

**DISMISSAL NO. 1904**

**CASE NO. 50/09/LRA**

**IN THE MATTER OF: *THE LABOUR RELATIONS ACT***

**- and -**

**IN THE MATTER OF: An Application by**

**John Bekavac,**

**Applicant,**

**- and -**

**INTERNATIONAL ALLIANCE OF THEATRICAL STAGE  
EMPLOYEES ("IATSE"), LOCAL 856,**

**Respondent.**

**WHEREAS:**

1. On March 9, 2009, the Applicant filed an Application (the "Application") with the Manitoba Labour Board (the "Board") pursuant to Section 132.1 of *The Labour Relations Act* (the "Act"), seeking an order of the Board that the Respondent be required to furnish further details respecting the total wages paid to each of the Respondent's employees in that the audited financial statement forwarded by the Respondent to the Applicant in October 2008 did not provide sufficient detail to disclose accurately the Respondent's financial condition and operation and the nature of its income and expenditures, as required by Section 132.1(2) of the *Act*.
2. On March 13, 2009, the Respondent, through counsel, filed its Reply, to the Application, asserting that it had complied with the requirements of Section 132.1 of the *Act* and that the Application be dismissed without a hearing on the basis that the Applicant has failed to establish a *prima facie* case.
3. The Board, following consideration of the material filed by the parties, has determined the following:
  - a. An oral hearing is not necessary as this matter can be determined by a review of the written material filed by the parties.
  - b. Pursuant to a written request filed by the Applicant in October, 2008 for a copy of the Respondent's statement of financial affairs to the end of the preceding fiscal year, the Respondent forwarded to the Applicant a copy of the Respondent's

audited financial statements for the year ending December 31, 2007, as prepared in accordance with Canadian generally accepted auditing standards by the Respondent's chartered accountants.

- c. While the Applicant acknowledges receipt of the 2007 financial audited statement, he sought further particulars from the Respondent regarding wages paid to individual employees and the basis for their salaries and other total remuneration.
- d. On January 8, 2009, the Respondent advised the Applicant that the Respondent's Executive's Board took the position that the audited financial statements provided to the Applicant met and/or exceeded the requirements set out in the *Act*.
- e. Section 132.1(2) of the *Act* provides:

**Content of financial statement**

**132.1(2)** A union's financial statement must set out its income and expenditures for the fiscal year in sufficient detail to disclose accurately the union's financial condition and operation and the nature of its income and expenditures.

- f. The Board is satisfied that the 2007 audited financial statements provided by the Respondent to the Applicant meet the requirements of Section 132.1(2) of the *Act*.
5. In the result, the Board finds that the Respondent has met its obligations to the Applicant under Section 132.1(1) of the *Act* and it follows that the Application is to be dismissed.

**T H E R E F O R E**

The Manitoba Labour Board **HEREBY DISMISSES** the Application filed by John Bekavac on March 9, 2009.

**DATED** at **WINNIPEG**, Manitoba, this **8th** day of **April 2009** and signed on behalf of the Manitoba Labour Board by

**"W.D. Hamilton"**

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**William D. Hamilton, Chairperson**

**NOTES**

**REQUEST FOR REVIEW BY MANITOBA LABOUR BOARD OF A DECISION, ORDER, ETC., OF THE BOARD**

- a. Subsection 143(3) of *The Labour Relations Act* of Manitoba, C.C.S.M. Chapter L10, provides:

**Board review.**

**143(3)** The board or any panel of the board may review, rescind, amend, alter or vary any decision, order, direction, declaration or ruling made by it, and may rehear any matter if it considers it advisable to do so.

- b. Request for review by the board of its decision, order etc. must be made by application to the board within ten days of the making of the board decision, order, etc.

Section 17 of the *Manitoba Labour Board Rules of Procedure* (being *Manitoba Regulation 184/87R*, published in the *Manitoba Gazette Part II*) provides:

**Application for review of board decision**

**17(1)** Where an application is made to the board under subsection 143(3) of the Act, to review, rescind, amend, alter or vary any decision, order, direction, declaration or ruling made by it, the applicant, in addition to the material required to be filed under section 2, shall

- (a) file a concise statement of any new evidence with such evidence being verified by statutory declaration;
- (b) file a statement explaining when and how the new evidence became available and the applicant's reasons for believing that the new evidence so changes the situation as to call for a different decision, order, direction, declaration or ruling; and
- (c) in the absence of any new evidence, file a concise statement showing cause why the board should review or reconsider the original decision, order direction, declaration or ruling.

**Time limit for review**

**17(2)** Except by leave of the board, no application under subsection 143(3) of the Act for a review of any decision, order, direction, declaration or ruling made by the board shall be reviewed by the board after more than 10 days have elapsed following the date of the making of the decision, order, direction, declaration or ruling.

**JUDICIAL REVIEW OF FINAL DECISION OF THE MANITOBA LABOUR BOARD**

Subsection 143(6) of *The Labour Relations Act* of Manitoba provides:

**Judicial review of final decision**

**143(6)** Notwithstanding any other Act, a final decision, order, direction, declaration or ruling, but not a procedural, interim or any other decision, order, direction, declaration or ruling, of the board or a panel of the board may be reviewed by a court of competent jurisdiction solely by reason that the board or the panel failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction, if

- (a) the applicant for review has first requested the board or the panel, as the case may be, to review its decision under subsection (3), and the board or the panel has decided not to undertake a review, or has undertaken a review and rendered a decision thereon, or has failed to dispose finally of the request to review within 90 days after the date on which it was made;
- (b) the board has been served with notice of the application and has been made a party to the proceeding; and
- (c) no more than 30 days have elapsed from, as the case may be, the decision by the board or panel not to undertake a review, or the date of the decision rendered by the board or panel on the review, or the expiration of the 90 day period referred to in clause (a).

**REASONS FOR DECISION**

It is the policy of the Manitoba Labour Board that, where a party to the proceedings is adversely affected by an Order or by a decision of the Board, within ten (10) calendar days of the date on which the Board's Order or decision was signed, that party may request the Board in writing to furnish written reasons for its Order or decision. The Board then may consider such request for reasons for its Order or decision and shall notify the requesting party as to whether reasons will be provided.