

**Manitoba Labour Board**

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**DISMISSAL NO. 1826**  
**CASE NO. 187/07/LRA**

**IN THE MATTER OF:     *THE LABOUR RELATIONS ACT***

**- and -**

**IN THE MATTER OF:   An Application by**

**T.H., on behalf of a Group of Employees,**

**Applicant,**

**- and -**

**Manitoba Government and General Employees' Union,**

**Respondent/Union,**

**- and -**

**RED RIVER COLLEGE,**

**Employer.**

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

**WHEREAS:**

1. On March 14, 2007, the Manitoba Labour Board (the "Board"), by Dismissal No. 1811, dismissed the Applicant's complaint filed pursuant to Section 70 of *The Labour Relations Act* (the "Act") for the reasons set forth in Paragraph 4 of said Dismissal.
2. On March 22, 2007, the Applicant filed an application seeking review and reconsideration of Dismissal No. 1811 (the "Application"), alleging that new evidence had come to light after the filing of the initial complaint and, in particular, the alleged new evidence demonstrated the following:
  1. The MGEU failed to give proper notification of a Ratification Vote, violating section 69(2) of the Labour Relations Act.
  2. College management's initial contract offer was incomplete and open

to multiple interpretations that greatly exaggerated management's position.

3. College management's e-mailing of two documents to Local 73 members of the MGEU **three days** before a Strike Vote and the MGEU's lack of authority to respond in-kind (e-mail), hindered the

MGEU's ability to respond to management's claims and thus interfered with the administration of the Union. Management's behaviour violates section 6(1) of the Labour Relations Act.

4. During the Strike Vote on January 26, 2007 declarations from members of Local 73 of the MGEU will demonstrate that the MGEU failed to provide its members with the proper environment to ensure a secret ballot, as set out by section 6((1) of the Labour Relations Act.
3. On April 10, 2007, following an extension of time, the Respondent Manitoba Government and General Employees' Union (the "MGEU"), through counsel, filed its Reply disputing the Application, asserting, *inter alia*, that the request for reconsideration discloses no new evidence or information which was not available to the Applicant at the time of the filing of the initial complaint and, accordingly, the Application should be dismissed without the necessity of a hearing. Further, the MGEU asserts that various matters raised in the Application cannot be considered by this Board on an application for review and reconsideration.
  4. On April 10, 2007, following an extension of time, the Employer, through counsel, filed its Reply disputing the Application and asserting, *inter alia*, that the Application ought to be dismissed without a hearing because it does not disclose any reasonable explanation why the "new" evidence in the Application was not disclosed in the original complaint. The Employer asserts that the allegations regarding the conduct of the Employer are irrelevant in respect of an application for review and reconsideration pursuant to Sections 69(2) and 93(3) of the *Act*. Further, the Employer says that the raising of a potential breach of Section 6 of the *Act* by the Applicant was not a matter before the Board on the initial complaint and cannot be considered on a review application of this nature because the Applicant is seeking to raise a new substantive complaint under an application for review and reconsideration.
  5. Based on a review of the Application and the Replies, the Board has determined, to its satisfaction, the following:
    - a. No new evidence, within the meaning of Rule 17(1) of the *Manitoba Labour Board Rules of Procedure*, has been provided that would constitute a reasonable basis for review of the original Dismissal Order.

- b. It is improper, on an application for review and reconsideration, to raise new substantive complaints for the first time. In this regard, the Applicant's allegation that the MGEU failed to give proper notification of a ratification vote was not a matter raised in the original complaint and the Board specifically found that no issue was raised regarding the reasonableness of the notice given to the affected employees.
- c. To the extent that the Application raises, for the first time, an alleged breach of Section 6 of the *Act* by the Employer is a matter which cannot be considered on a review and reconsideration application under Sections 69(2) and 93(3) of the *Act*.

Based upon the foregoing findings, the Board has determined that the particulars provided in the Application do not reveal sufficient cause for the Board to review or reconsider its original decision issued on March 14, 2007, and, accordingly, the Application should be dismissed.

**T H E R E F O R E**

The Manitoba Labour Board **HEREBY DISMISSES** the Application seeking Review and Reconsideration filed by T.H., on March 22, 2007.

**DATED** at **WINNIPEG**, Manitoba, this 31<sup>st</sup> day of May, 2007 and signed on behalf of the Manitoba Labour Board by

*"Original signed by"*

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**William D. Hamilton, Chairperson**

WDH/dr/rb-s