

Manitoba Labour Board

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DISMISSAL NO. 1851
CASE NO. 501/07/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

- and -

IN THE MATTER OF: An Application by

J.M.,

Applicant,

- and -

Manitoba Government and General Employees' Union,

Respondent/Union,

- and -

THE ADDICTIONS FOUNDATION OF MANITOBA,

Employer.

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

WHEREAS:

1. On October 26, 2007, the Applicant filed a complaint with the Manitoba Labour Board (the "Board"), pursuant to Sections 69 and 70 of *The Labour Relations Act* (the "*Act*"). The Applicant raises various concerns regarding a ratification vote conducted by the Respondent/Union (the "Union") on or about July 3, 2007, in respect of a bargaining unit of employees employed by the Employer and represented by the Union. As to remedial relief, the Applicant seeks an order of the Board requiring the Union to conduct another vote by mail among all of the affected employees in the bargaining unit.
2. On November 19, 2007, following an extension of time, the Union, through counsel, filed its Reply denying that it had breached Sections 69 or 70 of the *Act* and asserting that the affected employees, including the Applicant, were given reasonable notice of the vote and afforded a reasonable opportunity to vote by secret ballot, either by mail or at one of four meetings scheduled through the province. Further, and in response to the Application as a whole, the Union asserts that the Application is untimely pursuant to Section 70(4) of the *Act* and ought to be dismissed on that ground alone without the necessity of holding a hearing.

3. The Employer did not file a Reply.
4. The Board, following consideration of material filed by the Applicant and the Union, has determined the following:
 - a. A hearing is not necessary in that the matter can be determined by review of the written material filed by the parties.
 - b. Regardless of other concerns the Applicant may have regarding the conduct of the vote, the Board is satisfied that the Applicant was aware of the fact that a ratification meeting was being held among employees of the bargaining unit employed in Winnipeg, Manitoba, on July 3, 2007 (erroneously identified as July 6, 2007, in the Application).
 - c. The Applicant, having knowledge of the July meeting and not having received a mail-in ballot, called the offices of the Union on or about June 25, 2007, and was advised of the procedure which she could follow in order to vote at the meeting scheduled for the Winnipeg location on July 3, 2007.
 - d. The Applicant, having been aware of the ratification meeting and of her opportunity to cast a ballot at the meeting in July 3 of 2007, has unduly delayed the filing of the Application because Section 70(4) of the *Act* states that where no complaint is filed with the Board under Section 70(1) within 15 days after a vote is held in purported compliance with Section 69, then the vote shall be "... conclusively deemed to have been carried out in accordance with the requirements of section 69."
5. In light of the foregoing determinations, Section 70(4) of the Act applies, meaning that the vote conducted by the Union on or about July 3, 2007, is conclusively deemed to have been carried out in accordance with the requirements of Section 69. Therefore, the Board accepts that reasonable notice of the vote was given to the affected employees; a reasonable opportunity was given to the employees to cast a ballot; and that the vote was conducted by secret ballot.

Accordingly, the Board finds, pursuant to Section 70(4) of the *Act*, 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 J.M. on October 26, 2007.

DATED at **WINNIPEG**, Manitoba, this 27th day of November 2007, and signed on behalf of the Manitoba Labour Board by

"Original signed by"

William D. Hamilton, Chairperson

WDH/dr/rb-s