

Manitoba Labour Board

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DISMISSAL NO. 1920
CASE NO. 195/09/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

- and -

IN THE MATTER OF: An Application by

F.T.,

Applicant,

- and -

**INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL 987,**

Respondent Union.

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

SUBSTANTIVE ORDER

WHEREAS:

1. On June 29, 2009, the Applicant filed an Application (the "Application") with the Manitoba Labour Board (the "Board"), pursuant Section 131.1(5) of *The Labour Relations Act* (the "*Act*"), alleging that the financial statement (the "Statement") furnished to him by the Respondent Union (the "Union"), on or about May 8, 2009, is inadequate in that it did not contain an attachment signed by the Auditor describing the method of audit and, therefore, the Applicant considered the Statement to be unverified. The Applicant alleges that the Statement did not provide a list of the Union's assets or the appreciated or depreciated value of such assets or liabilities. Further, in view of the delay in providing the Statement, the Applicant has requested that the Board establish a time frame for the Union to provide to its members a copy of the financial statement for the 2008 calendar year.
2. On July 13, 2009, following an extension of time, the Union, through counsel, filed its Reply disputing the Application and requesting that it be dismissed. The Applicant says that, on or about May 8, 2009, a copy of the Statement outlining the Union's affairs to the end of the 2007 fiscal year was, as required by the *Act*, furnished to the Applicant and that the Statement was certified to be true by the Financial Secretary and the Treasurer of the

Union. The Union asserts that Section 132.1(1) of the *Act* does not require that a financial statement must be signed by a union's auditor or that the method of audit must be described. The Union asserts that the Statement complies with the requirements of the *Act*. The Union further submits that an annual financial statement does not have to list of all assets owned by a union; disclose which assets were bought and sold in each year; or contain a summary of the appreciation or depreciation of assets. As to the Applicant's request that the Board establish a time frame for the furnishing of the 2008 financial statement, the Union says that there is no jurisdiction in the Board to deal with this issue as the only complaint filed by the Applicant was in respect of the 2007 Statement.

3. The Board, following consideration of 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 request made by the Applicant, there is no dispute that, on May 8, 2009, the Applicant received a document entitled, *Financial Statement of the Union Income and Expenditures for the Year Ended December 31, 2007 Net Financial Position* (i.e. the Statement), in which revenues and expenses were listed. The Statement discloses the net asset position of the Union at the beginning and end of 2007. The Statement is signed by the Financial Secretary and Treasurer of the Union and is certified to be a, "... true and correct statement of the Union's income and expenditures including net financial position for the year ending December 31, 2007."
- c. The matters at issue fall to be determined by Sections 132.1(1) and 132.1(2) of the *Act*, which state, as follows:

Union to give financial statement to members

132.1(1) At the request of a member, every union shall give the member, at no charge, a copy of a financial statement of the union's affairs to the end of its last fiscal year. The statement must be certified to be a true copy by the union's treasurer or other officer responsible for handling and administering its funds.

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.

- d. There is no requirement in Section 132.1 of the *Act* that a union's financial statement must be signed by an auditor and/or that the method of audit must be described. The

Act requires that a statement must be certified to be a true copy by the union's treasurer or other officer responsible for handling and administering its funds. In this regard, the Board is satisfied that the Statement, as certified by the Financial Secretary and Treasurer of the Union, fulfills this requirement of the *Act*.

- e. The Board is further satisfied that the Statement adequately sets out the Union's income and expenditures for its 2007 fiscal year and adequately discloses the Union's financial condition and operation and the nature of its income and expenditure, as required by Section 132.1(2) of the *Act*. The Statement is not inadequate by reason of the fact that it does not disclose a full list of the Union's assets or the appreciated or depreciated value of such assets or liabilities.
 - f. Based on the foregoing, the Board is satisfied that the Statement provided to the Applicant meets the requirement of Section 132.1(2) of the *Act*.
4. In respect of the Applicant's request that the Board establish a time frame for the Union to provide its members with a copy of the financial statement(s) for the 2008 calendar (fiscal) year, the Board declines to do so because the basis of the Application is related to the adequacy of the (2007) Statement provided by the Union and this issue has been addressed by the Board in Paragraph 3 of this Order.

T H E R E F O R E

The Manitoba Labour Board **HEREBY DISMISSES** the Application filed by F.T. on June 29, 2009.

DATED at **WINNIPEG**, Manitoba, this 24th 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