

NEWFOUNDLAND AND LABRADOR LABOUR RELATIONS BOARD

**2026 NLLRB #8
File Number: 6155
Date: 2026-03-20**

*In The Matter of the Public Service
Collective Bargaining Act, R.S.N.L.
1990, c.P-42, as amended, (the
“Act”) and an application pursuant
to Section 44 of the Act affecting:*

Association of Allied Health Professionals Applicant

-and-

Newfoundland and Labrador Health Services 1st Respondent

-and-

**His Majesty the King in Right of
Newfoundland and Labrador (Represented
by the Treasury Board Secretariat) 2nd Respondent**

-and-

**Newfoundland and Labrador Association of
Public and Private Employees 3rd Respondent**

-and-

Canadian Union of Public Employees Intervenor

Before:

Gregory A. French, K.C.

Sean Noah

Roseanne Saturley

Chairperson

Board Members

For the Parties:

Catherine Quinlan

Jillian Hewitt

Erin Delaney

Paula Schumph

Carlos Mendez

Representation for Applicant

Representation for 1st Respondent

Representation for 2nd Respondent

Representation for 3rd Respondent

Representation for Intervenor

REASONS FOR DECISION

Introduction

1. It is perhaps an understatement to say that providing healthcare services in the Province of Newfoundland and Labrador is a challenge. Healthcare makes up approximately 40% of the provincial budget. All parties – Government, unions, and other stakeholders have an unenviable task of getting the system to work as efficiently as possible. The Labour Relations Board recognizes the role it plays in promoting harmonious labour relations in the province, including the significant issues facing the healthcare sector. **The Board anticipates that it will receive further Application(s) from the parties. The Board will endeavour to deal with all properly framed Applications in a timely manner with the goal to add value to the parties in trying to resolve the issues between them.** Without pre-determining a future application that may be filed with the Board, an application for a province-wide vote would be dealt with in accordance with the rules of the Board as to the timelines and processes for votes to occur.
2. The Board will confirm that the request for Successorship Rights in this Application was not an issue. If the Application had solely been this request, the Board would have been able to deal with it. However, while the Application is framed under the section of Successorship Rights, **the Applicant requests relief that the is well beyond what the Board was prepared to address pursuant to the application as filed. The Board, in accordance with its relevant authorities, grants NAPE’s request to dismiss the Application.**
3. The effect of the Application as framed was that the Board was asked on a relatively narrow application to effectively solve the labour issues between the parties. As indicated, the Board is always prepared to do its part for all parties, but based upon the materials before it, could simply not grant the relief requested in this Application.

The Application

4. The Applicant frames this Application pursuant to s. 44 of *Public Service Collective Bargaining Act*, RSNL 1990, c. P-42 (“PSCBA”) which states:

Successor rights

- 44.** (1) Where an employer sells, leases, transfers or otherwise disposes of, or agrees to sell, lease, transfer or otherwise dispose of, his or her business or the operations of the business or a part of either of them, and
- (a) the employer or the purchaser, lessee, transferee or person otherwise acquiring the business is a party to or is bound by a collective agreement with a bargaining agent on behalf of employees affected by the sale, lease, transfer, disposition by other means or contract;
 - (b) 1 or more bargaining agents have been certified as bargaining agent for those employees;

(c) one or more employee organizations has applied to be certified as a bargaining agent for those employees; or

(d) 1 or more bargaining agents have given or are entitled to give notice under section 13 or 14 with respect to those employees,

then, unless the board otherwise directs, the collective agreement, certification, application, notice or entitlement to give notice continues in force and is binding upon the purchaser, lessee, transferee or person otherwise acquiring the business.

(2) An employer, purchaser, lessee, transferee or a bargaining agent, employee organization or other person referred to in subsection (1) may apply to the board for the resolution of a question or problem that as a result of the sale, lease, transfer or disposition has arisen or may arise with respect to a collective agreement, certification, application, notice or entitlement to give notice. (emphasis added)

(3) Where an application is made under subsection (2), the board shall, by order, make whatever award, give whatever direction or take other action that in its discretion the board considers appropriate to resolve a relevant question or problem and may in that or a subsequent order

(a) modify or rescind to the extent that the board considers necessary or appropriate a collective agreement;

(b) amend or revoke a certification or amend an application for certification;

(c) modify or restrict the operation of a notice or entitlement to give notice;

(d) determine whether employees affected constitute 1 or more appropriate bargaining units;

(e) where more than 1 collective agreement is to continue in force, designate the employees that are to be covered by each agreement;

(f) modify or restrict the operation or effect of a provision of a collective agreement and define the rights with respect to it of employees affected by the sale, lease, transfer or disposition by other means;

(g) declare which employee organization shall be the bargaining agent for the employees; and

(h) interpret a provision of a collective agreement.

(4) A purchaser, lessee, transferee or person otherwise acquiring the business shall not be required to bargain with a bargaining agent with respect to employees to whom an application made under subsection (2) relates, until the board has disposed of that application.

(5) Where an application is made under subsection (2), the board may make an examination of records or other inquiries, and may hold hearings and take representation votes that it considers necessary and prescribe the nature of evidence to be provided to the board.

5. There is no doubt that the Board has authority under this section to deal with “a question or problem that as a result of the sale, lease, transfer or disposition...” The problem is that the requests made pursuant to this Application go beyond the questions or problems arising from the sale, lease, transfer of disposition.

Provincial Health Authority Act

6. Section 6 of the Provincial Health Authority Act SNL2022 c. P-30.1 (“PHHA”), states as follows:

Provincial Health Authority

6. (1) The Provincial Health Authority is established as a corporation without share capital for the purposes of Part XXI of the *Corporations Act*.
 - (2) The authority is the successor in law to the regional health authorities continued under the *Regional Health Authorities Act* and the Newfoundland and Labrador Centre for Health Information continued under the *Centre for Health Information Act, 2018*. (emphasis added)
 - (3) The authority is exempt from section 423 of the *Corporations Act*.
 - (4) The authority is an agent of the Crown.
7. The PHHA defines that the Provincial Health Authority is the successor in law to the regional health authorities and Centre for Health Information. **It is not clear to the Board on what basis the Second Respondent is an Employer for the purposes of the PHHA.**
 8. **The Application seeks pursuant to the PSCBA to include parties that were not subject to change as part of PHHA.** What the Application is effectively saying is that pursuant to the PSCBA, the Board can address all labour relations issues it might be facing even though some of the parties impacted are not part of the PHHA successorship. **If the Application had dealt only with issues relevant to the PHHA parties, then the Board could have appropriately responded. However, once the Application moved to include other parties that were not part of the PHHA successorship, then it was beyond the scope of what the Board could appropriately deal with in the Application as framed.**

Appropriate Bargaining Unit

9. The Application argues that the allied health professionals employed by both the First Respondent and the Second Respondent should be represented by a single bargaining unit and the Applicant is the “most appropriate bargaining unit to represent allied health professionals for those employers in this province.” This arises from the claim that there is overlapping and competing bargaining units. The Board does not take issue with the stated challenges with collective bargaining. However, the Board is not in a position to accept the assertion from the Applicant it should represent all allied health professionals. NAPE vehemently denies the Applicant’s assertion and makes several arguments to refute the Applicant’s claims. In particular, NAPE alleges that it views the Applicant as attempting to “raid” its employees through the filing of its application and as such, it would be wholly undemocratic to provide the Applicant with sole bargaining unit status over all allied health professionals employed by the Respondent(s). NAPE further asserts that they are the Bargaining Agent with the majority of employees in the health sector at present. As referenced above, the Applicant, for its part, has suggested it is the “most appropriate” bargaining unit for all allied health professionals, as it is solely dedicated to health professionals and the health care field only.
10. It is sufficient that on the materials before it, the Board was in no position to determine that the Applicant was the most appropriate unit to represent these employees.

Province Wide Vote

11. The Applicant argues in the alternative, for a province-wide vote of allied health professionals of NL Health and the Department of Community Health and Services to be held in order to determine a sole bargaining agent for those allied health professionals. The other parties seem to agree that a representation vote is necessary. Obviously, the voting process is critically important in determining who the affected employees wish to represent them in collective bargaining. Nevertheless, this is a successorship application and the Applicant desires to include employers who, on its face, are not proper parties to the successorship application. There is reference to the Department of Community Health. However, this is not a named party, nor is it referenced in paragraphs 2 or 3 as being connected to the First or Second Respondents. What role does it play?
12. It is also unclear as to who will be “on the ballot”? Presumably the Applicant, NAPE, and CUPE? Any other potential parties? The Board simply doesn’t know based on the Application before it. Finally, who gets to vote? The Board cannot determine this entitlement based on the information before it who is entitled to vote, i.e, who specifically, would be included and/or excluded. While there appears to be some agreement by some of the parties on certain employees that would be included and excluded from the bargaining unit, the list is far from definitive.

Delay of Bargaining

13. CUPE, as an Intervenor, contends that bargaining should not be delayed while this process sorts itself out. The Board is not making any decision or statement with respect to the timing of bargaining.

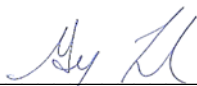
Conclusion

14. The Board has an application driven process. Parties file applications and the Board addresses the applications before it. This does not mean that an application filed on a discrete issue can then be expanded to include other matters or issues that are not specifically related to the application as presented. This is what we have here, and the Board had no reasonable option other than to dismiss it.

The Board Ordered accordingly.

DATED at St. John's, Newfoundland and Labrador, this 20th day of March 2026.

For the Board,



Gregory A. French, K.C.