

ROGERS LAW OFFICE

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File 8752

Via Courier

Mr. Akivah Starkman, Registrar
Canada Industrial Relations Board
4th Floor - 240 Sparks Street
Ottawa, Ontario
V1A 0X8

Dear Sir:

**Re: Communications, Energy and Paperworkers of Canada –and– CanWest
MediaWorks Inc. et al.
Board files 22170-C & 25183-C (decision regarding bargaining unit structure)
Board file 26612-C (application for reconsideration of decision denying interim
relief)
Board file 26667-C (s. 54 application in relation to Global Maritimes)**

We continue to act for the Communications, Energy and Paperworkers Union of Canada (“CEP”) in relation to the above-noted matters.

Overview

We are writing at this time to respectfully request that the Board immediately issue its Reasons for Decision in relation to the above applications. The Employer continues to implement major restructuring with the resulting layoffs of bargaining unit employees. Until the Board disposes of our outstanding applications, the Employer can proceed with those layoffs unchecked. Put simply, the Union can afford to wait no longer.

The proceedings to date

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The Union has long understood that the common direction and control of the Employer's television stations enables it to devise and implement common strategies throughout the Global Network. By 2001, the Union had already seen and felt the labour relations consequences of that common direction and foresaw that its members would continue to be affected by the centralization that such common ownership permits. Thus, in April 2001, the Union took the first step in remedying that labour relations dysfunction by filing a common employer application and an application for a bargaining structure review.

Since that initial application, this Employer has continued to make dramatic ongoing organizational changes with significant labour relations implications. At the same time, the lack of a common employer declaration coupled with a fractured bargaining unit structure has seriously hampered the Union's ability to effectively respond to Network-wide changes. The Union's only practical option has been to use the appropriate legal channels and to bring applications seeking redress from the Board. That is precisely what the Union has done. To date, the following applications have been filed in relation to this matter, with the following results:

- April 27, 2001: Union files application for a common employer declaration and bargaining structure review
- February 27, 2004: Union files application for interim order enjoining the employer from implementing layoffs relating to transfer of master control functions from Winnipeg and Regina to Calgary, and transfer of traffic functions at Winnipeg and Regina to Vancouver. Board did not respond to this application until Reconsideration Decision was issued.
- September 17, 2004: In response to transfer of master control functions from Victoria to Calgary, and traffic functions from Kelowna to Vancouver, Union reiterates earlier application for a cease and desist order. Board did not respond to this application until Reconsideration Decision was issued.
- March 4, 2005: Board issues its full reasons for decision in relation to the Union's common employer declaration.
- June 30, 2005: Union files application for reconsideration of the Original Panel's decision, citing further centralization (*e.g.* master control transferred to two Vancouver and Toronto).
- January 13, 2006: Union applies for interim order in response to transfer of VTR, master control, and traffic functions from Global Maritimes to Toronto.
- March 17, 2006: Board issues its decision in relation to the parties' reconsideration applications. The Employer is confirmed as a "common employer". The decision to fashion three bargaining units is set aside.

June 14, 2006: Union applies for a determination of the appropriate bargaining unit structure per Section 18.1(4). Union notes that since the reconsideration application was filed, all master control functions for the entire Network had been consolidated to Calgary.

October 12, 2007 Union seeks interim relief in relation to Network-wide implementation of “Broadcast Centres” and ensuing layoffs.

November 6, 2007 Board issues “bottom line” decision, dismissing Union’s October 12th interim application, and fashioning three regional bargaining units.

November 27, 2007 Union applied for reconsideration of both the denial of interim relief and the decision on bargaining unit structures.

December 21, 2007 Union files s. 54 application to permit Union to bargain in relation to the first phase of implementation of “Broadcast Centres” and the ensuing layoffs in Global Maritimes.

The necessity of timely Reasons for Decision

As of the date of this application, there remain:

- § no Reasons for Decision in relation to the Board’s decision on bargaining unit structure;
- § no decision in relation to the Union’s application for reconsideration of the decision to deny it interim relief; and
- § no decision in relation to the Union’s s. 54 application in relation to Global Maritimes.

The result is that the Employer has been able to press ahead, unchecked, with the implementation of its “Broadcast Centres” and the layoffs of an estimated 250 employees.

Having been denied interim relief, the Union brought a s. 54 application in an effort to force the Employer to bargain with the Union in relation to the layoffs in Halifax and put a halt to the implementation of this career and bargaining unit changing downsizing until that occurs as contemplated by the Code. . Until that Board renders a decision in relation to that application, the Employer will continue to implement that restructuring without any obligation to work with the Union to address the obvious labour relations consequences of that reorganization.

At the same time, until Reasons for Decision are issued in relation to the Board’s decision in relation to the bargaining unit structure, bargaining under the “new” structure is both premature and impractical. The lack of Reasons has left the parties with no guidance as to the Board’s intent and thus no basis upon which the various remaining consequential issues (such as scope and merging of collective agreements) can be meaningfully discussed. The delay has also meant that the Union’s application to reconsider that decision cannot proceed until Reasons are issued, further contributing to the lack of finality the parties face.

Request that the Board issue its Reasons for Decision

As a result, the Union's only legal redress is to respectfully ask that the Board immediately issue its Reasons for Decision in relation to:

- a. the Board's decision on bargaining unit structure (Board files 22170-C & 25183-C);
- b. the Union's application for reconsideration of the decision to deny it interim relief (Board file 26612-C); and
- c. the Union's s. 54 application in relation to Global Maritimes (Board file 26667-C).

It has been nearly seven (7) years since the Union applied for a common employer application. While the Employer has since been declared a "common employer" for the purposes of the *Code* and the Board has found that there exists a labour relations purpose for that declaration, the very mischief that such a common employer declaration was intended to remedy still continues unabated.

The Union feels very strongly that it has waited long enough for redress. Accordingly, we wish to put the Board on notice that if it does not issue the above Reasons for Decision within 30 days of this application, we have been instructed to bring an application for *mandamus* compelling the Board to do so.

Yours truly,

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Daniel J. Rogers
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