

**REPORT OF THE UNIFOR PUBLIC  
REVIEW BOARD**

**TO THE 4<sup>TH</sup> UNIFOR CONSTITUTIONAL  
CONVENTION**

**August 2022**



Lana Payne  
National Secretary-Treasurer  
Unifor  
115 Gordon Baker Rd  
Toronto, ON  
M2H 0A8

Dear Ms. Payne:

It is an honour and a privilege to share with the National Union and its membership the Second Report of the Unifor Public Review Board. Although the first report was presented in August of 2019, three short years ago, it has certainly been an eventful three years globally, in Canada, and for the labour movement.

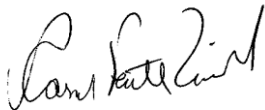
The COVID-19 pandemic has had an immeasurable impact on our economies and on how we work. It has also exposed the deep inequities that exist in Canada, with some of the country's most vulnerable and marginalized workers expected to bear the brunt of the sacrifices that resulted from the pandemic. We know that many workers and organizations have had to adapt and adjust multiple times over the pandemic's waves and the Public Review Board is no exception. It has been a busy three years for us and while we have endeavoured to address all requests for review as expeditiously as possible, we know there is ample room to improve our processes.

This report contains short biographies of the board members, some introductory remarks about the operations of the Board, and a summary of all appeals decided between August 1, 2019 and July 31, 2022.

It has now been over seven years since we lost our treasured friend and colleague, A. Alan Borovoy, who served as the Chair of the CAW Public Review Board, and, subsequently, the Unifor Public Review Board, for 30 years. He was a passionate and tireless advocate for civil rights and an ardent supporter of the labour movement. I remain honoured and humbled to occupy the position vacated by Alan and continue the important work of the PRB.

Unifor's Public Review Board is a unique body with a unique role and I know that I speak for all members of the Board when I say that we are honoured to be a part of this important experiment in union democracy. I look forward to seeing you and the delegates in Toronto.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cara Faith Zwibel', written in a cursive style.

Cara Faith Zwibel, LL.B., LL.M.  
Chairperson

## INTRODUCTION

This report is submitted to the membership pursuant to Article 18 of the Unifor Constitution. The Public Review Board (PRB) is required to prepare and submit such a report of its activities, and includes a summary of appeals that it has considered for members' reference.

The predecessor to the PRB was created in September of 1985 by the delegates to the Founding Convention of the CAW/TCA that was held in Toronto, Ontario. The current PRB was established on August 31, 2013 by delegates at Unifor's founding convention that was also held in Toronto, Ontario. The PRB was established "to ensure fairness and democratic practice for all union members and to safeguard the moral and ethical standards set out in the Constitution and the Code of Ethics" (Article 18, Section 1 of the Constitution).

The PRB is modelled after the CAW's Public Review Board which was in turn modeled after the UAW's Public Review Board which was created in 1957 on the urging of UAW President Walter Reuther. The creation of an independent body to monitor the UAW's and CAW's internal practices were bold and innovative ideas in their day, and the concept continued to be relatively unique amongst unions when the delegates to Unifor's Founding Convention included the autonomous board in its Constitution.

## MEMBERS AND STAFF

The PRB currently consists of three members, including the Chairperson. The PRB intends to engage in recruitment efforts to ensure that there are five members of the PRB, as provided in the Constitution. We are also currently without a Registrar, as a result of the departure of Mishma Gashyna who was serving in that role until June 2022.

We wish to acknowledge the retirement of Pradeep Kumar from the PRB as of December 2021. Professor Emeritus of Industrial Relations at Queen's University and the Board member with the greatest seniority (spanning several decades), Pradeep Kumar brought immense expertise and wise counsel to the PRB. On behalf of the PRB members and staff, we want to thank Professor Kumar for his dedicated and outstanding service to the cause of union democracy and transparency in Unifor governance.

As of August of 2022, Chairperson: Cara Zwibel; Members: Shelagh Campbell and Gregor Murray. The following is a brief description of the experience each of the members brings to the Board:

*Cara Zwibel, Chairperson:* Lawyer and Director, Fundamental Freedoms Program at the Canadian Civil Liberties Association. Formerly associate at a national law firm with focus on public law, commercial law and health law. Formerly judicial law clerk at the Supreme Court of Canada. Law degree from Osgoode Hall Law School, Master's of Law from New York University.

*Shelagh Campbell, Member:* Associate Professor in the Hill School of Business at the University of Regina where she teaches Business Ethics, Human Resources and Industrial Relations. Shelagh builds on twenty years of human resource management experience in the public and private sectors with research expertise. She is currently conducting research into professions and collective bargaining, forms of worker organization, socialization in academic settings, and labour climate. This is part of a broader research program that examines the multiple commitments people face in their organizations, and how these can be reconciled. She works extensively with a variety of partners and is a frequent media commentator.

*Gregor Murray, Member:* Professor, School of Industrial Relations at the University of Montreal, Canada Research Chair on Globalization and Work; Director, Interuniversity Research Centre on Globalization and Work. Has taught or been a researcher at the Université de Montréal, Université Laval, McGill University

and Warwick University. Works extensively with labour market partners in Canada, including trade unions. Acted as a research advisor for the North American Solidarity Project. Published extensively in the field of industrial relations.

Ron Franklin is the Executive Secretary of the PRB. He is the founder of Franklin Law, which focuses exclusively on advising, supporting, and representing workers, including unionized employees. He was an industrial hygienist, health and safety manager, and consultant before going to law school. He articulated with the CAW and a union side law firm, and also worked as a Staff Lawyer in the Workers' Rights Division at Parkdale Community Legal Services.

## **OPERATION**

In a number of situations, the PRB is the final body to hear a request on the part of a member to review an action taken or decision made by a deciding authority under the Constitution that the member believes was not given fair and reasonable consideration or lacked a rational basis, and results in injury to him or her. Similarly, the PRB is the final body to hear a request on the part of a member, group of members, local union, or other subordinate body to review a decision made by the National Executive Board regarding one or more charges related to a violation of the procedures and responsibilities established by the Constitution or Code of Ethics.

### **(a) Claims Arising under the Constitution, including the Code of Ethics**

In general, the internal remedy provisions of the Constitution can encompass a wide variety of claims which arise as a result of the day-to-day operation of the Union. Union members or subordinate bodies have a wide right to request that actions, decisions, failures or refusals to act on the part of the National Union, the National Executive Board (NEB), any administrative arm of the National Union, a Local Union, or any of its units, committees, officers, committee persons or stewards, or any other subordinate body of the National Union be reviewed. The normal route to do so, except where the Constitution makes specific provision otherwise, is first to the Local Union or accountable body, second to the National Executive Board, unless the appeal begins there, and third to the PRB.

Reference should be made to Article 18 of the Constitution for detailed information regarding requests for reviews. In addition, reference may be made to the Public Review Board's Rules of Procedure which are available online at: <https://uniforprb.ca/en/prb-rules/>.

The Code of Ethics were adopted by the Founding Convention of Unifor in Toronto, Ontario, August 31, 2013. The Code of Ethics is set out in Article 4 of the Constitution, and reference should be made to Articles 4 and 18 when consideration is being given to filing a complaint and/or requesting that a decision or action involving a charge be reviewed.

### **(b) Procedural Advice**

Members may contact the staff of the PRB for information regarding procedures available for relief, at the national level, under the Constitution in general or the Code of Ethics in particular. The staff will not provide advice, however, with respect to the substance or merits of a member's claim.

## **STATISTICS**

Between August 2019 and July 2022, the Public Review Board rendered 10 decisions in relation to 9 requests for review. There are currently 19 requests for review pending.

## **REQUEST FOR REVIEWS CONSIDERED – August 2019 - July 2022**

The following is a summary of each of the requests for review considered by the Public Review Board from August 2019 to July 2022. (Please note that, for the purposes of this summary only, the names of parties to these appeals have been deleted. In their place we have substituted pseudonyms, such as “Ms. A” and “Local 1”.) Please also note that, while such summaries provide a good impression of the nature of a case, any member consulting such materials in preparation for an actual request for review would be wise to review the full text version. (The full text of these decisions is available upon request without charge.)

### **Case No. 01-2020**

***Member, Unifor Local 1 v Unifor Local 1 and the Unifor National Executive Board (NEB)***

Decision Date: July 14, 2020

Board Members: Cara Faith Zwibel (Chair), Helene David, Pradeep Kumar, and Gregor Murray

#### **Overview:**

Mr. A, a member of Unifor Local 1, was the Financial Secretary of Lodge 2, a unit within the Local. He alleged that the Local failed to remit dues to the Lodge in accordance with the Local’s by-laws and sought recourse from the Local, followed by an appeal to the Committee on Constitutional Matters (CCM). The CCM dismissed the appeal and provided brief reasons. Mr. A sought a review by the PRB.

#### **Argument:**

Unifor Local 1 has a by-law that set out how dues are collected by the Local and then remitted to the lodges (providing 15% of dues to each Lodge on a per capita basis). Mr. A alleged that Local 1 failed to remit dues to Lodge 2 over an extended period of time and sought redress from the Local. When that failed, he appealed to the CCM. The CCM indicated that it had contacted the National Union Dues Coordinators assigned to the local and noted that the Coordinators focused on remittances by the locals and not how funds were distributed to lodges. The CCM dismissed the appeal but recommended that both the Lodge and Local rectify their accounting processes, signoff on monthly union dues statements and that Local Union Trustees conduct a review of the dues remittance process and make further recommendations as needed. Before the PRB, Mr. A argued, among other things, that the CCM’s decision failed to address the issue of compliance with the by-laws, that the Local had failed to take a position on the merits of the issue, and that the CCM’s recommendations constituted an implicit acknowledgment that there was a transparency issue regarding the Local’s accounting processes and the manner in which dues were distributed to Lodges. Before the PRB, the CCM did not provide an Answer to Mr. A’s Statement of Reasons and, as a result, the PRB’s decision was reached without a response from the CCM to the substantive issues raised by Mr. A.

#### **Decision:**

The PRB found that the CCM’s decision lacked clear and transparent reasons for dismissing the appeal and, as a result, determined that the CCM’s decision was unreasonable. The PRB ordered a hearing by teleconference on the question of remedy. One member of the PRB, Pradeep Kumar, agreed that there was a need for a hearing but dissented on the issue of the reasonableness of the CCM’s decision.

**Case No. 02/2020*****Member, Unifor Local 1 v Unifor Local 1 and the Unifor National Executive Board (NEB)***

Decision Date: September 23, 2020

Board Members: Cara Faith Zwibel (Chair), Pradeep Kumar and Gregor Murray

**Overview:**

In case 01/2020, the PRB found that the CCM's decision was unreasonable and ordered a hearing to address the question of remedy. The hearing was held on September 21, 2020 and the parties were asked for submissions on whether this matter should be remitted to the CCM or whether the PRB should substitute its own decision for that of the CCM. During the course of the hearing, it seemed that there was some interest in seeing if the matter could be resolved between the parties. The PRB decided to remit the matter to the CCM. It noted that there were at least three issues that needed to be addressed, one way or the other, in any subsequent CCM decision: (1) whether or not Local 1 violated its bylaws or the Constitution; (2) if there had been a violation, whether or not the Lodge of which Mr. A is a member is owed sums from the failure to remit past dues and the sum that is owing; and (3) how dues distribution should be managed going forward. The PRB required that these matters be addressed within 30 business days and that the parties could bring a motion to the PRB seeking directions if this was not done. If the CCM rendered a decision that Mr. A believes was unreasonable, he could seek another review from the PRB.

**Case No. 01-2021*****Member, Unifor Local 2 v. Unifor Local 2 and the Unifor National Executive Board***

Decision Date: May 13, 2021

Board Members: Cara Faith Zwibel (Chair), Pradeep Kumar and Gregor Murray

**Overview:**

Mr. B, a member of Local 2 sought a review of a decision related to the withdrawal of a grievance regarding his dismissal from employment. The CCM upheld the Local's decision following an in-person hearing on behalf of the National Executive Board (NEB). The PRB determined that an oral hearing was not required in this case and that the CCM's decision was reasonable and should be upheld.

**Argument:**

Mr. B raised concerns about the manner in which the CCM hearing was conducted and alleged that the CCM decision contained inaccurate information and internal contradictions. The CCM defended the process it had adopted, noting that it did not refuse any documents during its investigation and had taken steps to ensure that all parties were allotted time at the hearing before the CCM.

**Decision:**

The PRB noted that it can only overturn a decision of a lower body when that body acted unreasonably. Despite Mr. B's concerns about the fairness of the CCM process, he was permitted to provide any and all relevant documents to the CCM and did not seek an adjournment or otherwise object to the CCM proceeding at any point during the hearing. Substantively, Mr. B may have been under a misapprehension about the nature of the Local's duty to represent him in a grievance. Provided the CCM found that the Local acted lawfully in withdrawing the grievance (i.e., did not behave in a manner that was discriminatory, arbitrary or in bad faith), it would be difficult for the PRB to find that the CCM decision was unreasonable. The CCM's decision was upheld.

**Case No. 02/2021*****Member, Unifor Local 3 v. Unifor Local 3 and the Committee on Constitutional Matters***

Decision Date: October 12, 2021

Board Members: Cara Faith Zwibel (Chair), Pradeep Kumar, Gregor Murray

**Overview:**

Mr. C sought to run in an election for a shop steward position notwithstanding that he was not a member of the shop technician “zone” within his local. The Local denied Mr. C the opportunity to run for the position although no official union document appeared to preclude him. The Local relied largely on “past practices” and Mr. C argued he was not provided with evidence of these past practices or that he did not have an adequate opportunity to review any evidence that was provided. Mr. C raised a number of other concerns during the course of the hearing before the PRB. The PRB determined that the CCM’s decision was ultimately a reasonable one, but that there were issues that rendered its decision-making process unreasonable.

**Argument:**

Mr. C’s primary argument was that he was not provided with evidence of past practices on which the Local relied and that the Local’s bylaws did not clearly preclude him from running in the election for the shop steward position. The CCM contends that it did provide Mr. C with a large package of documents. The accounts of the hearing by Mr. C and the CCM were not consistent and the record before the PRB was lacking.

**Decision:**

The PRB noted that the parties’ different perspectives on what transpired at the CCM hearing pointed to some significant concerns around the procedure that the CCM followed in this case. The PRB found that a fair review process requires that evidence supplied by the responding party be provided to the party seeking the review and that they must be given an adequate opportunity to respond. The CCM’s decision-making process in this case was not transparent and therefore was not reasonable. However, the PRB found that the CCM’s decision on the outcome was a reasonable one given that the rationale for zone representation is a reasonable one and that there did appear to be a fairly consistent past practice. Although there was no meaningful remedy that the PRB could offer Mr. C for the procedural failings that occurred, the PRB expressed its hope that the decision would help improve the CCM’s and Local’s processes going forward.

**Case No. 03-2021 (decision on a preliminary issue)*****Member, Unifor Local 4 v Unifor Local 4 and the Unifor National Executive Board***

Decision Date: December 14, 2021

Board Members: Cara Faith Zwibel (Chair), Pradeep Kumar and Gregor Murray

**Overview:**

Mr. D was elected as a Skilled Trades Representative but later told that he could not hold the position. Another member, Mr. E, subsequently contested the results of the election and requested that the decision of Local 4 be reviewed by the CCM. The CCM found that the election was tainted by fraud and ordered a new election to be overseen by a new election committee. Mr. D sought a review of this decision before the PRB. The CCM took the position that Mr. D did not have standing to seek a request for review based on certain constitutional provisions and since he had not been the one that initially took the matter to the CCM. The PRB found that Mr. D did have standing to seek a review before the PRB.

**Decision:**

Mr. D was directly affected by the decision which was a relevant consideration in determining whether he had standing to seek a review. In addition, while there was some ambiguity in the relevant constitutional provisions, the PRB noted that the Constitution was in essence a contract of adhesion and that it should be interpreted in the manner least favourable to the author of the document (the union, in this case). As a result, Mr. D did have standing to seek a review before the PRB.

**Case No. 01-2022 (decision on preliminary issues)*****Member, Unifor Local 5 v Unifor Local 5 and the Unifor National Appeals Committee***

Decision Date: February 4, 2022

Board Members: Cara Faith Zwibel (Chair), Gregor Murray and Shelagh Campbell

**Overview:**

Mr. F sought a review of a decision of the National Appeals Committee (NAC) which in turn had reviewed a decision by the CCM. The NAC dismissed Mr. F's appeal with respect to payments he had received from his Local while at the same time receiving payments from his employer. The NAC also upheld the CCM's decision to suspend Mr. F from membership in good standing. The NAC allowed the appeal with respect to the CCM's conclusion that Mr. F had improperly claimed a mobile phone allowance. Unifor raised a preliminary objection relying on article 18(C)(2) of the *Constitution* and claimed that Mr. F had recourse to an external body before exhausting his remedies under the Unifor *Constitution*. The PRB found that it lacked jurisdiction to consider Mr. F's request for review given his decision to seek recourse from an external body before exhausting internal union remedies.

**Arguments:**

There were two preliminary issues for the PRB to address: whether it had jurisdiction and whether it should consider the arguments raised by Unifor despite the fact that its submission had come in a few hours late. Mr. F argued that he had complied with all timelines and that the union should be expected to do the same. In the circumstances, he argued the PRB should not consider Unifor's submissions. He also argued that recourse to any external body was not in respect of the same issues which were before the PRB.

**Decision:**

The PRB found that it should consider Unifor's submissions despite the fact that they were a few hours late. To find otherwise would not be in keeping with the PRB's role to "promote the fair and expeditious resolution of requests for review of decisions made or actions taken by lower bodies". The PRB also found that the complaint that Mr. F brought to the Ministry of Labour substantially duplicated the issues of wage recovery and reprisal that he had brought to the board and, pursuant to article 18(C)(2), the PRB lacked jurisdiction.



**Case No. 02/2022**

***Member, Unifor Local 6 v. Unifor Local 6 and the Unifor National Executive Board***

Decision Date: February 4, 2022

Board Members: Cara Faith Zwibel Chair), Gregor Murray and Shelagh Campbell

**Overview:**

Mr. G requested a review which related to an investigation conducted by Unifor related to allegations of harassment of Mr. G by one or more co-workers and/or union members. At the relevant time, the role of PRB Registrar was in a transitional period and, due to an oversight, the PRB failed to make further inquiries related to the request for review. This was eventually brought to the PRB's attention and Mr. G said he wanted to proceed with the review. Unifor took the position that his initial request was submitted beyond the thirty day period specified in article 18(B)(13). Mr. G was given an opportunity to explain or otherwise address the delay, but chose not to do so. The PRB dismissed the request for review.

**Case No. 03/2022**

***Member, Unifor Local 1 v Unifor Local 1 and the Unifor National Executive Board (NEB)***

Decision Date: March 31, 2022

Board Members: Cara Faith Zwibel (Chair), Gregor Murray and Shelagh Campbell

**Overview:**

In or around December of 2018, the employer and Local 1 were involved in bargaining and were unable to agree on terms with respect to the training of apprentices. They agreed to convene a committee with a view to reviewing and resolving outstanding training issues. The Joint Trade Study Group (JTSG) was formed as a result with terms specifying that it would be comprised of eight members, four from management side and four appointed by the local. The Local's President took the lead on selecting and appointing all four of the Local's representatives. He appointed representatives from every region except the region in which the Member, Mr. A, was employed. Mr. A requested a review of the President's appointment decisions on behalf of his Lodge. The Local's Executive Board denied the request for review and the CCM denied a further request for review. On seeking a review by the PRB, the CCM raised a preliminary objection arguing that the PRB lacked jurisdiction. The PRB agreed that it lacked jurisdiction and, as a result, the request for review was dismissed.

**Arguments:**

The CCM argued that the issue of regional representation was not taken into account when the terms of the JTSG were negotiated and argued that the Lodge was attempting to import a requirement into the agreement. It maintained that the review was tantamount to reviewing a bargaining strategy and that this is not subject to review pursuant to Article 18(B)(5) of the Constitution. The CCM also referred to Article 18(A)(6) of the Constitution which precludes the PRB from considering any matters related to the collective bargaining strategy or policy of the Union. Further, Article 18(B)(6) of the Constitution provides that only the President shall interpret the meaning of any contract or collective bargaining and that such interpretation is not subject to review. Finally, the CCM pointed to Article 19 of the Unifor's *Procedure Policy on Constitutional Matters* which states that "On matters of limited scope such as procedural rulings, appointments to committees or delegations, awards, personal recognition and recreational affairs, the review by the Local Union shall be final and without further review.

Mr. A, on behalf of the Lodge, argued that these objections were without merit, that the Lodge was not seeking to import any requirement into the agreement that led to the JTSG, that there was no evidence that the JTSG was part of a bargaining strategy and that there was no evidence that the President had

engaged in any interpretation of the contract. Finally, Mr. A argued that the CCM could not rely on Article 19 of the *Procedure Policy on Constitutional Matters* because the CCM had already accepted jurisdiction over the dispute.

**Decision:**

The PRB based its decision on Article 18(B)(2) of the Constitution which precludes the PRB from considering “any matter related to the collective bargaining strategy or policy of the Union...” This language is broad and captures more than the language used in Article 18(B)(5) which refers to “a bargaining strategy”. The PRB noted that while the language of Article 19 of the *Policy Procedure* appeared to directly preclude review in respect of the appointment of committees, the CCM did itself consider the Lodge’s request for review and Article 18(B)(2) of the Constitution provides that the NEB shall approved a *Procedure Policy on Constitutional Matters* which shall determine time limits and procedural requirements. To the extent that the *Policy Procedure* purported to remove certain matters from the jurisdiction of a review body, this was arguably beyond its scope. The PRB found that it lacked jurisdiction to consider the request for review.

**Case No. 04/2022**

***Member, Unifor Local 1 v Unifor Local 1 and the Unifor National Executive Board (NEB)***

Decision Date: April 4, 2022

Board Members: Cara Faith Zwibel (Chair), Gregor Murray and Shelagh Campbell

**Overview:**

This case followed up on issues first raised in cases 01/2020 and 02/2020 (background to the dispute is summarized above in relation to case 01/2020). Following the PRB’s decision to remit certain questions to the CCM (set out in the summary of case 02/2020 above), the CCM rendered a decision in which it found that the Local’s bylaws had not been violated. Mr. A, on behalf of Lodge 2, sought further review before the PRB. A hearing was held over two days (Feb 24 and Mar 1, 2022). The PRB determined that the CCM’s decision was unreasonable and directed the Local to provide the Lodge with dues that were owing for a period of 14 months and directed the Lodge and Local to determine a process for claiming dues and ensuring that member lists are kept up to date going forward.

**Arguments:**

Mr. A argued before the PRB that the CCM failed to follow the process laid out by the PRB in its decision in case no. 02/2020 and that the CCM’s decision was unreasonable. He noted that in reconsidering its decision, the CCM solicited input from the Local but not the Lodge, and directed its decision letter to the PRB (rather than the Lodge). He noted that the bylaws state clearly that the Local is to provide lodges with a 15% per capita payment for their members. The CCM simply asserted there was no violation of the bylaws without meaningful consideration or discussion of how they arrived at the decision. He rejected the concern that payment of past dues would open the “floodgates” and argued that the bylaw was clear and would breed consistency if followed.

The CCM argued that its decision was reasonable and that the Local had made every reasonable effort to comply with the allocation of funds as prescribed in the bylaw. At the hearing before the PRB, the CCM argued that the request for review was based on a fundamental misunderstanding about the nature of the members lists and that the Local was not required to provide missing members lists to the lodges or continually seek updates from the lodges. If the lodges fail in their duty to maintain accurate lists, retroactive payments were not required. The CCM also argued that some of the Lodge’s claims were likely barred because they were not brought in a timely way. The CCM argued that the Lodge was asking for an implicit amendment to the bylaws, which the PRB could not order. It took the position that there was little the PRB could do in this case beyond make recommendations.

**Decision:**

The PRB agreed with Mr. A and the Lodge that the CCM's process in arriving at its second decision was flawed. The decision to engage with the Local and not with representatives of the Lodge was procedurally unfair. Although a full hearing will not be required in all cases, given the history and context in this case, the CCM's decision to proceed as it did was unreasonable. The CCM's second decision was also conclusory in nature – it failed to provide the Lodge with any understanding of how the decision was reached. Ultimately, both parties appeared to acknowledge that not all dues owing to the Lodge had been paid, but there was disagreement about the process for determining what dues were owed (the process was unclear and not always followed). Both parties acknowledged failings on their part that contributed to the confusion around which members were in the Lodge and the dues owing.

The PRB did not agree with the CCM that it was powerless to order a meaningful remedy in this case. The PRB is a creature of the Constitution and its existence is a recognition that, in some cases, a non-democratically elected body is tasked with making decisions. The PRB directed representatives of the Local and Lodge to determine a process for claiming dues and ensuring that member lists are kept up to date going forward. The PRB also directed the Local to provide the Lodge with the dues owed from January 2018 to February 2019, based on the evidence about the actions and omissions of the parties at various time periods. The PRB noted that it may be necessary to retain third-party assistance to address the past dues and future processes and that if this is the case, the costs should be shared between the Local and the Lodge.

**Case No. 05/2022*****Member, Unifor Local 7 v Unifor National Executive Board (NEB)***

Decision Date: June 17, 2022

Board Members: Cara Faith Zwibel (Chair), Gregor Murray and Shelagh Campbell

**Overview:**

Mr. H alleged that the winner of an election in his Local was ineligible to run. The Local dismissed Mr. H's request for review relying on its information about the status of Ms. I (the winner of the election) and on certain contractual language in the Master Collective Agreement. On review by the CCM, the election was overturned and a new election ordered. The Chairperson of the Local's Election Committee sought review by the NEB. The NEB found in favour of the Chairperson and restored the original election result. Mr. H sought review of the NEB decision by the PRB. The PRB found that the decision of the NEB was reasonable and declined to disturb the result reached.

**Arguments:**

Mr. H took issue with the process leading to the NEB's decision and the decision itself. He argued that the Chairperson of the Election Committee was not entitled to seek a review of the CCM's decision based on Article 18(B)(1) of the Constitution. He also argued that once the CCM decision was rendered, the new election should have been held, instead of allowing Ms. I to continue to hold office while the NEB review was pending. With respect to the result, Mr. H argued that Ms. I was not eligible to run in the election and that the rules related to elections should come from the master bylaws. He argued that provisions of the Collective Agreement were not relevant to this issue and that applying them in this case was a breach of the ethical duties set out in Article 4(1) of the Constitution.

The NEB argued that the Chairperson was entitled to seek a review and noted that the request for review had been approved by the Local's Executive Board. The NEB also argued that its decision clearly laid out its reasons and how it arrived at its decision. While the PRB may not consider any matters related to the application or administration of a collective agreement, it was argued that the PRB may consider

provisions of a collective agreement as a relevant factual or legal constraint on the decision making of a lower body.

**Decision:**

The PRB determined that the Chairperson of the Election Committee did have standing to seek a review and that the review was sought on behalf of the Local, which had a clear interest in the interpretation of its election bylaws.

On the substance of the decision, the NEB clearly articulated the reasons why it found that Ms. I was eligible to run in the election, relying on its own understanding of the facts (informed by a statement from Ms. I) and corroborated by the Local's initial reasons. It also considered the language in the Master Collective Agreement as relevant context. While Mr. H disagreed and had a different understanding of the facts, the PRB found that it was not reasonable for the Local or NEB to come to a different conclusion. The PRB may only overturn a decision it finds to be unreasonable. The NEB's decision was therefore upheld.

**CONCLUSION**

Copies of the full text of any of the appeals described in the foregoing are available on request to the Public Review Board at 124 Merton St., Suite 400, Toronto, ON, M4S 2Z2; telephone: 416-363-0321; email: [registrar@uniforprb.ca](mailto:registrar@uniforprb.ca).

**Respectfully submitted,**

**The Public Review Board  
Unifor**

**Cara Zwibel  
Chairperson**

## APPENDIX “A”

### Audited Financial Statements (2020)

Audited financial statements from previous years available on request to the PRB