Sask. Govt. Can Keep Using Controversial Firefighter Fitness Test?For Now



In June 2018, the Sask. Court of Appeal upheld a union challenge to the government's Public Service Commission's requiring firefighter job applicants to complete a rigorous fitness test within a specific time as potentially discriminatory against women and older men. Rather than bar enforcement of the policy immediately, the Court gave the PSC a grace period to appeal to the Canadian Supreme Court. In March, the Supreme Court refused to take the case, throwing a wrench into the PSC's plans to keep using the test for the upcoming 2019 season, starting the first week of April. After trying to negotiate a solution with the union, the PSC decided to stick to the plan and made new applicants take the test. The union accused the PSC of unfair labour practices and asked the Sask. Labour Relations Board to stay, i.e., bar it from implementing the policy until an arbitrator resolved the dispute. But the Board refused, finding that any harm done by allowing the new round of testing to continue could be fixed later if the arbitrator did find it to be illegal [*Sask. Government and General Employees' Union v Government of Sask., Public Service Commission*, LRB File No. 083-19, July 30, 2019].