

Manitoba Labour Board

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CERTIFICATE NO. MLB-7111

Case No. 25/15/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

-and-

IN THE MATTER OF: An application by

**International Union of Operating Engineers,
Local 987,**

Applicant/Union,

-and-

PRAIRIE VIEW MUNICIPALITY,

Employer/Respondent.

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

WHEREAS:

1. On May 6, 1987, the Manitoba Labour Board (the “Board”), by way of Certificate No. MLB-4146, certified the International Union of Operating Engineers, Local 901, as bargaining agent for a unit of employees described as:

“All employees of the Rural Municipality of Birtle, in the Province of Manitoba, except Caretakers, Office Staff and those excluded by the Act.”

2. On March 3, 2008, the Board by way of Certificate No. MLB-6471, certified the International Union of Operating Engineers, Local 987 (the “Applicant”), as bargaining agent for a unit of employees described as:

“All employees of the Town of Birtle, in the Province of Manitoba, including clerical administrative assistant and town foreman, save and except those excluded by the Act.”

3. On February 5, 2015, the Applicant, through Counsel, filed an application seeking a Board Determination pursuant to Sections 56(1), 56(2) and 142(5) of *The Labour Relations Act* (the “Act”). For the reasons cited in the Application, the International Union of Operating Engineers, Local 987, sought the following relief:

- a) Make a declaration pursuant to s. 142(5)(q) of the *Act*, that there has been an amalgamation of the business;
- b) Declare that, pursuant to s. 56(2) of the *Act*, the affected employees of the Rural Municipality of Prairie View constitute one unit appropriate for collective bargaining;
- c) Order a Representation Vote pursuant to s. 56(2) and 40(2) and (3) of the *Act*, for all affected employees as to the preferences of those employees to be and/or remain represented by a union, as the case might be;
- d) After conducting a Representation Vote of the affected employees' preference, request that a new certificate issue in place of Certificate Nos. MLB-4146 and MLB-6471 for a unit of employees described in the following terms:

“All employees of the Rural Municipality of Prairie View, in the Province of Manitoba, save and except those excluded by the Act.”

- e) Such further and other relief by way of declaration or otherwise as the Board may deem appropriate.
4. On February 25, 2015, the Employer, through Counsel, filed its Reply stating that its proper name is Prairie View Municipality. The Employer denied certain allegations in the Application and sought certain exclusions from the bargaining unit.
 5. On March 2, 2015, the Board, following consideration of material filed, sought clarification from the parties regarding the proper Union local.
 6. On March 3, 2015, both the Employer and the Applicant, through Counsel, filed correspondence confirming that the International Union of Operating Engineers Locals 901 and 827 merged in 1999 to form Local 987.
 7. On March 13, 2015, the Board, following consideration of material filed, **ORDERED** that a Representation Vote be conducted among all employees in the bargaining unit proposed in the Application, with individual ballots and the ballot box being sealed pending a decision on the outstanding issues raised by the parties.
 8. On March 24, 2015, the Board conducted a Representation Vote, with each individual ballot sealed and the ballot box sealed pending a decision on the outstanding issues raised by the parties. A Fair Vote Certificate was signed by the parties.
 9. Between March 19, 2015 and March 27, 2015, the parties filed correspondence with the Board, advising of their respective positions regarding the exclusion of certain employees from the bargaining unit description.

10. On April 10, 2015, following a meeting with a Board Representative, the parties informed the Board that they had reached agreement in regard to the outstanding issues including a bargaining unit described as:

“All employees of Prairie View Municipality, in the Province of Manitoba, save and except the office staff, Manager of Public Works & Infrastructure, Municipal Foreman and those excluded by the Act.”

Further, as a result of the agreement, the parties requested that the ballots cast in the Representation Vote be counted.

11. The Board, following consideration of the material filed, and noting that the parties mutually agreed to the description of the bargaining unit, **ORDERED** that the ballots cast in the Representation Vote conducted on March 24, 2015, be counted.

12. On April 10, 2015, the ballots cast in the Representation Vote were counted in the presence of the parties, with the following results:

Total number of affected employees:	20
Ballots cast for the Applicant:	8
Ballots cast against the Applicant:	7
Sealed ballots removed by agreement of the parties	5
Spoiled ballots:	0
Eligible but did not vote:	<u>0</u>
Totals:	20 20

13. The Board, following consideration of all material filed, and having noted the agreement reached between the parties, has **DETERMINED** to its satisfaction that:

- a) There has been a sale of the businesses or undertakings of the Town of Birtle, the Rural Municipality of Birtle, and the Rural Municipality of Miniota effective January 1, 2015, and a new municipality, namely Prairie View Municipality, came into existence on that date.
- b) Prairie View Municipality has acquired the rights, privileges and obligations under the *Act* as a successor employer in respect of the Town of Birtle, the Rural Municipality of Birtle, and the Rural Municipality of Miniota.
- c) By reason of the amalgamation, there has been an intermingling within the meaning of Section 56(2)(c) of the *Act*, among:
 - i. the former Rural Municipality of Birtle employees who are covered by Certificate No. MLB-4146; and

- ii. the former Town of Birtle employees who are covered by Certificate No. MLB-6471; and
- iii. certain non-unionized employees of the former Rural Municipality of Miniota;

and, accordingly, pursuant to Section 56(2)(d) and (e) of the *Act*, the Board has further **DETERMINED** that:

- c) A single bargaining unit for employees employed in Prairie View Municipality constitutes an appropriate bargaining unit described, as agreed to by the parties, as:

“All employees of Prairie View Municipality, in the Province of Manitoba, save and except the office staff, Manager of Public Works & Infrastructure, Municipal Foreman and those excluded by the Act.”

- e) Further, having noted that all outstanding issues between the parties have been addressed, and having regard to the results of the Representation Vote held, the majority of the employees in the bargaining unit who voted in the Representation Vote, wished to have the International Union of Operating Engineers, Local 987, as their bargaining agent, and accordingly, **HEREBY ORDERS** certification to issue.

T H E R E F O R E

The Manitoba Labour Board does **HEREBY CERTIFY** to all parties concerned that the International Union of Operating Engineers, Local 987, is the properly chosen bargaining agent for a bargaining unit described as:

“All employees of Prairie View Municipality, in the Province of Manitoba, save and except the office staff, Manager of Public Works & Infrastructure, Municipal Foreman and those excluded by the Act.”

and such Bargaining Agent and Employer are entitled to exercise the rights conferred upon them and are subject to the provisions of the *Act*.

DATED at **WINNIPEG**, Manitoba, this 27th day of May, 2015, and signed on behalf of the Manitoba Labour Board by

“Original Signed By”

C. S. Robinson, CHAIRPERSON

RM/gm/lo-s

NOTE: Certificate Nos. MLB-4146 and MLB-6471 are **HEREBY REVOKED.**