



Manitoba Labour Board

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DISMISSAL NO. 2613

Case No. 61/24/LRA

C/R Case No. 62/24/LRA

IN THE MATTER OF: *THE LABOUR RELATIONS ACT*

- and -

IN THE MATTER OF: An Application by

**United Brotherhood of Carpenters & Joiners of America,
Local 1999,**

Applicant,

- and -

AECON CONSTRUCTION SOLUTIONS INC.,

Respondent Employer,

- and -

Construction Workers Union, CLAC 152,

Respondent Union,

- and -

S.V., S.Z., T.V.,

Persons Concerned.

BEFORE: K. McIlroy, Vice-Chairperson

M. Bereziak, Board Member

G. Tomchak, Board Member

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

INTERIM SUBSTANTIVE ORDER

1. On April 5, 2024, the Applicant filed an application with the Manitoba Labour Board (the “Board”) seeking Remedy for Alleged Unfair Labour Practices contrary to sections 5(1), 5(3), 6(1), 7, 8, 9, 17, 19, and 25 of *The Labour Relations Act* (the “Act”). The Applicant sought various remedies, including seeking interim relief.
2. The Applicant subsequently filed an application for certification, also on April 5, 2024, in Case No. 62/24/LRA.
3. On April 18, 2024, the Board, pursuant to rule 29.3(1) of the *Manitoba Labour Board Rules of Procedure* (the “Rules”) held a hearing into the Applicant’s request for interim relief.
4. On April 25, 2024, the Board issued Interim Dismissal No. 2590, dismissing the Applicant’s request for interim relief.
5. On April 26, 2024 the Respondent Union, through counsel, filed its Reply to the substantive Application.
6. On April 26, 2024 the Respondent Employer, through counsel, filed its Reply to the substantive Application.
7. On May 3, 2024, the Applicant, through counsel, filed its Response to the Replies.
8. On May 29, 2024, the Respondent Union, through counsel, filed correspondence with the Board, requesting the Board conduct a preliminary hearing to determine the voting eligibility of five individuals in relation to the Application for Certification.
9. On May 30, 2024, the Board conducted a Case Management Conference at which the Board, with the agreement of the parties, directed the parties to provide their respective positions, in writing, as to how the hearing into this matter and the Application for Certification should proceed. The Board set various further dates for the hearing.
10. Between June 3 and June 7, 2024, the parties each filed various further correspondence with the Board, setting out their respective position as to how these matters should proceed.
11. On June 14, 2024, the Board directed the parties to meet with a Board Officer, with a view to reaching consensus on the most suitable order of proceedings.

12. Further to meeting with a Board Officer, the parties requested the Board schedule an additional hearing date to address the following preliminary matters:
 - a) The admissibility of a surreptitiously recorded conversation;
 - b) The impact of a grievance arbitration decision issued in relation to the termination of S.V., one of the Persons Concerned;
 - c) The impact of the resolution of the grievances of T.V. and S.Z., both also Persons Concerned;
 - d) The Respondent Union's Motion that the Applicant has failed to establish a *prima facie* case against it; and
 - e) Any outstanding disclosure and/or production issues.
13. On August 26 and September 13, 2024, the Board held a hearing into the preliminary matters, during which the parties, represented by counsel, presented their arguments.
14. During the hearing, counsel for the Respondent Union also requested that the Board dismiss the Application as the Applicant's Form A, Statutory Declaration that accompanied the Application was improperly completed.
15. During the hearing, the parties, notwithstanding the arguments presented regarding the surreptitious recording, did not make any arguments relating to disclosure and/or production issues.
16. With respect to the preliminary motions presented, the Board has determined:
 - a) The motion to determine the admissibility of any recording is premature at this juncture;
 - b) With regards to the termination grievance of S.V., without limiting the parties from presenting evidence that was not before the Arbitrator, the Board accepts the findings of fact made by the Arbitrator;
 - c) The ballots of T.V. and S.Z. shall not be counted as the Board is satisfied that their employment was terminated prior to the vote;
 - d) The Applicant has not established a *prima facie* case that the Respondent Union committed unfair labour practices as alleged; and

- e) The Board is satisfied with all pleadings filed and rejects the argument that any technical irregularity should result in the dismissal of the Application.

T H E R E F O R E

In Case No. 61/24/LRA, the Board dismisses the Application as it relates to the allegations that the Construction Workers Union, CLAC 152 committed unfair labour practices. The Board orders that the Application proceed to oral hearing as it relates to the allegations that the Employer committed unfair labour practices.

In Case No. 62/24/LRA, the Board orders that the Application for Certification proceed to hearing.

DATED at WINNIPEG, Manitoba, this 4th day of October, 2024, and signed on behalf of the Manitoba Labour Board by

“Original signed by”

K. McIlroy, Vice-Chairperson

“Original signed by”

M. Bereziak, Board Member

“Original signed by”

G. Tomchak, Board Member