

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

DISMISSAL NO. 2006

Case No. 186/11/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

- and -

IN THE MATTER OF: An Application by

K.B.,

Applicant,

- and -

**National Automobile, Aerospace, Transportation and General
Workers Union of Canada (CAW-Canada), Local 144**

Union/Respondent,

- and -

MANITOBA LOTTERIES CORPORATION,

Employer.

BEFORE: W. D. Hamilton, Chairperson

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

SUBSTANTIVE ORDER

WHEREAS:

1. On June 17, 2011, the Applicant filed a complaint with the Manitoba Labour Board (the “Board”) pursuant to Section 70 of *The Labour Relations Act* (the “Act”). The Applicant alleges that the Respondent Union (the “Union”) failed to provide members of the Union with reasonable notice of the ratification vote which was conducted on June 4 and 5, 2011, in respect of a tentative collective agreement that had been concluded between the Union and the Employer on June 2, 2011. As to remedial relief, the Applicant seeks a declaration that the Union failed to provide members with reasonable notice pursuant to Section 69(2)

of the *Act* and that the Board, pursuant to its powers under Section 70(2) of the *Act*, order that a new ratification vote be held.

2. On June 29, 2011, the Union, through Counsel, filed its Reply denying that it had acted contrary to Section 69 of the *Act* and asserted that the Applicant has failed to establish a *prima facie* case. The Union submits that the Application should be dismissed without the need for an oral hearing.
3. The Employer did not file a Reply.
4. Based on a review of the Application and the Reply, the Board is satisfied that the following material facts are not in dispute:
 - a. The Applicant is an employee of the Employer and a member of the Union and falls within the bargaining unit covered by Certificate No. MLB-6824.
 - b. The Union posted notices throughout the workplace of the Employer on May 30, 2011 (the "May 30 Notice"). The May 30 Notice read as follows"

"RATIFICATION OR INFORMATION MEETINGS

Saturday, June 4, 2011

8:00 a.m.
CanadInn Club Regent Casino
Ambassador Room A-C

4:00 p.m.
McPhillips Station Casino
Hudson Room

Sunday, June 5, 2011

8:00 a.m.
McPhillips Station Casino
Hudson Room

4:00 p.m.
CanadInn Club Regent Casino
Ambassador A-C

IT IS IMPORTANT THAT ALL MEMBERS ATTEND ONE OF THE ABOVE MEETINGS. PLEASE BRING IDENTIFICATION. THERE

WILL BE EITHER A RATIFICATION VOTE ON A TENTATIVE AGREEMENT OR AN INFORMATION MEETING.”

- c. The Union and the Employer reached a tentative collective agreement on June 2, 2011.
- d. On June 3, 2011, the Union posted a Special Notice on numerous bulletin boards in the Employer’s workplace (the “Special Notice”). The Special Notice read as follows:

“SPECIAL NOTICE

TO: ALL CAW BARGAINING UNIT MEMBERS

A tentative agreement has been reached between CAW Local 144 and Manitoba Lotteries.

Therefore, the posted meetings will be to take a vote to ratify your 1st. CAW Collective Agreement.

All information on bargaining will be provided and voted upon.

Identification will be necessary.

YOUR ATTENDANCE AND IMPUT (*sic*) WILL BE GREATLY APPRIECIATED (*sic*).”

- e. It is common ground between the Applicant and the Union that the Employer circulated a memorandum to all of its management team members on June 3, 2011 stating that, on June 2, 2011, a tentative revised collective agreement between the Employer and the Union had been concluded and that a ratification vote would be conducted on June 4 and 5, 2011. This memorandum detailed the times and locations as they had been recorded on the May 30 Notice. It is obvious that employees, including the Applicant, had knowledge of the Employer’s memorandum as the Applicant attached this memorandum to the Application as Exhibit 2.

- f. Ratification votes did take place on the dates and at the times referred to in the May 30 Notice. Based upon the results of the votes at the four meetings, the collective agreement was ratified.
 - g. The Applicant attended the June 4, 2011 meeting held at 4:00 p.m.
5. The Applicant submits:
- The May 30 Notice was ambiguous as to what kind of meeting was to occur, namely, a ratification vote or an information meeting, and, further, this Notice did not state how long the meeting was going to be and only indicated start times;
 - The Special Notice, while it referred to the fact that “the meetings posted earlier” were going to be (a) ratification vote(s), did not state the times of the ratification vote. The Applicant asserts the Special Notice “...assumed that bargaining unit members reading it were aware of the May 30, 2011 posting”; and
 - Members of the Union did not know that the meetings held on June 4 and 5, 2011 would, in fact, be ratification meetings until June 3, 2011, meaning that the Union failed to give reasonable notice of the ratification vote.
6. In its Reply, the Union submits:
- As to the Applicant’s contention that the two Notices did not state how long the meeting(s) would be, the Union says that it is impossible to know in advance exactly how long a ratification meeting will run. Discussions at such a meeting may vary and it is sufficient to indicate the start times;
 - As the Applicant actually attended one of the scheduled meetings, her submission that the Notices were somehow deficient is without merit;
 - The Applicant does not allege that any specific employees who saw the Special Notice had not seen the May 30 Notice; and
 - The Applicant does not allege that any specific employees who would have wished to attend the ratification meeting were unable to do so because they did not have sufficient notice of the meetings.

In the result, the Union submits that notice of the meetings was reasonable in all respects.

7. The Board, following consideration of the material filed by the Applicant and the Union, and after considering the material facts recorded in Paragraph 4 above, has DETERMINED the following:

- a) A hearing is not necessary in that the matter can be determined by a review of the written material filed by the parties.
- b) Section 69 of the *Act* contains the following requirements regarding the conduct of ratification votes, namely:
 - i. a ratification vote must be held within 30 days of the parties reaching a tentative agreement;
 - ii. the vote must be by secret ballot;
 - iii. reasonable notice of the vote must be given to the employees in the bargaining unit; and
 - iv. employees in the bargaining unit are to be given a reasonable opportunity to cast a (secret) ballot on the vote.

The only complaint advanced by the Applicant is that the Union failed to provide “reasonable notice” of the ratification vote and no complaint is made regarding the other requirements contained in Section 69. The Board accepts that the Applicant did attend one of the meetings. In this regard, the Applicant does not specifically allege that she was unaware of the holding of a ratification vote or that she was confused or misinformed in her own mind.

- c) As to the contention that the May 30 Notice did not indicate how long the proposed meetings were going to be, the Board does not find this to be a deficiency at all and providing the start time(s) of the meeting(s) is sufficient.
- d) The Board accepts that the May 30 and June 3 Notices must be read together in determining whether the Union provided reasonable notice to the employees.
- e) In the context of the realities of the collective bargaining, the Board accepts that a notice stating the purpose of a meeting may be either to ratify a tentative agreement or will be an information meeting is not misleading and a reasonable employee would be aware of the significance of the potential alternative purposes of the meeting. The May 30 Notice clearly stated that meetings to be held on June 4 and 5 of 2011 may be a ratification meeting at which times a ratification vote would be conducted. The Special Notice confirmed the state of facts which the May 30 Notice expressly contemplated. The Board is satisfied, in the circumstances prevailing, that the issuance of two Notices in this manner provided “...reasonable notice” of the ratification votes which were scheduled for and, in fact, conducted on June 4 and 5, 2011.

- f) The Board notes that the Applicant does not assert, on behalf of herself or on behalf of any other employee in the bargaining unit, that she or they were unable to attend any of the meetings by reason of alleged deficiencies in the Notices.
8. Having made the findings in Paragraph 7, the Board is satisfied that there was compliance with the specific requirements of Section 69 of the *Act*. In particular, the Board is satisfied that reasonable notice of the ratification vote was provided to the affected employees. Accordingly, the Board finds that the complaint filed by the Applicant should be dismissed.

T H E R E F O R E

The Manitoba Labour Board **HEREBY DISMISSES** the complaint filed by K.B. on June 17, 2011.

DATED at **WINNIPEG, Manitoba** this 19th day of July, 2011, and signed on behalf of the Manitoba Labour Board by

“Original signed by”

W. D. Hamilton, Chairperson