Creating New IT Position Outside Bargaining Unit Not an Unfair Labour Practice



In 2019, the Labour Relations Board ruled that an insurance company committed an unfair labour practice by unilaterally establishing a new IT supervisor position outside the scope of the bargaining unit. After losing the lower court appeal, the company won in the Saskatchewan Court of Appeal. The rule (aka, *Battlefords principle*) is that newly created positions in an all-employee bargaining unit remain within the bargaining unit unless they're excluded by a Board order or the parties' agreement. But the Board misapplied the rule in this situation, the high court reasoned, to the extent that previous negotiations allowed for the company to create new excluded positions within the affected category [*Saskatchewan Mutual Insurance Company v United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 8933*, 2021 SKCA 137 (CanLII), October 21, 2021].