

# ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



## Sysco Central Ontario Inc. v Teamsters Local Union No. 419, 2024 CanLII 8906 (ON LA)

**Labour Arbitration Award, Arbitrator R Goodfellow, 8 February 2024**

An employee sought the full return of a payroll deduction gift from the employer, which was misrepresented as tax deductible.

**Key words: Donation, Ontario, Canada, Arbitration, Tax Deductible Donation, Payroll Deduction, Union**

1. Sysco Central Ontario Inc. (Sysco) had an employee who died, and for whom it organised a fundraiser for their family.
2. The contributions were organised through payroll deduction.
3. The deduction form was in error as it indicated the funds would go to an agency called “We Care”, and a tax receipt would be issued, being the form for a previous unrelated campaign.
4. An employee contributed \$500, which was sent to the family through the payroll deduction.
5. On learning that no tax receipt would be issued, the employee requested his money back from Sysco.
6. Sysco offered to pay the employee \$117, the full amount of the tax loss, and an apology.
7. This was rejected, and the matter went to arbitration with the employee’s union.
8. The Union argued that the payroll authorisation was improper under the [Employment Standards Act](#) (the ESA), and should be repaid.
9. Sysco argued that:
  - Donations were not part of the collective agreement; thus there was no jurisdiction to arbitrate the issue;
  - There was no breach of the collective agreement; and
  - The only remedy was a declaration or an order to pay the \$117.
10. The arbitrator found that Sysco should pay the employee \$117.
11. The arbitrator found that he had jurisdiction as the issue concerned the proper payment of wages.

12. Further, the authorisation was invalid as the payment details had been materially misrepresented.

13. The arbitrator found (at [9]):

...that the proper remedy is not limited to a declaration. The grievor is entitled to be compensated in the amount of the loss occasioned by the misrepresentation or unauthorized deduction. However, the amount of that loss – the adverse effect of the unauthorized deduction – is not \$500.00 but approximately \$117.00. To conclude otherwise would be to unjustly enrich the employee at the expense of the Company and punish the Company for what was clearly an innocent error.

14. The arbitrator further found that he did not have jurisdiction to order the Union to pay 100% of the costs even though Sysco had proposed the payment before the arbitration.

## COMMENT



To expect the company to repay the whole gift would be to unjustly enrich the employee at the expense of the company, and to punish the company for what was clearly an unintended error.

Neither the company nor the family would have been charities for tax receipt purposes in any event.

## VIEW THE CASE



This case may be viewed at: <https://www.canlii.org/en/on/onla/doc/2024/2024canlii8906/2024canlii8906.html>

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**Author:** McGregor-Lowndes, Myles & Hannah, Frances M.

**Email:** [acpns@qut.edu.au](mailto:acpns@qut.edu.au)

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