

Manitoba Labour Board

Suite 500, 5th Floor - 175 Hargrave Street
Winnipeg, Manitoba, Canada R3C 3R8
T 204 945-2089 F 204 945-1296
www.manitoba.ca/labour/labbrd

ORDER NO. 1469

Case No. 271/09/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

- and -

IN THE MATTER OF: An Application by

D.Y.,

Applicant,

- and -

**United Association of Journeymen and
Apprentices of the Plumbing and Pipefitting Industry
of US and Canada, Local 254,**

Respondent.

BEFORE: W.D. Hamilton, Chairperson

<p>This Decision/Order has been edited to protect the personal information of individuals by removing personal identifiers.</p>
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SUBSTANTIVE ORDER

WHEREAS:

1. On October 1, 2009, the Applicant filed an application (the “Application”) pursuant to Section 132.1 of *The Labour Relations Act* (the “Act”) seeking an order of the Board requiring the Respondent Union (the “Union”) to provide him with the financial statement of the Union for the year ending May 31, 2009. The Applicant asserts that the Union responded to him on September 29, 2009, denying his request for a copy of the said financial statement, but advising the Applicant that he could make an appointment to attend at the Union’s office to review the financial statement.
2. On October 7, 2009, the Union filed its Reply to the Application asserting that the Union had not denied access to any financial statements to any member and that the past practice of the Union is to the effect that any member could arrange to attend at the Union’s office

to view and review any prepared financial statement. The Union further asserts that any member may ask questions regarding the financial statement(s) of the Union at any monthly regular membership meeting.

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) There is no dispute that the Union's financial statement for the year ending May 31, 2009 has been prepared and that the Applicant has requested a copy of this statement be provided to him.
 - (c) The relevant provisions of the *Act* governing the disposition of this Application are Sections 132.1(1) and 132.1(2) of the *Act*, which provide 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. (Emphasis added).

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.”

4. Based on these express provisions of the *Act*, the Board is satisfied that the Union has failed to provide the Applicant with a copy of the Union's financial statements for its latest fiscal year ending on May 31, 2009, as required by Section 132.1(1) of the *Act*. Section 132.1(1) states that there is a mandatory obligation on a union to provide any member who requests same with an actual copy of the financial statement of the union containing the information outlined in Section 132.1(2) of the *Act*. Accordingly, whatever past practice may have been or is in existence, the Union must comply with the requirements of Section 132.1 and simply advising a member that he/she may arrange to attend at the Union's offices to review a prepared financial statement is not in compliance with the *Act*.
5. Based on the foregoing, it follows that the Application is allowed.

T H E R E F O R E

- 1) The Board **DECLARES** that the Union has failed to comply with the mandatory requirements of Section 132.1(1) of the *Act* by having failed to provide the Applicant, at his request, with a copy of the financial statement of the Union's affairs to the end of its last fiscal year.
- 2) Pursuant to Section 132.1(3) of the *Act*, the Board **DIRECTS** the Union to:
 - (a) file with the Board, not later than ten (10) days from the date of this Order, a copy of the financial statement of its affairs to the end of its last fiscal year, verified by its treasurer or another officer responsible for handling and administering its funds; and
 - (b) provide a copy of the foregoing financial statement to the Applicant not later than ten (10) days from the date of this Order.

DATED at **WINNIPEG**, Manitoba this 15th day of October, 2009, and signed on behalf of the Manitoba Labour Board by

“Original signed by”

W. D. Hamilton, CHAIRPERSON

WDH/ar/rb-s