

Date: 20090603

File: 561-02-356

Citation: 2009 PSLRB 67



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

IRENE T. PSYLLIAS

Complainant

and

**JEANNETTE MEUNIER-MCKAY
AND
CANADA EMPLOYMENT AND IMMIGRATION UNION**

Respondents

Indexed as

Psyllias v. Meunier-McKay and Canada Employment and Immigration Union

In the matter of a complaint made under section 190 of the *Public Service Labour Relations Act*

REASONS FOR DECISION

Before: [Michel Paquette, Board Member](#)

For the Complainant: *Herself*

For the Respondents: *Jacque de Aguayo, Public Service Alliance of Canada*

Decided without a hearing.

REASONS FOR DECISION

Complaint before the Board

[1] On January 19, 2009, Irene T. Psyllias (“the complainant”) filed a complaint with the Public Service Labour Relations Board (“the Board”) under paragraph 190(1)(g) of the *Public Service Labour Relations Act* (“the Act”) against Jeannette Meunier-McKay, national president, Canada Employment and Immigration Union (CEIU) (“the respondents”). In her complaint, the complainant alleged the following:

Act # 188(c)

Union President filed a legal proceeding against me as they are stating I misappropriated funds. I however did NOT! The Union President knew the funds were given in the form of a gift card to each member for service at the workplace with a certificate. If the Union president felt that wrongdoing was done then she should have pressed charges leagally and legal proceedings should have commenced against each and every member. The Union President “take disciplinary action against or impose any form of penalty on a employee by applying the employee organization’s standards of discipline to that employee in a discriminatory manner;”

I believe this was a malicious vandictive act and she discriminated against me by pressing legal action against myself.

[Sic throughout]

[2] The complainant wanted the Board to order that her legal fees be reimbursed, some remuneration be paid and that the union president be removed, as corrective measures pursuant to subsection 192(1) of the Act.

[3] On February 2, 2009, the respondent’s representative requested that this complaint be consolidated with Board File No. 561-02-379, since this complaint duplicates the allegations already raised in Board File No. 561-02-379. A separate decision will issue for that file.

[4] She also objected that the complaint was untimely and that it failed to establish a *prima facie* violation of the Act, and, therefore, she requested that it be dismissed.

Uncontested Facts

[5] The complainant is a current member of Local 543 of the CEIU, which is a component of the Public Service Alliance of Canada (PSAC), and occupies the position of local president.

[6] In the fall of 2006, a number of federal government departments underwent restructuring, which affected certain PSAC components. As a result, the entire membership of Local 543 was going to be relocated to other work locations. Local 543 determined not to dissolve and determined to address issues related to its membership and its reorganization.

[7] One of the issues was Local 543's ability to disburse a strike fund to the membership. The membership had in previous years resolved to contribute \$15 per paycheque above and beyond the regular deductions of union dues and had resolved to have those monies placed in what the local determined to call the strike fund. That fund was separate from the regular monies received from the PSAC and never appeared on the members' T4 slips as a deduction for union dues.

[8] During a meeting of Local 543 in November 2006, the members voted in favour of allocating \$680 in gift cards to all members. The gift cards were purchased and distributed to all local members.

[9] In March 2008, Ms. Meunier-Mackay, on behalf of the CEIU, commenced an action in the Ontario Superior Court of Justice against the complainant and others for the repayment of union dues improperly disbursed by union officials to other local union members.

Summary of the arguments

[10] The respondents' representative indicated that the litigation surrounding the issue of misappropriation of funds began in March 2008. Accordingly, the respondents submitted that the issue raised by the complainant regarding the action taken by the respondent on the issue of misappropriation of funds was raised well beyond the time limit prescribed by subsection 190(2) of the *Act*.

[11] The respondents' representative further submitted that the allegations in the complaint relate exclusively to internal union affairs under paragraph 188(c) of the *Act*. The Board has jurisdiction, under those provisions, to inquire into internal union business under a very narrow set of circumstances requiring both a decision by the union to discipline a member and conduct in doing so that constitutes discrimination within the meaning of the *Canadian Human Rights Act* (*Shutiak et al. v. Union of Taxation Employees-Bannon*, 2008 PSLRB 103, at paras. 13 to 16).

[12] The complainant does not raise any claim of discrimination on a prohibited ground (i.e., race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, disability or conviction for which a pardon has been granted) found in the *Canadian Human Rights Act*.

[13] Moreover, the complainant continues to hold office as president of Local 543 of the CEIU. She has not, at any time, been subjected to internal union discipline and, accordingly, the conditions prior to disciplinary action have not been established. The respondents state, therefore, that the complaint ought to be dismissed without a hearing under section 41 of the *Act*.

[14] The complainant submitted that the respondents took discriminatory disciplinary action against her in the form of legal proceedings. In response to the respondents' objections, she believes that, even if the allegations brought against her are dealt with in Superior Court, the union must be held accountable for its actions.

Reasons

[15] The time limit set out in subsection 190(2) of the *Act* is very clear:

190. (2) . . . a complaint . . . must be made to the Board not later than 90 days after the date on which the complainant knew, or in the Board's opinion ought to have known, of the action or circumstances giving rise to the complaint.

[16] The complaint before the Board deals with the action in the Ontario Superior Court of Justice commenced by the national president of the CEIU against the complainant in March 2008. The complainant had 90 days from that date to file this complaint with the Board. She filed her complaint in January 2009.

Given that the complaint was not filed within the time limit, the Board makes the following order:

(The Order appears on the next page)

Order

[17] The complaint is dismissed.

June 3, 2009.

**Michel Paquette,
Board Member**