

OPAAC ADJ #26-022

CST. K. OEHM
Applicant

And

YORK REGIONAL POLICE SERVICE
Respondent

Adjudicator:
Lawrence Feldman

Appearances:
L. Gridin, for the Applicant
J. Fraser, for the Respondent

Heard:
March 27, 2026

Date of decision:
June 15, 2026

Length of decision:
11 PP.

Statutory citations:
Community Safety and Policing Act, 2019, S.O. 2019, c. Sched. 1, ss. 82(1), 82(3),
210 (1)(ii), 210(10)(a), 210(15)
O. Reg. 404/23
Criminal Code, R.S.C. 1985, c. C-46, s. 515(4.1)
Police Services Act, R.S.O. 1990, c. P. 15 (repealed)

SUSPENSION WITHOUT PAY - Criteria - Bail conditions - Substantial interference with duties test - Applicant charged under *Criminal Code* with several off-duty indictable offences - Pursuant to s. 210 (10)(a) of *Community Safety and Policing Act*, applicant challenging withholding of pay component of suspension - Under s. 210(1)(ii) of *CSPA*, chief has discretion to suspend officer without pay where arrest and release on bail conditions substantially interfered with officer's ability to perform their police duties - While applicant's bail conditions substantially interfered with his ability to perform police duties, rationale for without-pay status not clear or transparent - Decision remitted to chief for reconsideration.

SUSPENSION WITHOUT PAY - Expanded power of chiefs to suspend officers without pay under *Community Safety and Policing Act* - An unpaid suspension remains an exceptional administrative act, despite broadening of circumstances permitting suspension without pay - Substantial interference with duties test under s. 210(1)(ii) - Factors for chief to consider include

gravity of alleged crimes, whether bail conditions varied on consent, and professional history of officer - Issues of character and risk engaged and call for individualized assessment rather than blanket application of no-pay option.

JURISDICTION - Adjudicators - Suspensions without pay under s. 210 (1) of *Community Safety and Policing Act* - While adjudicator has no power to trench upon chief's discretion, procedural fairness requires that chief provide reasons for decision - Suspension without pay remitted to chief for reconsideration with direction to provide written reasons.

PROCEDURAL FAIRNESS - Administrative decision-makers - Chiefs of police - Expanded power of chiefs to suspend officers without pay under *Community Safety and Policing Act* - Suspension without pay remains an exceptional administrative act – Transparency required so that applicant and the public understand basis for decision and factors underlying exercise of discretion - Written reasons required as a matter of procedural fairness - Matter remitted to chief for reconsideration of factors leading to decision, with direction to provide written reasons.

Summary of Reasons for Decision

Constable K. Oehm, the applicant, was charged under the *Criminal Code* with several indictable off-duty offences, including criminal harassment of a female co-worker through a third party, trespass by night, and personation. The complainant was a fellow officer who worked in the same division as the applicant.

After his arrest, the applicant was granted judicial interim release with conditions which included: that he have no communication with the complainant, that he maintain a distance of 500 metres from her, and that he not be in possession of any weapons, including firearms.

The chief suspended the applicant without pay under s. 210 (1)(ii) of the *Community Safety and Policing Act*, on the basis that these bail conditions would “substantially interfere with the officer’s ability to perform the duties of a police officer” in accordance with that subsection. On a bail review, the Crown consented to variations that would permit the applicant to have contact and communication with the complainant with the chief’s prior authorization, and possess a weapon in the course of his duties if authorized in advance by the chief. However, the respondent did not permit the applicant to attend work under these conditions or possess a weapon. Thus, the suspension without pay continued.

Constable Oehm applied under s. 210(10)(a) of the *CSPA* for an order overturning the chief’s decision. He asserted that the criteria for imposing a suspension without pay were not met. He did not challenge the suspension, only the withholding of pay. The respondent York Regional Police Service asserted that the weapons prohibition would substantially interfere with the applicant’s ability to perform his police duties.

Held, Suspension maintained; no-pay status remitted to chief for reconsideration with directions.

Under the now-repealed *Police Services Act*, a suspension without pay was limited to situations in which an officer was both convicted of a criminal offence and incarcerated. The *Community Safety and Policing Act* broadened the circumstances under which an officer may be suspended without pay. The circumstances included, as before, conviction and incarceration (s. 210(1)(i)); arrest and release on bail conditions that substantially interfere with the officer's ability to perform their police duties (s. 210(1)(ii)); and serious off-duty charges that would likely lead to termination (s. 210(1)(iii)).

In this case, the subsection at issue was s. 210(1)(ii). The exercise of the chief's discretion affected an officer's livelihood and engaged the interests of police morale and public trust. Although the legislation did not define "substantial interference", it was important that the exercise of discretion be fair, principled, and understandable and that suspensions without pay not be imposed routinely, without regard for these considerations. The applicant urged a narrow, restrictive approach to the interpretation of s. 210(1). Some guidance with respect to appropriate factors for the exercise of discretion was available from prior caselaw. In addition, the presumption of innocence was an important factor. Other factors included the nature and gravity of the alleged offences.

Although the applicant suggested otherwise, in the absence of an accommodation on human rights-protected grounds, use of force equipment was a core duty of police officers. This was a clear inference arising from the catalogue of police duties set out in ss. 82(1) and 82(3) of the *CSPA*. Use of force equipment was necessary for core operational policing duties: the protection of life, safety and property; the preservation of the peace; the prevention and investigation of crime. The applicant's bail conditions substantially interfered with his ability to perform his police duties. However, the court's easing of bail conditions sent a signal that the applicant was at low risk to cause harm or reoffend, while at the same time deferring to the chief's discretion.

Despite the broadening of situations that allow for a suspension without pay, this remained an exceptional administrative act; it was not an automatic measure to be routinely applied. The basis of the chief's decision required transparency, so that the applicant and the public could understand the factors underlying the exercise of discretion in any given case. Appropriate factors would include those set out in prior common law authorities; to a limited extent, the gravity of the alleged crimes; bail variations on consent, as seen in this case; and the professional history of the officer. Factors such as these, which engaged issues of character and risk, were appropriate for a chief to consider in determining the question of pay.

Although the legislation did not mandate reasons, written reasons were required as a matter of procedural fairness, so that the exercise of discretion may be seen as reasonable, objective and fair-minded. Thus, and in accordance with the reasonableness standard of review applicable to administrative decisions, (per *Vavilov, infra*), reasons were required.

The suspension was maintained. The withholding of pay was set aside and that aspect of the matter was remitted to the chief for reconsideration, on the basis of the factors identified. The chief was also directed to provide written reasons for his determination.

Authorities cited

Ontario (Attorney General) v. Fraser, 2011 SCC 20
Health Services and Support – Facilities Subsector Bargaining Association v. British Columbia, 2007 SCC 27
Oakville (Town) v. Clublink Corp. ULC, 2019 ONCA 826
Rizzo & Rizzo Shoes Ltd., 1998 CanLII 837 (SCC)
Bell Express Vu Ltd. Partnership v. Rex, 2002 SCC 42
Halifax (Regional Municipality) v. Nova Scotia Police Review Board, 2019 NSSC 91
Snelgrove v. Newfoundland and Labrador (Justice and Public Safety), 2020 NLSC 75
R. v. Godoy, 1999 CanLII 709 (SCC)
Orangeville Police Services Board and Orangeville Police Assn., 223 L.A.C. (4th) 96
Essex Police Services Board v. Essex Police Assn., 2002 CanLII 79002
Saskatoon Board of Police Commissioners v. Saskatoon Police Commissioner, 2018 CanLII 128218 (SKLA)
R. v. Forcillo, 2018 ONCA 402
R. v. McNeil, 2009 SCC 3
Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65