

Manitoba Labour Board

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DISMISSAL NO. 1825
CASE NO. 193/07/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

- and -

IN THE MATTER OF: An Application by

P.R.,

Applicant,

- and -

General Teamsters Local Union 979,

Respondent/Union,

- and -

MANITOBA LOTTERIES CORPORATION,

Employer,

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

WHEREAS:

1. On March 23, 2007, the Applicant filed a complaint with the Manitoba Labour Board (the "Board") pursuant to Sections 69, 70 and 20 of *The Labour Relations Act* (the "*Act*"). The Applicant raises various concerns regarding the ratification vote conducted by the Respondent/Union (the "Union") on March 9, 2007, for the "Surveillance/Administration" bargaining unit. As to remedial relief, the Applicant seeks an order of the Board directing that a new ratification vote be held.
2. On April 11, 2007, following an extension of time, the Employer filed its Reply advising the Board that it takes no position with respect to the Application.
3. On April 16, 2007, following an extension of time, the Union, through counsel, filed its Reply denying that it has acted contrary to Section 20 of the *Act* and asserting that the Application does not disclose a *prima facie* case that Section 20 has been violated. The Union specifically denies that it has breached Sections 69 or 70 of the *Act*, and asserts that employees were given reasonable notice of the ratification vote and afforded a reasonable

opportunity to vote by secret ballot. The Union further requests that the Application should be dismissed without a hearing.

4. The Board, following consideration of the material filed by the parties, 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. Insofar as the Application alleges a violation of Section 20 of the *Act*, the Application is dismissed for the following reasons:
 - i. the Application does not disclose a *prima facie* violation of Section 20 of the *Act*; and
 - ii. regardless of the finding in (i), the substance of the allegations in the Application as a whole arises from a collective bargaining process between the Union and the Employer and the related procedures adopted by the Union to ratify a tentative collective agreement. The Board does not have jurisdiction under Section 20 regarding matters relating to the collective bargaining/ratification process because that process does not involve "... representing the rights of any employee under the collective agreement."
 - c. As to the complaint relating to Sections 69 and 70 of the *Act*, the Board is satisfied that:
 - i. Following the conclusion of collective bargaining and receipt of the Employer's final offer on February 13, 2007, the Union forwarded a Notice to all members of the bargaining unit on February 26, 2007, (the "Notice") advising the employees that the Union Bargaining Committee was unanimously recommending acceptance of the Employer's final offer.
 - ii. The Notice identified the dates and locations of information sessions where questions relating to the final offer could be raised and the date and locations where the ratification vote for employees within the City of Winnipeg were to be held. For employees outside the City of Winnipeg, a mail-in ballot was included with the Notice along with a copy of voting instructions, to be returned to the Union's office on or before March 8, 2007. The Notice contained detailed commentary on the changes to the collective agreement.
 - iii. The singular ballot requested that employees answer "yes" or "no" to the offer.

- iv. The affected employees had a reasonable opportunity to cast votes by secret ballot either via the mail-in ballot for employees outside of the City of Winnipeg or at one of the four voting locations in the City of Winnipeg on March 9, 2007.
 - v. The concerns raised by the Applicant either do not provide detailed particulars of any alleged impropriety and/or are speculative in nature.
5. Having made the findings in Paragraph 4(c), the Board is satisfied that there was compliance with the specific requirements of Section 69 of the *Act* which can be the subject of a complaint by an employee in that a ratification vote was held within 30 days of concluding a tentative agreement; reasonable notice of the vote was given to the affected employees; a reasonable opportunity was given to employees to cast a ballot; and the vote was conducted by secret ballot.

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 P.R. on March 23, 2007.

DATED at **WINNIPEG**, Manitoba, this 10th day of May, 2007 and signed on behalf of the Manitoba Labour Board by

"Original signed by"

William D. Hamilton, Chairperson

WDH/dr/rb-s