

Manitoba Labour Board

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DISMISSAL NO. 1918
CASE NO. 131/09/LRA

IN THE MATTER OF: THE LABOUR RELATIONS ACT

- and -

IN THE MATTER OF: An Application by

D.B.,

Applicant,

- and -

THE CITY OF WINNIPEG,

Employer,

- and -

Canadian Union of Public Employees, Local 500,

Respondent/Union.

This Decision/Order has been edited to protect the personal information of individuals by removing personal identifiers.

SUBSTANTIVE ORDER

WHEREAS:

1. On May 7, 2009, the Applicant filed an Application (the "Application") with the Manitoba Labour Board (the "Board") seeking various remedies for an alleged unfair labour practice contrary to Section 20 of *The Labour Relations Act* (the "Act"). The Applicant alleges that, in respect of a number of events relating to the reclassification of certain persons, including himself, from the Utility "C" classification to the Building Services I classification, pursuant to a supplementary agreement reached between the Employer, The City of Winnipeg (the "City") and the Respondent Union (the "Union") in 2001, the Union, for the reasons outlined in the Application, breached the provisions of Section 20(b) of the *Act*. The Applicant's basic assertion is that, from January 2001, when the reclassification(s) occurred, up to and including November 27, 2006, when the Applicant attempted to file a grievance concerning the previous reclassification of the Utility "Cs," the Union or various of its representatives acted in a discriminatory manner and in bad faith.

2. As to remedial relief, the Applicant requests that the RCMP be contacted and that an audit be performed on "gag orders" relating to certain payments which were allegedly made to individuals for other than medical purposes; that charges be laid against "... the appropriate individuals that have made these payments and received them" and that, in the event the Union is found to be corrupt, that the Union be decertified. Further, the Applicant offers various explanations/reasons for "... the delay in filing this complaint."
3. On May 25, 2009, following an extension of time, the Union, through counsel, filed its Reply, asserting that the Application is untimely and ought to be dismissed for undue delay, pursuant to Section 30(2) of the *Act*. The Union asserts that the Applicant has not provided any rational basis for the delay in filing the Application and noted that the most recent allegation against the Union occurred more than two years ago.
4. On May 20, 2009, the City advised the Board that it took no position regarding the Application.
5. Based on a review of the Application and the Reply of the Union, the Board has determined, to its satisfaction, the following:
 - a. A hearing is not necessary in that the issues raised can be determined by a review of the written materials filed by the parties.
 - b. The core events upon which the Applicant relies crystallized in 2001 after the Supplementary Agreement was concluded between the City and Union in January 2001 [Ex. "A" to the Application]. The other events to which the Applicant refers in the Application occurred in 2003 and 2004, and the latest event occurred on or about November 27, 2006, when the Applicant prepared a grievance [Exhibit "D" to the Application]. This grievance, on its face, referred to the events which had transpired from 2001 to 2005.
 - c. The explanations offered by the Applicant for what is admitted to be a delay are inadequate in that all of the events upon which the Applicant relies, commencing in 2001, were clearly known to the Applicant at those times and he was aware of his rights under the applicable collective agreement.
 - d. In all of the circumstances, the Board finds the Applicant has unduly delayed the filing of the Application. In reaching this conclusion, the Board has relied on its decisions as to what constitutes "unreasonable delay" under Section 30(2) of the *Act* [see the summary of these decisions in ***James Kepron - and - Brandon University Faculty Association - and - Brandon University*** (2004), M.L.B. Case No. 468/03/LRA, pp. 36 - 40]. The last event upon which the Applicant relies occurred more than two years prior to the filing of the Application.

- e. Accordingly, the Board declines to take any further action on the Application, pursuant to Section 30(3) of the *Act* on account of unreasonable delay in the filing of the Application. In the result, 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 D.B. on May 7, 2009.

DATED at **WINNIPEG**, Manitoba, this 22nd day of July 2009 and signed on behalf of the Manitoba Labour Board by

“Original signed by”

W.D. Hamilton, Chairperson

WDH/dr/rb-s