ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **1423-25-R**

Riley Pollard, Applicant v **UNIFOR Local 324**, Responding Party v Weechi-it-te-win Family Services Inc., Intervenor

BEFORE: Michael McFadden, Alternate Chair

APPEARANCES: Riley Pollard appearing on his own behalf; Laura Sullivan and others appearing on behalf of the responding party; Mark Ellis and others appearing on behalf of the intervenor

DECISION OF THE BOARD: January 6, 2026

Introduction

1. This is an application for termination of bargaining rights filed under section 63 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended ("the Act"). The application was filed with the Board by the applicant, Riley Pollard ("Mr. Pollard"), on August 13, 2025. There is no dispute Mr. Pollard is a member of the affected bargaining unit and has the status to bring this application. The responding party incumbent trade union is UNIFOR Local 324 ("Local 324"). The affected employer is the intervenor Weechi-it-te-win Family Services Inc. ("the Employer"), a family, social and community services agency with offices and facilities in and around Fort Frances, Ontario that is focussed on serving the members of the First Nation located in and around Fort Frances.

2. In a decision dated August 18, 2025, the Board (differently constituted) directed the taking of a representation vote beginning on August 20, 2025.

3. In a decision dated August 20, 2025, in response to a request from Local 324 that it do so, the Board ordered the ballot box be sealed pending the further agreement of the parties or order of the Board. The

ballot box was sealed because of allegations made by Local 324 in a letter to the Board dated August 19, 2025 ("Local 324 Aug. 19 Letter") that the Employer improperly held (or at least permitted) the holding of "captive meetings" on paid time to intimidate the employees and affect the application. The alleged captive meetings were held on August 5 and August 18, 2025 ("the August Meetings"). Mr. Pollard and the Employer deny the allegations.

4. In a subsequent letter dated August 28, 2025 ("Local 324 Aug. 28 Letter"), Local 324 requested that the Board schedule a hearing into the Local 324 allegations. In the Local 324 Aug. 28 Letter Local 324 repeated essentially *verbatim* the allegations it set out in the Local 324 Aug. 19 Letter and did not add any further material information.

5. The Board scheduled and held a hearing into the Local 324 allegations on November 3, 2025 ("Nov. 3 Hearing). During the Nov. 3 Hearing, certain evidentiary and witness issues arose, the result of which (in the latter case) the Board issued directions for further written submissions on a set schedule (see the Board's decision in this matter dated November 4, 2025).

6. Local 324 called five witnesses at the Nov. 3 Hearing, the last of which was Mr. Pollard. At the conclusion of the evidence of Mr. Pollard, counsel for Local 324 stated her intention to call as her next witnesses Mr. Bill Morrison ("Mr. Morrison") and Mr. Dean Wilson ("Mr. Wilson") after she heard that Mr. Pollard intended to call no further evidence, and that the Employer intended to call no further evidence. Mr. Morrison is an employee of the Employer, and a member of the bargaining unit affected by the termination application, and Mr. Wilson is the current Executive Director of the Employer. Counsel for Local 324 explained that, notwithstanding that Mr. Pollard is the named applicant in the termination application, the "real" driving force behind the termination application is Mr. Morrison, who acted in collusion with or at the direction of Mr. Wilson (or members of the Employer's management team more generally). Local 324 relies on section 63(16) of the Act in this regard, a section which permits the Board to dismiss a termination application where it is satisfied that an employer initiated the application or has engaged in threats, coercion or intimidation in connection with the application. Both Mr. Pollard and the Employer objected to Local 324 being permitted to call Mr. Morrison and Mr. Wilson as witnesses.

7. Local 324 has not filed an unfair labour practice application pursuant to section 96 of the Act in support of its allegations of improper employer participation in the termination application. Instead, Local

324 relies on the contents of the Local 324 Aug. 19 Letter and the Local 324 Aug. 28 Letter for those purposes. Neither the Local 324 Aug. 19 Letter or the Local 324 Aug. 28 Letter identify either Mr. Morrison or Mr. Wilson by name, nor do those letters allege some arrangement between them (or other persons) to improperly involve the Employer in the termination application.

8. The Board expressed concern at the Nov. 3 Hearing that the further witness plan of Local 324 did not appear to be in compliance with Rule 5.1 of the Board's Rules of Procedure, which states:

> "Obligation to Make Allegations Promptly
>
> 5.1 Where a party in a case intends to allege improper conduct by any person, he or she must do so promptly after finding out about the alleged improper conduct and provide a detailed statement of all material facts relied upon, including the circumstances, what happened, when and where it happened, and the names of any persons said to have acted improperly."

9. Rule 2.4 of the Board's Rules of procedure is also relevant to these circumstances, which states:

> "2.4 No person will be allowed to present evidence or make any representations at any hearing or consultation about any material fact relied upon which the Board considers was not set out in the application or response and filed promptly in the way required by these Rules, except with the permission of the Board. If the Board gives such permission, it may do so on such terms as it considers advisable."

10. The Board at the Nov. 3 Hearing directed the parties to make written submissions on two issues: (i), should the Board permit Local 324 to call Mr. Morrison and Mr. Wilson as witnesses given the requirements of Rules 2.4 and 5.1; and (ii), if the Board determines it will not permit Local 324 to call Mr. Morrison and Mr. Wilson as witnesses, should the Board direct that the ballot box be opened and counted given the evidence the Board has already heard?

11. All the parties made comprehensive written submissions on the issues identified above and the Board has reviewed and considered

them. For all the reasons set out below, the Board is satisfied that Local 324 should not be permitted to call evidence from Mr. Morrison and Mr. Wilson and that, based on the evidence already tendered, it is appropriate to dismiss the allegations of improper employer initiation of the application, and direct that the ballot box be opened and the ballots counted.

12. The Board notes here that Local 324 raised concerns with the written response submissions of Mr. Pollard, saying among other things that it appeared that Mr. Pollard had used a Large Language Model ("LLM") or Artificial Intelligence ("AI") tool to prepare his submissions, noting that there are references to Board Rules of Procedure that do not in fact exist or do not stand for the proposition described. On August 29, 2025 the Board introduced Rule 8.5 of the Board's Rule of Procedure. Rule 8.5 requires a party that provides case citations to include an electronic link to the case cited, or if no link exists, a paper copy of the case cited. The community notice that announced Rule 8.5 noted that LLMs and AI's sometimes "hallucinate" cases, that is, either the case does not exist or the citation refers to a different case. Although Rule 8.5 does not address citations of the Board Rules, equal concerns may exist as described immediately above. In this case, as it happens, there is no dispute that Mr. Pollard properly cited and referenced Rules 2.4 and 5.1 of the Board's Rules of Procedure. It is only these Rules that were the focus of the Board's decision in this case, and the Board ignored citations to other Rules (accurate or inaccurate).

Issue (i): Status of Messrs Morrison and Wilson as Witnesses

13. Local 324 submits that while it did not particularize its allegations as against Mr. Morrison and Mr. Wilson prior to the Nov. 3 Hearing, it says that it only learned for the first time of Mr. Morrison's critical involvement in the initiation of the application at the Nov. 3 Hearing, specifically during the evidence of Mr. Pollard. Local 324 submits that it was effectively caught by surprise to hear Mr. Pollard say during his evidence that it was Mr. Morrison who planned the August Meetings and not himself personally. In these circumstances, Local 324 submits, the Board should not preclude it from calling evidence through Mr. Morrison and Mr. Wilson to further explore the initiation and context of the August Meetings, as these are the centrepiece of its objections to the application and why it says it should be dismissed.

14. These submissions do not square fairly with the evidence as it was actually tendered at the Nov. 3 Hearing. Two of the witnesses called

by Local 324, Kim Perreault (a member of the Local 324 bargaining committee) and Alyssa Perlette, testified as witnesses for Local 324 and both testified prior to Mr. Pollard testifying. During their testimony, both said that just before a regularly scheduled staff meeting began on each of August 5 and 18, 2025, Mr. Morrison spoke to each of them (and from their respective observations, to other employees present at the time) and asked them to stay behind at the conclusion of the staff meeting after all management personnel had left so that the employees could discuss the status of the union between themselves. These later, non-management-staff-only meetings are the August Meetings referenced at paragraph 3, above.

15. In these circumstances, the Board does not accept that Local 324 had no knowledge prior to the Nov. 3 Hearing of Mr. Morrison's role in initiating the August Meetings. There was no suggestion by Local 324 at the Nov. 3 Hearing or in its written submissions that the evidence of its own witnesses, Ms. Perreault or Ms. Perlette, were in any manner or respect a surprise to Local 324.

16. The Board is not satisfied that Local 324 has proffered sufficient reasons as to why the Board should relieve it from the obligations incumbent upon it under Rules 2.4 and 5.1 of the Board's Rules of Procedure, and the Board declines to do so. In the result, the Board will not permit Local 324 to tender either Mr. Morrison or Mr. Wilson as witnesses in support of the allegations it first made against them at the Nov. 3 Hearing.

Issue (ii): Should the Ballot Box be Opened and the Ballots Counted?

17. The three witnesses who testified at the Nov. 3 Hearing about the August Meetings who were present at them (Ms. Perreault, Ms. Perlette and Mr. Pollard) all described them in a consistent fashion. Taking their evidence together, the Board is satisfied that the August Meetings were relatively short (they lasted between 12 – 15 minutes each), there was no one present from management during the meetings, there is no evidence that any threats or promises, implied or explicit, about the continued content of any employees' employment or about any other matter were made by anyone who spoke at the August Meetings, and the staff who attended the August Meetings were free to leave at any time. The Board also notes that Ms. Perlette, for her part, stated clearly that her attendance at the August Meetings had no effect on the choice she made when casting a ballot in the representation vote

that began on Augst 20, 2025. These facts are opposite from the sorts of factual hallmarks that typically cause the Board concern in captive meeting cases (see, for example, *Unionized Employees of Tenaquip v. Teamsters Local 419*, 1997 CarswellOnt 6141 hereafter "*Tenaquip*" – and *Copper River Inn and Conference Centre,* 2018 CanLII 13358 *(*ON LRB) – hereafter "*Copper River*", and the cases cited therein), as discussed further below.

18. As noted earlier, section 63(16) of the Act states (in part): "the Board may dismiss the (termination) application if the Board is satisfied that the employer or a person acting on behalf of the employer initiated the application or engaged in threats, coercion or intimidation in connection with the (termination) application". The Board in the cases referenced above (and elsewhere) has had occasion to provide prior analytical assessments of this section and what it entails. Among other things, the Board has noted that there is no one factual criterion that will automatically trigger its dismissal of a termination application, and the Board looks to the whole suite of facts before it to determine if an employer has engaged in the conduct prohibited by section 63(16) of the Act. An early, concise and still useful expression of the Board's analytical approach in cases where there is an allegation that a termination application was "initiated" by an employer and so should be dismissed pursuant to section 63(16) of the Act was expressed at paragraph 34 of *Tenaquip* in these terms:

> "…(the Board) would typically expect to characterize the employer's conduct as an early and material involvement in or giving rise to or otherwise significantly facilitating the application"

19. The Board adopts this approach and is satisfied that the evidence before it does not support a conclusion the Employer "initiated" the termination application or that it engaged in any threats, coercion or intimidation in connection with the termination application.

20. The only features of the August Meetings that remotely align with the sorts of concerns and facts that typically catch the Board's attention in captive meetings cases is that it is arguable that the meetings took place in a facility associated with the Employer, and there is no dispute that the staff who attended the August Meetings were paid their regular salary while doing so.

21. The August Meetings occurred in a gymnasium in a community facility the parties referred to as "the Nanicost Centre", located in Fort

Frances. All three witnesses who attended the August Meetings agreed that the Employer has offices in the Nanicost Centre (among other locations in and near Fort Frances, Ontario), but it is less clear that the gymnasium is under the control of the Employer. It may be instead that the Nanicost Centre permits the Employer to use the gymnasium for staff meetings. The evidence is clear that the staff meetings that preceded the August Meetings were regular (the evidence is that they are held during the workday approximately every two weeks) and they invariably occur in the Nanicost Centre gymnasium. In short, from the Board's perspective, there was nothing extraordinary or unusual about where and when the August Meetings occurred, or anything from those features of them that cause the Board to infer that the August Meetings were in any material sense initiated by the Employer or held at its behest or even with its indulgence. This is unlike the situations that prevailed in *Tenaquip* or in *Copper Creek*. In the former case, the evidence was clear that individual bargaining unit members were "summoned" to the employer's corporate boardroom by the applicants in that case to sign the petition in support of the termination application. The corporate boardroom does not appear to have been a space that bargaining unit members customarily attended. In *Copper Creek*, the evidence was that a manager of the bargaining unit employees directed them individually to proceed to meet with the applicant to sign a petition in support of the termination application. That the August Meetings occurred in a gymnasium where the bargaining unit employees customarily gathered, and happened while the employees were already gathered there (and so were not summoned to it or directed to attend by a manager), is of a different character than what arose in the cases cited above.

22. Also, because the August Meetings were short, they occurred during the regular workday at a time when all the staff present were being paid their respective regular salary anyway, the Board draws no adverse conclusion from the fact that the attendees were paid their respective salaries during the August Meetings. None of the witnesses who testified on behalf of Local 324 who were present at the August Meetings noted anything unusual (in the least) that they continued to be paid their salaries during the 12-15 minutes the August Meetings lasted.

23. In short, the Board is not satisfied that the August Meetings constituted impermissible captive meetings as alleged by Local 324. Since the only substantive allegation pleaded by Local 324 that the application should be dismissed pursuant to section 63(16) of the Act is that the August Meetings were captive, the objections made by Local

324 to the application are hereby dismissed and the ballot box is hereby directed to be opened and all the ballots counted (there are no segregated ballots in this case).

Ballots to be Counted

24. This file is referred to the Board's Manager of Field Services so that arrangements can be made with the parties to open the ballot box and count the ballots cast.

"Michael McFadden"
for the Board