

Date: 20171129

File: 550-18-10

Citation: 2017 FPSLREB 43

*Federal Public Sector
Labour Relations and
Employment Board Act
and Federal Public Sector
Labour Relations Act*



Before a panel of the
Federal Public Sector
Labour Relations and
Employment Board

BETWEEN

AJAY LALA

Applicant

and

UNITED FOOD AND COMMERCIAL WORKERS CANADA, LOCAL 401

Respondent

and

STAFF OF THE NON-PUBLIC FUNDS, CANADIAN FORCES

Employer and Intervenor

Indexed as

Lala v. United Food and Commercial Workers Canada, Local 401

In the matter of an application for revocation of certification under section 94 of the
Federal Public Sector Labour Relations Act

Before: David Olsen, a panel of the Federal Public Sector Labour Relations and
Employment Board

For the Applicant: No one

For the Respondent: Kelly Nychka, counsel

For the Employer and Intervenor: François Paltrinieri, representative

REASONS FOR DECISION

I. Application before the Board

[1] On October 26, 2015, Ajay Lala (“the applicant”) filed an application under s. 94 of the *Public Service Labour Relations Act* (S.C. 2003, c. 22, s. 2) for a revocation of certification of a bargaining unit for which the respondent, United Food and Commercial Workers Canada, Local 401 (“UFCWC”) (also referred to as “the bargaining agent” or “the union”), was certified.

[2] The reasons cited in support of the revocation application were that the bargaining agent no longer represented a majority of the employees in the bargaining unit.

[3] On December 2, 2015, the bargaining agent requested that the Public Service Labour Relations and Employment Board (PSLREB) dismiss the application due to employer dominance and inappropriate intervention in the application.

[4] On July 4, 2016, I issued an interim decision (*Lala v. United Food and Commercial Workers Canada, Local 401, and Staff of the Non-Public Funds, Canadian Forces*, 2016 PSREL 59) in which I ordered that a representation vote be taken. I further ordered that the ballots cast be sealed and not counted until such time as I had disposed of the allegations by the bargaining agent that the revocation application be dismissed due to employer dominance and inappropriate intervention in the process.

[5] The secret ballot vote was conducted by electronic means and was held between October 17 and 21, 2016.

[6] Following the vote, the ballots were sealed pending the resolution of the bargaining agent’s allegations of employer interference.

[7] The bargaining agent’s allegations of employer interference were heard before the Board at Edmonton, Alberta on October 25-28, 2016, March 21-24, 2017, and May 2, 4 and 5, 2017. Written submissions were also filed with the Board by the parties (May 5, 9, 12, and 15, 2017).

[8] On November 29, 2017, I issued an interim decision (*Lala v. United Food and Commercial Workers Canada, Local 401, and Staff of the Non-Public Funds, Canadian Forces*, 2017 FPSLREB 42) in which I declared that the employer committed an unfair

labour practice when it cancelled bargaining at the applicant's request; I denied the bargaining agent's request to dismiss the revocation application as I concluded that there was no reasonable basis to find that the representation vote would not reflect the employees' true wishes for the reasons given in the decision, and I directed that the ballot box be unsealed and the votes be counted.

[9] The ballot box has been unsealed. I have been advised by the service provider of the election results. The service provider attests that the results have been independently certified, securely processed and accurately tabulated.

[10] A majority of the employees in the bargaining unit who have cast a ballot do not wish the certification of the United Food and Commercial Workers Canada, Local 401 as their bargaining agent to be revoked.

[11] In conclusion, I order that the application for revocation of certification of the United Food and Commercial Workers Canada, Local 401 filed with the Board on October 26, 2015, be dismissed.

November 29, 2017.

**David Olsen,
a panel of the Federal Public Sector Labour
Relations and Employment Board**