

JUDICIAL CENTRE OF DRUMHELLER

FILED

Oct 25, 2023

C102010

by Email

CLERK OF THE COURT

COURT FILE NUMBER	2301 09854
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	THE UNIVERSITY OF LETHBRIDGE AND THE GOVERNORS OF THE UNIVERSITY OF LETHBRIDGE
RESPONDENTS	JONAH PICKLE, PAUL VIMINITZ AND FRANCES WIDDOWSON
DOCUMENT	APPLICATION TO STRIKE PORTIONS OF THE ORIGINATING APPLICATION
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Attention: Matthew Woodley Reynolds Mirth Richards & Farmer LLP [REDACTED]

Date November 30, 2023
Time 10:00 AM
Where Calgary Court Centre
Before Whom Applications Judge in Chambers

Remedy claimed or sought:

1. An Order directing that Paul Viminitz be struck as an applicant from the Originating Application filed in the Court of King's Bench, file number 2301 09854 pursuant to Rule 3.68;
2. Costs; and
3. Such further and other relief as this Honourable Court may deem just in the circumstances.

Grounds for making this application:

4. The applicant Paul Viminitz ("Viminitz") is a professor in the Department of Philosophy at the University of Lethbridge. Viminitz is a member of the University of Lethbridge Faculty Association ("ULFA"), a collective bargaining agent under the *Post-Secondary Learning Act* and the *Labour Relations Code*.
5. The 2020-2024 Academic Staff Collective Agreement (the "Collective Agreement") is the collective agreement in place at all relevant times between the University and ULFA.
6. On April 18, 2023, ULFA initiated grievance proceedings under the Collective Agreement on behalf of Viminitz (the "Grievance"). The Grievance relates to the same factual matters that are raised in the Originating Application for Judicial Review in this action.
7. Under the Collective Agreement, if the Grievance cannot be resolved between ULFA and the University, the Grievance would proceed to arbitration.
8. An arbitrator acting under the Collective Agreement could grant adequate and effective relief to Viminitz. The essential character of the dispute between Viminitz and the University in this judicial review is a matter governed by the Collective Agreement, and an arbitrator appointed pursuant to the Collective Agreement and the *Labour Relations Code* has the exclusive jurisdiction to resolve those matters.
9. Further, Viminitz has not exhausted adequate alternative avenues for redress, in particular, the grievance process under the Collective Agreement.

Material or evidence to be relied on:

10. Agreed Statement of Facts, to be filed.

Applicable rules:

11. Rule 3.68.

12. Such other Rules as counsel may advise and as the Court may allow.

Applicable Acts and regulations:

13. *Post-Secondary Learning Act*, SA 2003, c P-19.5.
14. *Labour Relations Code*, RSA 2000, c L-1.
15. *Administrative Procedures and Jurisdiction Act*, RSA 2000, c A-3.
16. *Designation of Constitutional Decision Makers Regulation*, Alta Reg 69/2006.
17. *Alberta Rules of Court*, Alta Reg 124/2010.

Any irregularity complained of or objection relied on:

18. None.

How the application is proposed to be heard or considered:

19. In person.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.