitrary and inconsistent with the Constitution. He says that by disregarding the charges, which are deeply tied to the mishandling of the Termination Grievance, the Union avoids accountability and shields its leadership from scrutiny. He says this refusal not only appears retaliatory but further compounds the bad faith that characterized the handling of the Termination Grievance. He states the refusal to investigate the charges points to a serious conflict of interest, particularly as the individuals named in his charges were directly involved in the grievance process that resulted in his dismissal. He says dismissing these charges after a change in his membership status undermines the Constitution's democratic intent, suggesting the Union selectively applies its governing rules to avoid addressing misconduct within its ranks.

78 Under the framework of Section 10 of the Code, the Union states the application is moot. It says the Applicant is no longer a member because the Termination Grievance was settled and he has exhausted all avenues of recourse. The Union says its investigation into his Article 19 charges will no longer proceed because the Applicant is no longer a member and such investigations are intended to apply to active members.

79 The Union further says that the issue in the Second Application is that the Applicant disagrees with the Union's interpretation of Articles 19 and 2(H)(2) of the Constitution, which hold that the Applicant was no longer a member able to pursue charges once the Union dismissed the appeal of the Termination Grievance. It says the Applicant's disagreement constitutes an interpretation and application of the Union's Constitution and is therefore outside the Board's jurisdiction.

80 The Union further says the principles of natural justice were followed in deciding not to proceed with the Article 19 charges. It says it followed the procedure in the Constitution and Bylaws as: under Article 19(a), Bueckert delegated conduct over the charges to Pegler; under Article 19(d), Pegler appointed an external lawyer to conduct a preliminary investigation; and the investigation ceased after the Applicant ceased to be a member. The Union says it then notified the Applicant his charges would not proceed given his membership status. It says there is no basis for the assertion the Union failed to follow the rules set out in the Constitution or Bylaws or failed to apply the principles of natural justice.

81 As it concerns Section 12 of the Code, the Union states this application does not engage the duty of fair representation as it concerns internal union matters.

82 The Applicant in reply states, in part, that the Constitution does not explicitly void Article 19 charges due to a change in membership status, the Union's delay in investigating his charges raises questions about procedural fairness, and the Union's procedural requirements should be interpreted in a manner that does not undermine accountability.

83 I first address the Second Application under Section 12 of the Code. I find the Union's handling of the Applicant's charges against certain members under Article 19 of the Constitution are internal union matters outside the Board's jurisdiction under Section 12 and there is no remedy available before the Board under that Section.

84 Under Section 10(1) of the Code, I again find what is at issue is not the principles of natural justice as it concerns the Union's process for laying and prosecuting charges, but rather the Union's substantive decision that, as a non-member, the Applicant no longer had standing to continue prosecuting the charges. It is beyond the role of the Board under Section 10(1) of the Code to engage in an interpretation of the Union's Constitution for the purpose of deciding whether the Applicant should be permitted to continue prosecuting the charges he laid as a member even after he ceased to be a member. As such, any recourse the Applicant has is with the courts and not with the Board. The Second Application is therefore dismissed.

The Third and Fourth Applications

85 In the Third Application, the Applicant states the Union declined to pursue his grievance because it had no genuine interest in achieving his reinstatement. He says that, instead, the Union aimed to close his grievance as quickly as possible and strip him of his membership for political reasons to prevent his attendance at the Convention and ensure his charges were not pursued.

86 The Applicant states that Bueckert, in her role as Secretary-Business Manager, failed in her responsibilities and demonstrated neglect, lack of representation, and bad-faith conduct. He specifically states that she did not answer 14 urgent emails sent between June 20, 2024, and September 25, 2024 asking for updates on his grievance and requesting external legal representation.

87 The Applicant says the Union also failed to investigate a complaint he filed against Latham on August 25, 2024, and that Bueckert neglected her leadership responsibilities. The Applicant states her role required transparent communication with members and impartial handling of grievances, and her failure to respond to or act on his repeated requests constitute a breach of her duty.

88 The Applicant further states his grievance was handled in bad faith, with his own representatives indicating a preference for a cash settlement over pursuing his reinstatement due to internal politics. He states that instead of advocating for his best interests, the Union immediately accepted non-binding recommendations without attempting to negotiate improvements or adjustments such as categorizing payments as damages, a confidentiality agreement, or other terms that may have benefitted him.

89 The Applicant filed the Fourth Application with the Board the day after filing the Third Application. Within this application, the Applicant asserts Dorais ignored his appeals for support including his requests for external legal representation. He states the Union's internal appeal process also failed to address his concerns.

90 The Applicant says there are outstanding Selection Grievances for which he has received no status updates. He states that if these grievances have been resolved, he should have been provided with copies of the resolutions.

91 The Applicant further argues Dorais failed to act in the members' best interests by accepting Troubleshooter Sullivan's recommendations without engaging in settlement discussions with the Employer. As with the Third Application, the Applicant states the Union made no effort to negotiate a better settlement.

92 The Applicant also states Dorais rejected his requests for alternative representation despite evidence of bias and personal conflicts. In elaborating on this assertion, the Applicant says he has known Dorais for 15 years and during this time he has had serious disagreements with him on various issues and they have not been able to work effectively together. The Applicant says he has had a longstanding conflict with Dorais' spouse, who serves as a Union representative at the Provincial office. He states that, given this, it is perplexing why Dorais refused to recuse himself from handling his file. He further states that since his dismissal, neither Dorais nor any representative under his purview has reached out to him or conducted an in-person interview to discuss his grievance or address his concerns. He says he believes Dorais accepted the ITS Report recommendations without securing any form of settlement agreement, acting in coordination with Bueckert to benefit Nederpel. The Applicant believes this was part of a deliberate effort to close his grievance, deny him access to Convention, and dismiss his Article 19 charges.

93 In stating that there has been bad faith representation and conflicts of interests, the Applicant asserts he had made multiple formal requests to have Latham removed from handling the Termination Grievance based on "clear conflicts of interests and [her] involvement in local union politics, which compromised her impartiality".

94 The Applicant says Dorais also issued directives instructing Union staff to cease all communication with him, which further isolated him from the Union at a critical stage in his grievance process, and Dorais' refusal to communicate or investigate his claims contributed significantly to the handling of his case.

95 The Applicant additionally argues that at the ITS hearing, Latham failed to present any defence or evidence in support of his case and afterwards Dorais accepted the non-binding recommendation of Troubleshooter Sullivan without any attempt at negotiation. He also asserts that the Union withheld the ITS Report recommendations for nearly two weeks, ultimately providing him with less than 48 hours left to review. He states this deprived him of adequate time to consult legal counsel. He says throughout the grievance process, the only meeting provided was a brief 30-minute video

conference call focused solely on a cash settlement, with no attention to his reinstatement or broader concerns.

96 In response, the Union says it satisfied its duty of fair representation when it decided to settle the Applicant's grievances based on the recommendations of Troubleshooter Sullivan. The Union says it reviewed the ITS Report, including the facts laid out therein, the legal analysis, and the conclusions. It says it then made a reasoned conclusion to accept Troubleshooter Sullivan's recommendations after considering the ITS Report and its knowledge of the relevant grievance files. It says that just as a union may obtain a legal opinion and rely on that opinion as some evidence that it took a reasoned view, so too here can the Union rely on the thoroughly reasoned opinion of an esteemed arbitrator whose recommendations were found in the ITS Report.

97 The Union says its internal appeal process likewise satisfied Section 12. It says it examined relevant facts and law and the ITS Report before concluding it was not likely a better outcome could be achieved at arbitration.

98 The Union says that it did not seek to negotiate the characterization of the settlement funds as damages, which it understands to mean human rights damages which are nontaxable, because the Applicant argued he never intended to advance an allegation that the Employer was racist towards him. It says it is difficult to see how the Union could ask the Employer to characterize the settlement funds as human rights damages when the Applicant denied that he made an allegation of racist conduct against the Employer.

99 The Union also denies engaging in bad faith representation. It says a review of the facts sets out a clear pattern wherein the Applicant learns someone does not agree with him and he responds with intimidation or allegations of bad faith in an attempt to deter people from making decisions he does not agree with. As an example, the Union refers to the circumstance in April 2024 where the Union told the Applicant the Termination Grievance would proceed before the Selection Grievances and he asserted that the Union did not intend to pursue his reinstatement and was not taking his termination seriously. The Union says the Applicant's unfounded theory that it was acting in bad faith and would not pursue his reinstatement appears to have started less than two months after his termination and before the Union had even decided which forum to choose to advance his grievance.

100 The Union further says it was not required to provide the Applicant with legal representation and there were no deficiencies in the representation provided to him. It says, regardless, it is well established that unions under Section 12 are not expected to meet the standards required of a lawyer.

101 On the issue of the status of the Selection Grievances, the Union refers to a communication from Bennett to the Applicant on April 17, 2024, in which Bennett stated the Selection Grievances would be redundant if the Termination Grievance were dismissed. The Union says that once the Termination Grievance was settled, the Union followed through on its commitment to not proceed with the Selection Grievances.

102 In his reply, the Applicant states, among other things, that the Union did not provide Troubleshooter Sullivan with case law or precedent that could have supported his reinstatement, failed to challenge the Employer's reliance on post-termination conduct as a decisive factor, and ignored legal arguments that could have demonstrated post-termination concerns should not outweigh the lack of just cause for termination.

103 The Applicant says a reasonable union would have at the very least attempted to negotiate a non-disclosure agreement, favorable tax treatment for the settlement, and a sealing of records. It says the Union had a duty to at least attempt to negotiate these terms.

104 In reviewing the Union's overall conduct throughout the grievance process surrounding his dismissal, I consider that it filed a grievance, attended the ITS hearing with the Applicant, made a written submission to Troubleshooter Sullivan that was supplemented with the Applicant's own submission, reviewed the ITS Report, and then decided that the recommended terms of settlement in the ITS Report were reasonable. The Applicant suggests the Union did not do a proper investigation, but he does not explain why, in the context of the above process, he was unable to provide the Union with relevant information and also does not say specifically what information the Union allegedly did not consider or should have investigated further.

105 In the October 8, 2024 letter denying his appeal, Dorais, on behalf of the Union, outlined the grievance process that the Union undertook, reviewed aspects of the ITS Report, and provided reasons for why the ITS Report was persuasive. Dorais then stated that taking into consideration the Applicant's length of service and all the foregoing points, the Union found it unlikely there would be a different outcome if they were to proceed to arbitration and that Troubleshooter Sullivan recommended a settlement amount that would likely be greater than what would be achieved at arbitration.

106 I emphasize that the Board's policy under Section 12 of the Code is not to consider whether a union's decision was unreasoned because, in the opinion of the Board, an applicant had a better case than the union perceived it. In the present case, I am satisfied the Union provided the Applicant with an opportunity to tell it the relevant facts, it presented facts and argument to Troubleshooter Sullivan, and it then considered the ITS Report to be a good indicator of whether or not it would succeed at arbitration. I emphasize that the ITS Report was issued by an experienced labour arbitrator who was thorough in his recitation and assessment of the issues, though for clarity I have not considered the merits of his findings and comments. While I will address the Applicant's more specific points under the Third and Fourth Application, I find that, as a general overview, the process the Union followed is one that complies with its statutory obligations under the Code.

107 Turning to the Applicant's specific assertions, he states that the Union had no genuine interest in pursuing his reinstatement and instead aimed to close his grievance as quickly as possible and strip him of his membership for political reasons. I find that

while the Applicant may believe this to be the case, I am unable to find an apparent case on the face of his application submissions that this is what occurred. Even on a broader scrutinizing of the supporting documentation, which I repeat is not generally how the Board adjudicates applications, I am unable to find an apparent case supporting the Applicant's assertions of political motives.

108 The Applicant also accuses Bueckert of failing in her responsibilities as Secretary-Business Manager, and demonstrating neglect, lack of representation, and bad faith conduct. He points to what he asserts are various unanswered emails as part of these allegations. In addressing the allegations, I reiterate that the Board does not investigate applications and Applicants are obligated to fully particularize their claims. I find that, with the exception of the assertion Bueckert did not respond to his emails, the Applicant's allegations are generally bare allegations that do not make out a breach of the Code.

109 As it concerns the Union's alleged lack of responsiveness to the Applicant's emails, the Board's policy is that "it does not have jurisdiction to entertain complaints from employees about what they perceive as poor service from their unions; complaints about rudeness or delay in replying to phone calls or correspondence. Those are matters for the union's internal complaint process or for consideration when the leadership of the union local runs for re-election" (*Judd*, para. 71).

110 This is not to say unions are free to ignore their members without consequences from the Board. However, in order for a union's lack of response to an applicant's communications to amount to a breach of Section 12, the lack of communication must affect the ultimate quality of the union's representation, keeping in mind that the Board considers the union's conduct as a whole from the beginning to the end of the grievance process. This is because the issue under Section 12 is whether the union has represented the employee in a manner that is arbitrary, discriminatory, or in bad faith and not whether it committed isolated acts that may fit one of those descriptions (*Judd*, para. 45). In this sense, the fact that an applicant is left frustrated by a lack of responsiveness or a delay in addressing concerns or requests does not mean that the union will have breached Section 12 of the Code.

111 In this case, the Applicant sent many emails to the Union expressing his concern about the quality of his representation, accusing the Union of acting in bad faith, and making multiple requests that it provide him with external legal representation. In reviewing the record provided by both parties, I find that while the timing of the Union's responses were not to the standards expected by the Applicant, it is apparent the Union considered all these requests and rejected them. In this context, I am unable to find that any lack of readiness on the part of the Union to respond to each email in a faster manner affected the quality of the Union's representation with respect to its ultimate assessment and advancement of the Termination Grievance.

112 Turning to the Applicant's assertions that the Union breached Section 12 of the Code by not negotiating adjustments to the settlement agreement, such as a non-disclosure agreement and tax-advantageous structuring of damages, I find the law and

policy of the Code does not place these specific obligations on a trade union in the context of settling a grievance. As already noted, grievors do not have a veto on such matters as the terms of settlement and I am unable to find that the Union breached the Code by not seeking the specific amendments referred to by the Applicant. I also find that, in any event, the Applicant does not particularize any occasion where he informed the Union that he would have accepted a deal that contained these amendments.

113 I am also unable to find the Union breached Section 12 of the Code through the quality of its submissions to Troubleshooter Sullivan. The Board's role under Section 12 is not to scrutinize the quality of a union's advocacy against a particular benchmark. To the extent a union's representation could be arbitrarily negligent or perfunctory through not advancing specific arguments or case law, those deficiencies would need to be clearly particularized and detailed in an application, which is not the case here. To put it another way, it is not my role to parse the Union's submissions to Troubleshooter Sullivan and then declare the Union breached Section 12 of the Code because the submissions were not to the standards expected by the Applicant or because, in my own opinion, the Union could have argued certain points more thoroughly or forcefully.

114 In the Fourth Application, the Applicant asserts Dorais ignored his appeals for support including his requests for legal representation. I have already addressed the issue of the Union's response to the Applicant's inquiries, and I further find that there is no inherent right for a union member to receive independent legal representation because they are unhappy with their existing representative. I further note that Latham was not anyone against whom the Applicant was actively pursuing Article 19 charges under the Constitution. I also find that the Applicant's claim that Latham was acting in bad faith or undermining him for political motives is not properly particularized in the Applicant's written submissions and, even if I were to rely on my own review of the documents submitted by the Applicant, what is on the face of these documents does not lead me to find an apparent case that the Latham was acting under such motives.

115 Continuing on the matter of Dorais' involvement in the Termination Grievance, the Applicant asserts Dorais should not have been involved in the matter because of serious disagreements they have had and conflict between him and Dorais' spouse. I find the Applicant does not fully particularize the nature of these conflicts and explain how, given their specific nature, the involvement of Dorais demonstrates that the Union breached Section 12 of the Code. The Applicant also does not state in his submissions that he actually raised this concern with Dorais or someone else at the Union at any point in the process for the purpose of asking that Dorais not be involved.

116 I also find the Union did not breach the Code through not providing status updates of the Selection Grievances. The Union was clear in correspondence to the Applicant in April 2024 that the Selection Grievances would not be pursued in the event the Termination Grievance did not result in the Applicant's reinstatement. That is precisely what occurred and the Applicant does not particularize the basis on how the Union breached Section 12 of the Code by not pursuing selection grievances for an employee who was no longer employed.

117 The Applicant next asserts that the Union withheld Troubleshooter Sullivan's
recommendations for two weeks and only gave him 48 hours to review them which
deprived him of time to consult legal counsel. The Applicant does not state whether he
specifically sought more time from the Union to seek legal counsel, and I further note
the Applicant has made it clear through the internal appeal process and the Applications
that he would not, in any event, have accepted the offer.

118 As it concerns the Applicant's claim that the only meeting he had during the
grievance process was one 30-minute Zoom meeting, I find that this is contradicted by
the Applicant's own submission materials. Specifically, in the Applicant's email to the
Union of July 19, 2024, in which he criticized Latham's lack of contact with him, he
expressly states that he met with Latham by video conference on June 12, 2024 to
review the investigation report, on June 27, 2024, to prepare for the ITS hearing, and on
July 4, 2024, at the ITS hearing.

119 In summary, the Third and Fourth Applications are dismissed.

The Fifth Application

120 The Fifth Application states the Union mishandled the Harassment Grievance
and this mishandling led to severe consequences including his unjust dismissal. He
states that, upon accepting his Harassment Grievance, it became the Union's
responsibility to evaluate its validity and protect him as a member. He states that,
instead, the Union allowed the Employer to appoint its own investigator without
challenging the fairness of the independence of the investigation. He says this
negligence contributed to his dismissal and the unfounded accusations against him.

121 The Applicant adds the further allegations that the Union advanced the
Harassment Grievance without proper review or consultation with legal advisors, failed
to insist on a Union-led investigation, and neglected to challenge the Employer's
actions.

122 The Union argues the Fifth Application must be summarily dismissed as it is
untimely. It says Step 3 of the grievance process for the Harassment Grievance
concluded on October 3, 2023, and if, as the Applicant contends, the Union failed to
properly investigate this grievance, that inadequate analysis was completed by October
2023, some 14 months before the Harassment Grievance application was filed. It says
the Applicant has provided no rationale for the late filing of the Fifth Application. The
Union says there is significant prejudice due to the delay because, should the complaint
proceed, many events have occurred over the course of time which may obscure the
facts in this case.

123 On the merits of the Fifth Application, the Union states this is a novel application
as, unlike normal circumstances where the complaint is that a union has refused to file
or advance a grievance, the applicant complains that the Union chose to advance his
Harassment Grievance as he wished and now blames the Union for his termination. The
Union says its decision to pursue the Applicant's grievance does not violate Section 12

of the Code. It says it obtained relevant information, made a reasoned decision to pursue the harassment allegations advanced by the Applicant, and carried out its representation with due regard for the Applicant. It asserts Latham's representation provided to the Applicant during the investigation process also meets the Section 12 criteria.

124 In his reply, the Applicant asserts, among other things, that the Union failed to grieve the Employer's access to his private emails. He further says the Union did not challenge an earlier letter of expectation given to him which allowed for the creation of a disciplinary record which was later used to justify his termination. I note these allegations were not included in the Applicant's original application submissions for the Fifth Application.

125 It is apparent from the parties' submissions that the Union filed the Harassment Grievance at the request of the Applicant and the Employer then engaged a process for investigating the matter. The Applicant does not explain on what grounds the Union would have had the authority under the collective agreement to prevent the Employer from appointing a particular investigator or to insist on a "union-led investigation". The Applicant also provides little information about this grievance and the ensuing process except to accuse the Union of improper action with respect to it. I also note that the Union remained entitled to, and did, grieve the discipline that arose out of the Employer's investigation. These reasons all favour the dismissal of the Fifth Application.

126 The Applicant's additional allegations in his final reply that the Union failed to grieve the Employer's access to his private emails and did not challenge an earlier letter of expectation issued to him were not part of the Fifth Application as originally filed and it is beyond the scope of permissible reply for the Applicant to add them within his final reply. Regardless, the Applicant again does not include enough detail about either of these events to make out an apparent case of a breach of the Code. Specifically, the Applicant does not particularize if or when he asked the Union to grieve these incidents, with whom he spoke about filing a grievance, and what reasons if any, the Union provided for not pursuing these matters through the grievance process.

127 I would, in any event, have found the Fifth Application is untimely. The Board stated in *Judd* that a complaint filed within two months of the underlying events is generally acceptable, but a delay "of several months may cause the complaint to be dismissed" and "a complaint filed a year after the event will generally be dismissed unless very compelling reasons for the delay are provided" (para. 97). In the present case, the Applicant waited approximately 14 months from the relevant events to file the Fifth Application and I find he has not provided a compelling explanation for the delay.

128 For the above reasons, the Fifth Application is dismissed.

The Sixth Application

129 The Applicant filed the Sixth Application under Section 12 of the Code stating he filed a complaint with the Union Ethics Commissioner regarding election tampering at

the Union Convention but no action was taken. He states the Ethics Commissioner has a clear conflict of interest as she was appointed by the very individuals involved in the election tampering. He states that instead of accepting his complaint, the Union claimed he was no longer a Union member and so he could not file a complaint.

130 He further states that at the Convention, there was a coordinated attempt by certain persons to manipulate the election process. He states this included blocking microphone access, spreading misinformation regarding legal expenses, manipulating the voting process, engaging in advocacy based on identity politics, and engaging in prohibited campaigning.

131 I find the Applicant's complaint about the Union's internal election procedures has no relation to any statutory obligation on the part of the Union to represent its members with respect to a specific collective bargaining relationship. It is entirely a matter related to internal Union governance. It is therefore a matter outside the jurisdiction of the Board under Section 12 of the Code.

132 Further, as has been made apparent in this decision, the Board is not a body with broad statutory authority to investigate and regulate internal union affairs. The Applicant, at a time when he was no longer a Union member, attempted to file a complaint with the Union Ethics Commissioner about election interference. He states the Union rejected his complaint for the reason he had no standing to bring it as he was no longer a Union member. Even if I construed the Sixth Application as concerning a dispute relating to the matters in the Constitution of the Union under Section 10(1) of the Code, I am unable to find a breach of the principles of natural justice through the act of the Union not accepting a complaint from a non-member. The fundamental issue is that, as with the Article 19 charges, the Union takes the substantive position that the Applicant is not entitled to pursue his complaint as he is not a Union member. If the Applicant believes the Union's interpretation of the Constitution in this regard is incorrect then his recourse is with the courts, not with the Board.

The Seventh Application

133 The Seventh Application alleges "a broader breach" of the Union Constitution by the Union's Provincial Executive. The Applicant states this matter concerns political spending decisions by the Provincial Executive that fall outside the grievance or member complaint process.

134 The specific issue raised by the Applicant is that the Union spent more than the limit specified in the Constitution on political advertising. He states there was no opportunity for delegates to authorize or retroactively approve the overage. He says the Union has not provided any avenue for members to appeal financial decisions made between Conventions though he was a member and "had standing" during the period the breach occurred. He says that the individuals responsible for investigating such matters are also the same leadership that breached the Constitution.

135 The Union's internal decisions respecting political advertising are not a matter that falls within the purview of Section 12 of the Code. The Seventh Application also does not raise matters of natural justice under Section 10 of the Code. Rather, what the Applicant raises is a concern with the Union's compliance with its spending restrictions. As already noted, the Board does not involve itself in the internal affairs of unions outside of the focused grounds provided for in the Code. In this case, it is outside the jurisdiction of the Board to adjudicate whether the Union's political advertising spending breached the limits imposed by the membership.

V. APPLICATION FOR RECUSAL

136 As noted in the introduction to this decision, a different panel of the Board was initially seized with the first five applications. Following the initial panel's departure from the Board, I reassigned the first five applications to myself pursuant to my delegated authority as Associate Chair. I assigned the Sixth and Seventh Applications to myself for the purpose of adjudicative efficiency because they are part of a sequence of events that gave rise to multiple issues the Applicant had with the Union and they raise common issues of the effect of the Applicant's membership status on his ability to pursue concerns about internal Union matters. I have consolidated all these applications together (the "Applications").

137 On March 11, 2025, the Applicant wrote to the Board Registrar following the reassignment of the First through Fifth Applications to this panel asking that the matters be reassigned because this panel articulated with a public sector union ending approximately thirteen and a half years ago. The Applicant states he has been actively lobbying the Provincial Government to introduce legislation mandating financial transparency and accountability from public sector unions. He states the Union is one of the largest donors to the NDP and there is a strong public interest in ensuring his case is reviewed by an impartial panel member with no prior affiliation with a public sector union. I responded to the parties stating I had treated the Applicant's letter to the Registrar as an application for me to recuse myself due to a reasonable apprehension of bias. I advised by way of a bottom-line decision on March 12, 2025 that I dismissed the recusal application and would provide written reasons in any final decision.

138 The Applicant filed a second application seeking my recusal on April 8, 2025, after receiving notification that I was established as the panel for the Sixth Application and that the Sixth Application had been consolidated with the earlier applications. In addition to the reasons already stated, the Applicant asserted it was procedurally irregular and troubling that the First through Sixth Applications were assigned to the same panel. He stated that this consolidation, without transparency or explanation, raises legitimate concerns regarding the fairness of the Board's administrative process and the potential for undue influence or predisposition.

139 The Applicant also stated that because my current term is scheduled to conclude on April 30, 2030, legitimate concerns are raised about the long-term capacity for impartial oversight and institutional bias, particularly because unresolved issues may

extend beyond the conclusion of the term and there will be a lack of continuity in adjudication.

140 In assessing the Applicant's recusal application, I am firstly not persuaded that my prior one-year involvement with a public sector union which ended approximately thirteen and a half years ago, and which I note is in any event not the same union as the one named in the present matter, creates a reasonable apprehension of bias. As stated in *Sean Parr*, BCLRB No. B211/96 (Leave for Reconsideration of BCLRB B81/96) ("*Parr*"), "courts have recognized that, given the nature and functions of the Board, Vice-Chairs are necessarily drawn from one side of the labour community or the other, and are bound to have some prior association with the parties coming before the Board" (para. 31). The Board in *Parr* further stated that courts have found that, after a suitable period of time, past professional or business relationships generally do not provide a ground for alleging disqualifying bias (*ibid.*). Accordingly, the Board has adopted a policy that generally, after "a minimum period of six months following their appointment to the Board", a Vice-Chair is not precluded from dealing with applications that involve former professional relationships (*ibid.*).

141 With respect to the manner of the assignment of the Applications, the Board must manage its scarce resources in an expeditious manner, which includes avoiding having applications with overlapping or similar allegations, issues, or factual backgrounds and which involve the same parties go through separate adjudicative processes. In this respect, I find the first Five Applications are intertwined as part of the same sequence of events, and I note the Applicant did not raise an objection that these applications were being heard by the same panel. As it concerns the Sixth and Seventh Applications, they repeat issues of the Union's alleged lack of recognition of the Applicant's membership status in relation to his ability to raise complaints with the conduct of Union officials, and as such it was a matter of administrative efficiency that they be heard by the same panel. For that reason, again using my delegated authority as Associate Chair, I established myself as the panel so they could be consolidated with the earlier matters.

142 Finally, the timeline of a panel's appointment at the Board has no relation to a reasonable apprehension of bias and, in any event, the concerns about this panel's ability to conclude the adjudication of the Applications within the remaining term are rendered moot by this decision.

143 To the above, I would add the following comments from the British Columbia Court of Appeal on the issue of judicial impartiality, which I find are applicable to the present case:

There is a strong presumption of judicial impartiality that is not easily displaced: *Yukon Francophone School Board* at para. 25. Judicial impartiality requires judges to approach each case with an open mind, free from inappropriate or undue assumptions: at para. 22.

* * *

As summarized in *Taylor Ventures Ltd. (Trustee of) v. Taylor*, 2005 BCCA 350 [*Taylor*], the question of whether there is a reasonable apprehension of bias should be considered with the following principles in mind:

- a) a judge's impartiality is presumed;
- b) a party arguing for disqualification must establish that the circumstances justify a finding that the judge must be disqualified;
- c) the criterion of disqualification is the reasonable apprehension of bias;
- d) the question to be determined is what would an informed reasonable and right-minded person, viewing the matter realistically and practically, and having thought the matter through, conclude;
- e) the test for disqualification is not satisfied unless it is proved that the informed, reasonable and right-minded person would think it more likely than not that the judge, whether consciously or unconsciously, not decide fairly;
- f) the test requires demonstration of serious grounds on which to base the apprehension; and
- g) each case must be examined contextually and the inquiry is fact-specific.

Taylor at para. 7, referencing *S.(R.D.)*.

* * *

The strictness of the criteria required to show a reasonable apprehension of bias reveals that judges must necessarily not habitually yield to parties who want them to step down. Doing so would erode the administration of justice and damage the reputation of the judiciary. Judges have a duty to hear the cases assigned to them, which cannot be displaced by a party selecting one judge over another preferentially and without good reason. An additional danger of frequent recusals is that parties could use such motions strategically, which includes attempting to judge-shop or delay the proceedings: *De Cotiis v. De Cotiis*, 2004 BCSC 117 at paras. 10–11; *Anderson* at para. 16; *Liszkay v. Robinson*, 2003 BCCA 506 at para. 53.

(*Pereira v. Dexterra Group Inc.*, 2023 BCCA 201, paras. 11, 15, and 17)

144 Applying the above to the present case, I am not satisfied any of the reasons
provided by the Applicant demonstrate a basis on which to find a reasonable
apprehension of bias exists with this panel.

145 For all the above reasons, the Applicant's applications for recusal are dismissed.

VI. CONCLUSION

146 For the reasons given, the Applications are dismissed.

LABOUR RELATIONS BOARD

A handwritten signature in black ink, appearing to read 'Andres Barker', written in a cursive style.

ANDRES BARKER
ASSOCIATE CHAIR



Jessie Bains <bainsj@gmail.com>

NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

1 message

Jessie Bains <bainsj@gmail.com>

Thu, May 1, 2025 at 8:17 PM

To: "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>, Jennifer.Glougie@lrb.bc.ca

Cc: andres.barker@lrb.bc.ca

NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY**Re: Section 12(1) Applications – Case Nos. 2024-001334, 2024-001437, 2024-001478, 2024-001491, 2024-001576, 2025-000359, and 2025-000464****To:**Jennifer Glougie, Chair
Registrar, BC Labour Relations Board**Cc:**Vice-Chair Andres Barker
All Parties on Record**From:**Jessie Bains
Email: bainsj@gmail.com

TAKE NOTICE that I, Jessie Bains, the applicant in the above-captioned proceedings, **formally provide you, Jennifer Glougie, with notice of personal and professional liability** arising from your failure to fulfill your statutory and fiduciary responsibilities as Chair of the British Columbia Labour Relations Board (the "Board").

Your continued inaction in the face of serious procedural concerns has enabled Vice-Chair Andres Barker to exercise **unauthorized jurisdiction**, rendering decisions that contravene principles of **natural justice**, deny procedural fairness, and undermine the integrity of the Board.

I. Failure to Uphold Natural Justice and Remove a Compromised Decision-Maker

On April [insert date], 2025, I issued a **Notice of Formal Request for Recusal**, citing:

- Vice-Chair Barker's prior affiliation with a respondent-aligned union (BCGEU);
- The lack of transparency and fairness in assigning all six applications to a single adjudicator;

That request was made in good faith and in accordance with the Board's duties under Sections 10 and 12 of the **Labour Relations Code**. I expressly requested that **no further procedural steps** be taken until the jurisdictional challenge was addressed. Your failure to respond or act enabled the continuation of unlawful adjudication.

II. Improper Refusal to Strike Prejudicial Material

In paragraph 5 of his decision, Vice-Chair Barker wrote:

"The Applicant asked for this panel to 'strike' certain paragraphs of the Union's response as being irrelevant. There is no specific process under the Board's rules for striking portions of application submissions that is akin to the Supreme Court Civil Rules..."

This reasoning demonstrates a failure to uphold **basic procedural safeguards**. While the Board is not bound by civil court rules, **the right to a fair hearing and protection from prejudicial submissions remain binding obligations**. Barker's refusal to strike inflammatory and irrelevant material reflects **procedural bias**.

III. Improper Consolidation of Distinct Applications

I filed seven separate Section 12(1) applications, each supported by a \$100 filing fee, specific timelines, and unique legal issues. Vice-Chair Barker improperly consolidated these matters without notice or justification. This action undermines the requirement that each complaint be considered on its **individual merits**, and **disproportionately benefits the respondent**.

IV. Arbitrary Merging of Third and Fourth Applications

My third and fourth applications raised unrelated claims submitted on different dates. Barker's decision to merge them—without notice, consent, or reasons—further indicates a **procedural alignment with the respondent** rather than impartial adjudication.

V. Factually Incorrect Rejection of Fifth Application

In paragraph 127, Barker falsely claims I waited 14 months to file my Fifth Application. As clearly stated in my February 28, 2025 submission, the grievance and ITS appeal process remained active until **October 8, 2024**, at which point I filed without undue delay. This finding is demonstrably false and legally unsupportable, contradicting Board precedent such as *Judd and Karpowich*.

VI. Premature Ruling on Sixth and Seventh Applications

My sixth and seventh applications were ruled on without even allowing for a response from the Union. The seventh application, submitted on **April 23, 2025**, was dismissed within days. No Union response was on file. This is not adjudication—it is administrative **prejudice cloaked in process**.

VII. Request for Remedies and Financial Redress

In light of the above, I respectfully demand the following:

- **Waiver of the \$200 appeal fee**, as the necessity of appeal arises directly from the Board's failure to enforce recusal and uphold natural justice;
 - **Refund of \$600**, representing six improperly collapsed application fees;
 - **A written acknowledgment** that the improper consolidation and adjudicative misconduct violated the principles of fairness under Sections 10 and 12 of the **Labour Relations Code**.
-

VIII. Formal Notice of Liability

As a self-represented party, I have acted diligently and in good faith to protect the integrity of my proceedings. **You are now formally placed on notice** that your failure to intervene has caused undue harm, procedural injustice, financial loss, and emotional distress. I reserve all rights to pursue **civil action, professional accountability mechanisms, and any other remedy available under law** for the consequences of your inaction and failure to discharge your obligations as Chair.

Dated: this 1st day of May, 2025
Respectfully submitted,
Jessie Bains



Jessie Bains <bainsj@gmail.com>

SUPPLEMENTAL NOTICE OF TRESPASS AND FEE SCHEDULE

1 message

Jessie Bains <bainsj@gmail.com>
To: "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>
Cc: Jennifer.Glougie@lrb.bc.ca, andres.barker@lrb.bc.ca

Thu, May 1, 2025 at 8:20 PM

SUPPLEMENTAL NOTICE OF TRESPASS AND FEE SCHEDULE**Re: Section 12(1) Applications – Case Nos.**

2024-001334, 2024-001437, 2024-001478, 2024-001491, 2024-001576, 2025-000359, and 2025-000464

To:Vice-Chair Andres Barker
British Columbia Labour Relations Board**Cc:**Jennifer Glougie, Chair
Registrar, Labour Relations Board
All Parties on Record**From:**Jessie Bains
Email: bainsj@gmail.com

TAKE NOTICE that you, Andres Barker, are hereby held personally and professionally liable for continuing to act in these matters after being duly served with a formal Notice of Recusal on May 1, 2025.

Your actions constitute a willful and unauthorized trespass on the case, in violation of natural justice and the legal principle of impartiality. The applicant has not consented to your jurisdiction, and your continued involvement constitutes unlawful authority.

FEE SCHEDULE – IN EFFECT AS OF FIRST ACT OF TRESPASS:

- \$1,000.00 flat fee per unauthorized ruling or procedural act
- \$1.00 per minute for continued unauthorized jurisdiction, until a duly empowered magistrate rules on the jurisdictional challenge
- \$100.00 per Section 12 application filed with the LRB (7 applications = \$700 total)
- \$200.00 per appeal application required as a result of your failure to recuse
- All related court filing, administration, and enforcement costs

The applicant has made every effort to resolve this matter honorably and in good faith. Your failure to recuse and continued trespass will result in lawful enforcement actions, including the convening of a court of record to adjudicate your authority, conduct, and liability under oath.

All rights reserved. No contract or authority is presumed by silence.

This notice stands as formal declaration of dispute, trespass, and fee enforcement.

Dated this 1st day of May, 2025.

Respectfully submitted,
Jessie Bains



Jessie Bains <bainsj@gmail.com>

RE: NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

1 message

LRB Registry Mailbox LRB:EX <registrar@lrb.bc.ca>

Fri, May 2, 2025 at 1:03 PM

To: Jessie Bains <bainsj@gmail.com>

Cc: "Barker, Andres LRB:EX" <Andres.Barker@lrb.bc.ca>, "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>, "Glougie, Jennifer A LRB:EX" <Jennifer.Glougie@lrb.bc.ca>, "Drake, Stephanie LRB:EX" <Stephanie.Drake@lrb.bc.ca>

The Board acknowledges receipt of your emails dated May 1, 2025, titled Notice of Personal and Professional Liability and Supplemental Notice of Personal and Professional Liability.

Among other things, you have requested that the Board waive the \$200 reconsideration application fee in respect of the above-noted case files. I confirm those filing fees have been waived.

Please confirm if you would like us to treat these emails as your application for reconsideration or if you intend to file an application for reconsideration. Please note, the deadline to file an application for reconsideration is 15 days from the date on which the decision is issued. More information about the reconsideration process can be found here: [Reconsideration of Board decisions | Labour Relations Board of British Columbia](#).

Thank you!

From: Jessie Bains <bainsj@gmail.com>**Sent:** May 1, 2025 8:18 PM**To:** LRB Registry Mailbox LRB:EX <registrar@lrb.bc.ca>; Glougie, Jennifer A LRB:EX <Jennifer.Glougie@lrb.bc.ca>**Cc:** Barker, Andres LRB:EX <Andres.Barker@lrb.bc.ca>**Subject:** NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

Re: Section 12(1) Applications – Case Nos. 2024-001334, 2024-001437, 2024-001478, 2024-001491, 2024-001576, 2025-000359, and 2025-000464

To:

Jennifer Glougie, Chair

Registrar, BC Labour Relations Board

Cc:

Vice-Chair Andres Barker
All Parties on Record

From:

Jessie Bains
Email: bainsj@gmail.com

TAKE NOTICE that I, Jessie Bains, the applicant in the above-captioned proceedings, **formally provide you, Jennifer Glougie, with notice of personal and professional liability** arising from your failure to fulfill your statutory and fiduciary responsibilities as Chair of the British Columbia Labour Relations Board (the "Board").

Your continued inaction in the face of serious procedural concerns has enabled Vice-Chair Andres Barker to exercise **unauthorized jurisdiction**, rendering decisions that contravene principles of **natural justice**, deny procedural fairness, and undermine the integrity of the Board.

I. Failure to Uphold Natural Justice and Remove a Compromised Decision-Maker

On April [insert date], 2025, I issued a **Notice of Formal Request for Recusal**, citing:

- Vice-Chair Barker's prior affiliation with a respondent-aligned union (BCGEU);
- The lack of transparency and fairness in assigning all six applications to a single adjudicator;

That request was made in good faith and in accordance with the Board's duties under Sections 10 and 12 of the **Labour Relations Code**. I expressly requested that **no further procedural steps** be taken until the jurisdictional challenge was addressed. Your failure to respond or act enabled the continuation of unlawful adjudication.

II. Improper Refusal to Strike Prejudicial Material

In paragraph 5 of his decision, Vice-Chair Barker wrote:

"The Applicant asked for this panel to 'strike' certain paragraphs of the Union's response as being irrelevant. There is no specific process under the Board's rules for striking portions of application submissions that is akin to the Supreme Court Civil Rules..."

This reasoning demonstrates a failure to uphold **basic procedural safeguards**. While the Board is not bound by civil court rules, **the right to a fair hearing and protection from prejudicial submissions remain binding obligations**. Barker's refusal to strike inflammatory and irrelevant material reflects **procedural bias**.

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My third and fourth applications raised unrelated claims submitted on different dates. Barker's decision to merge them—without notice, consent, or reasons—further indicates a **procedural alignment with the respondent** rather than impartial adjudication.

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In paragraph 127, Barker falsely claims I waited 14 months to file my Fifth Application. As clearly stated in my February 28, 2025 submission, the grievance and ITS appeal process remained active until **October 8, 2024**, at which point I filed without undue delay. This finding is demonstrably false and legally unsupportable, contradicting Board precedent such as *Judd and Karpowich*.

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In light of the above, I respectfully demand the following:

- **Waiver of the \$200 appeal fee**, as the necessity of appeal arises directly from the Board's failure to enforce recusal and uphold natural justice;
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-

VIII. Formal Notice of Liability

As a self-represented party, I have acted diligently and in good faith to protect the integrity of my proceedings. **You are now formally placed on notice** that your failure to intervene has caused undue harm, procedural injustice, financial loss, and emotional distress. I reserve all rights to pursue **civil action, professional accountability mechanisms, and any other remedy available under law** for the consequences of your inaction and failure to discharge your obligations as Chair.

Dated: this 1st day of May, 2025
Respectfully submitted,
Jessie Bains



Jessie Bains <bainsj@gmail.com>

Re: NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

1 message

Jessie Bains <bainsj@gmail.com>

Fri, May 2, 2025 at 2:34 PM

To: "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>

Cc: "Barker, Andres LRB:EX" <Andres.Barker@lrb.bc.ca>, "LRB Registry Mailbox LRB:EX" <registrar@lrb.bc.ca>, "Glougie, Jennifer A LRB:EX" <Jennifer.Glougie@lrb.bc.ca>, "Drake, Stephanie LRB:EX" <Stephanie.Drake@lrb.bc.ca>

To: Registrar, BC Labour Relations Board

Cc: Jennifer Glougie, Chair

Vice-Chair Andres Barker

Stephanie Drake, Registrar

Dear Registrar,

Thank you for acknowledging receipt of my **Notice of Personal and Professional Liability** dated May 1, 2025, and for confirming the waiver of the \$200 reconsideration application fee.

This will confirm that my communications of May 1, 2025—including the formal notice, supplemental notice, and detailed allegations of procedural and jurisdictional misconduct—are to be treated collectively as my **formal application for reconsideration** under Section 141 of the *Labour Relations Code*. These materials identify multiple reviewable errors, including:

- A clear denial of natural justice;
- Procedural bias and improper consolidation of separate applications;
- Factually and legally incorrect dismissal reasoning;
- Unauthorized adjudication by an individual operating outside the limits of lawful jurisdiction.

Further, I now formally request that the Board confirm whether Vice-Chair Andres Barker has placed his signed oath of office on the record, as previously demanded in my April 11th correspondence. This confirmation is not merely symbolic—it is a threshold requirement to lawfully exercise adjudicative authority. Any decision issued by an individual who has not lawfully assumed jurisdiction through a sworn and filed oath may be void ab initio.

Accordingly, I hereby give notice that, moving forward, no officer, Vice-Chair, or adjudicator may preside over or continue in any proceeding involving my applications without first confirming, on the record, the existence and lawful filing of their oath of office. This is a minimum requirement for jurisdiction and due process and will be enforced in any further challenges, appeals, or civil claims if ignored.

Please confirm receipt of this notice and clarify whether any additional procedural documentation is required to proceed with the reconsideration.

Sincerely,

Jessie Bainsbainsj@gmail.com

On Fri, May 2, 2025 at 1:03 PM LRB Registry Mailbox LRB:EX <registrar@lrb.bc.ca> wrote:

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Sent: May 1, 2025 8:18 PM

To: LRB Registry Mailbox LRB:EX <registrar@lrb.bc.ca>; Glougie, Jennifer A LRB:EX <Jennifer.Glougie@lrb.bc.ca>

Cc: Barker, Andres LRB:EX <Andres.Barker@lrb.bc.ca>

Subject: NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

NOTICE OF PERSONAL AND PROFESSIONAL LIABILITY

Re: Section 12(1) Applications – Case Nos. 2024-001334, 2024-001437, 2024-001478, 2024-001491, 2024-001576, 2025-000359, and 2025-000464

To:

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Registrar, BC Labour Relations Board

Cc:

Vice-Chair Andres Barker
All Parties on Record

From:

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Dated: this 1st day of May, 2025

Respectfully submitted,

Jessie Bains

Supplemental Grounds in Support of Leave and Reconsideration – BCLRB Decision 2025 BCLRB 96

To: Registrar, British Columbia Labour Relations Board

From: Jessie Bains

Email: bainsj@gmail.com

Date: May 5, 2025

Subject of Appeal:

Appeal of the entirety of Decision 2025 BCLRB 96 on the basis that Vice-Chair Andres Barker acted without jurisdiction, breached procedural fairness, failed to disclose reasons for refusing to recuse himself, and improperly consolidated seven distinct applications filed under Section 12(1) and Section 10(1) of the Labour Relations Code.

Grounds for Appeal:

1. Lack of Jurisdiction – Failure to Recuse Despite Formal Request

Vice-Chair Andres Barker acted without jurisdiction by refusing to recuse himself from ruling on my applications despite being formally placed on notice. On March 15, 2025, I submitted a written request seeking his recusal on the grounds of reasonable apprehension of bias. I further requested written reasons for his refusal. No such reasons were provided. This omission alone invalidates his authority to adjudicate, rendering the entire decision *ultra vires*. His continued involvement despite this clear conflict constitutes a breach of administrative law principles, Board policy, and the Code of Professional Conduct for BC Administrative Tribunals, which obliges decision-makers to maintain the appearance and reality of impartiality.

2. Improper Refusal to Strike Prejudicial Material

In paragraph 5 of his decision, Vice-Chair Barker wrote:

“The Applicant asked for this panel to ‘strike’ certain paragraphs of the Union’s response as being irrelevant. There is no specific process under the Board’s rules for striking portions of application submissions that is akin to the Supreme Court Civil Rules...”

This reasoning demonstrates a failure to uphold basic procedural safeguards. While the Board is not bound by civil court rules, the right to a fair hearing and protection from prejudicial submissions remain binding obligations. Barker’s refusal to strike inflammatory and irrelevant material—despite being alerted to its prejudicial nature—reflects procedural bias and a failure to exercise the discretion required of an impartial adjudicator.

3. Improper Consolidation of Seven Separate Applications

Each of my seven applications was filed with a separate \$100 filing fee, between October 22, 2024 and April 23, 2025, with explicit instructions that each be assessed on its own facts, merits, and evidence. Vice-Chair Barker improperly consolidated all seven into a single decision, resulting in:

- The erasure of distinct timelines, legal issues, and factual allegations;
- Procedural harm, as later applications were judged by evidence pertaining only to earlier ones;
- The mischaracterization of unrelated complaints as “duplicative.”

This act of consolidation undermined my right to individualized adjudication and strongly favoured the Respondent.

Arbitrary Merging of Third and Fourth Applications

My third and fourth applications raised unrelated claims submitted on different dates—November 20, 2024, and November 28, 2024, respectively. Barker’s decision to merge them—without notice, consent, or reasons—further indicates a procedural alignment with the Respondent rather than impartial adjudication. This deprived me of the right to have each matter fairly assessed on its own facts and legal basis, and contradicts the Board’s duty to avoid prejudicial process shortcuts.

4. Premature Dismissals Without Union Submissions

Applications 6 and 7 (filed April 4, 2025 and April 23, 2025) were dismissed with the last being within 7 days of filing without:

- The Union being given a chance to respond;
- Myself being allowed to reply to anticipated defences.

Despite acknowledging that no Union submissions had been received, Barker made assumptions on their behalf and dismissed both applications. This constitutes a textbook violation of natural justice.

5. Misapplication of Case Law and Misrepresentation of Material Facts

Each of my seven applications raised legally distinct claims that Vice-Chair Barker misrepresented or ignored:

- **Application 1 (Filed Oct 22, 2024):** Challenged my exclusion from the HEU Convention despite active grievance status and being a member in good standing. Barker ignored procedural fairness under Section 10(1) and reframed this as a constitutional interpretation issue.
- **Application 2 (Filed Nov 13, 2024):** Addressed the Union’s refusal to proceed with Article 19 charges after my membership was disputed. The Union’s inaction denied natural justice, but Barker treated the matter as moot rather than recognizing the jurisdictional standard in *UBCJA*.
- **Application 3 (Filed Nov 20, 2024):** Alleged the Union’s bad-faith handling of my grievance, refusal to communicate, and failure to represent me during key proceedings, all contrary to *Judd*.

- **Application 4 (Filed Nov 28, 2024):** Focused on unresolved grievances, denial of alternative representation, and internal conflicts of interest. Barker misapplied *Murphy* in claiming insufficient particularization, despite documented timelines and correspondence.
- **Application 5 (Filed Dec 18, 2024):** Dismissed as untimely despite clear evidence that the grievance process concluded only on October 8, 2024. *Judd* and *Karpowich* both affirm that timelines begin upon exhaustion of remedies—not before.
- **Application 6 (Filed Apr 4, 2025):** Concerned election interference and Ethics Commissioner inaction. Barker ruled prematurely without allowing submissions and incorrectly asserted the Board lacked jurisdiction—contradicting *UBCJA*, which affirms the Board’s oversight of internal union processes when natural justice is at issue.
- **Application 7 (Filed Apr 23, 2025):** Alleged constitutional overspending (\$470,000 vs. \$375,000 limit) by the HEU Provincial Executive, with no independent review. Barker dismissed the case within 7 days, claiming I lacked standing despite my status as a member in good standing during the period in question.

In each instance, Barker either distorted case law or applied it selectively to shield the Union from scrutiny, acted as an agent of the Union revealing a clear pattern of bias and a failure to uphold legal standards under the Code.

6. Systemic Failure of the Chair to Uphold Oversight Responsibilities

I have lost faith that this Board, under its current leadership, is capable of delivering a fair hearing or outcome. The Chair has failed to ensure that:

- Members of the Board meet high ethical and professional standards;
- Recusal and impartiality rules are respected;
- Natural justice is enforced consistently.

The persistent failure to enforce duties under the Labour Relations Code, the Board’s own Rules of Procedure, and administrative law obligations reflects a systemic breakdown in oversight.

Relief Requested:

- That Decision 2025 BCLRB 96 be declared *void ab initio* due to jurisdictional failure;
- That each of the seven applications be remitted to a new, independent Vice-Chair for separate reconsideration;
- That the Board issue written reasons justifying the original refusal to recuse;
- That the Board affirm the principle that no application can be dismissed without full submissions and procedural fairness;
- That complaints involving natural justice, fair representation, and fiduciary duties—even those related to internal Union elections or spending—fall within the Board’s jurisdiction under Sections 10(1)(a), 10(1)(c), and 12(1).

Respectfully submitted,
Jessie Bains
Email: bainsj@gmail.com

BY EMAIL
May 7, 2025

BC LABOUR RELATIONS BOARD

Suite 600 – Oceanic Plaza
1066 West Hastings Street
Vancouver, BC V6E 3X1

To: Andres Barker, Vice-Chair

Cc: Registrar, LRB; Jennifer Glougie, Chair; All Parties on Record

Re: Jessie Bains -and- Hospital Employees' Union – Provincial Health Services Authority
Applications pursuant to Sections 10 and 12 of the Labour Relations Code
(Case Nos. 2024-001334, 2024-001437, 2024-001478, 2024-001491, 2024-001576, 2025-000359 and 2025-000464)

Subject: Second Notice of Liability — Ongoing Breach of Duty, Procedural Impropriety, and Unauthorized Jurisdiction

Dear Mr. Barker,

This correspondence constitutes a **Second Notice of Liability** and supplements prior notices dated **April 11, 2025** and **May 1, 2025**, which remain unanswered and unresolved.

Your failure to provide immediate justification for your refusal to recuse yourself, as demanded in my April 11, 2025 letter, and your continued participation in the above-captioned matters constitute a direct violation of the principles of natural justice, procedural fairness, and administrative due process.

Incorporated for the Record:

BY EMAIL – April 11, 2025

To: BC Labour Relations Board

Subject: Objection to Jurisdiction — Demand for Oath of Office and Immediate Justification for Refusal to Recuse

Your refusal to provide reasons until a final determination is issued is procedurally improper and signals an unlawful intent to trespass on these matters. I demanded your sworn Oath of Office and an immediate explanation. You have failed to comply. Any further proceedings are null and void until this is remedied.

SUPPLEMENTAL NOTICE OF TRESPASS AND FEE SCHEDULE – May 1, 2025

To: Vice-Chair Andres Barker

You were further served with notice that your continued involvement, absent consent and lawful jurisdiction, constitutes trespass and incurs personal and professional liability under a defined fee schedule. You have taken no steps to cure the jurisdictional defect nor rebut the challenge.

Status:

You have not made remedy. You continue to act without consent, authority, or jurisdiction, and have refused to confirm your Oath of Office, provide lawful justification for your refusal to recuse, or address the serious issues raised.

Your conduct constitutes:

- Willful breach of natural justice;
- Unauthorized exercise of adjudicative authority;
- Disregard for procedural fairness obligations under the Labour Relations Code;
- Personal and professional trespass on protected rights and legal processes.

DEMAND FOR IMMEDIATE ACTION:

You are hereby directed to:

- Cease and desist all further involvement in these matters;
- Provide a written response to this Notice, confirming:
 - Your Oath of Office;
 - Your legal authority to continue;
 - Your justification for refusing recusal, as originally demanded;
 - Acknowledge liability for all acts taken since service of the first Notice;
 - Confirm cessation of unauthorized jurisdiction within **7 calendar days** of the date of this notice.

Failure to respond or correct the record will result in further lawful actions, including court intervention, constitutional review, and public accountability measures.

All rights reserved. No contract or jurisdiction is conferred by silence.

Respectfully submitted,

Jessie Bains

bainsj@gmail.com