



ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 0878-17-T
Trusteeship

Canadian Union of Public Employees, Applicant v CUPE Local 786, Responding Party

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following document(s):

Decision - June 07, 2018

DATED: June 07, 2018

Catherine Gilbert
Registrar

Website: www.olrb.gov.on.ca

Address all communication to:

The Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1
Tel: 416-326-7500
Toll-free: 1-877-339-3335
Fax: 416-326-7531



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0878-17-T**

Canadian Union of Public Employees, Applicant v **CUPE Local 786**,
Responding Party

BEFORE: Mary Anne McKellar, Vice-Chair

APPEARANCES: Gavin Leeb, Gus Oliveira, Lui Carino and Dennis Burke appearing for the applicant; no one appeared for the responding party

DECISION OF THE BOARD: June 7, 2018

1. Pursuant to section 89(1) of the *Labour Relations Act, 1995*, the Canadian Union of Public Employees ("CUPE") advised the Board on June 29, 2017 that it had placed its Local 786 in trusteeship effective June 12, 2017 for a period of one year.

2. By letter dated April 27, 2018, CUPE sought permission of the Board pursuant to section 89(2) of the Act to extend that trusteeship for a further year. Members of the bargaining unit were given notice of CUPE's intentions and several of them wrote into the Board in opposition.

3. A hearing into this matter was scheduled for June 6, 2018, commencing at 9:30 a.m. No objecting employee appeared, although I delayed the commencement of the hearing until 10:00 a.m.

4. CUPE filed a book of documents with me and it adduced evidence from Gus Oliveira a CUPE National representative and the person appointed to administer Local 986. His evidence recounted both the circumstances that led to the imposition of the trusteeship and why CUPE seeks an extension of time in which to restore autonomy to the Local. His evidence was uncontradicted, and may be briefly summarized:

- A new Local 786 President was elected in April 2017. The successful candidate ran on a platform to “clean up” the Local.
- On May 31, 2017, the new President wrote to President of CUPE seeking to have Local 786 placed in administration as he had determined financial improprieties had occurred but had encountered resistance to investigating them within the Local.
- After Local 786 was placed into trusteeship, financial records that could be obtained were gathered and a forensic audit was conducted.
- The final forensic audit report released in late December 2017 revealed that approximately \$925,000.00 had been misappropriated between 2010 (the earliest year for which records could be located) and early 2017.
- CUPE has commenced a civil lawsuit against the former Treasurer of the Local seeking to recover the funds.
- The Hamilton Police Force is conducting a criminal investigation and CUPE anticipates that criminal charges will be laid against one or more of the former Local executive officers.
- CUPE has concerns that until everyone involved in the improprieties has been identified, it will have no means to control who might seek to stand for election to the Local Executive should the trusteeship end.
- Further, CUPE has discovered that the Local By-Laws updated in May 2011 were never approved by CUPE as required under the Constitution, so that the only approved By-Laws in place were last updated in 2002, and do not accurately reflect the structure of the bargaining unit and contain

provisions that severely restrict new candidates from running for office.

- CUPE therefore needs to: draft amended By-Laws; provide 60-days written notice (pursuant to the Constitution) to the membership of a meeting to address them; obtain a two-thirds majority vote approving them; and only then can elections be held.
- CUPE has prepared a schedule by which all of these things can occur, and that timeline anticipates (if all goes according to plan) that the Local may be taken out of trusteeship by December 31, 2018.

5. The individuals who objected to the extension of the trusteeship filed their objections with the Board, but (except for one or two) did not provide them to CUPE. I provided copies to CUPE and sought their comments. Again, these can be dealt with briefly.

- All of the submissions purported to express concern that two former members of the most recent executive are part of the administration team, and they query how this is consistent with CUPE's expressed desire to clean up the executive. Since one of these individuals is the successful "reform" candidate for President, and since there is a full time CUPE National Administrator assigned, in the absence of any particularized concerns about these specific individuals, the submissions on this point do not persuade me that an extension should not be granted.
- Some submissions stated that regular Local business has not been attended to during the trusteeship, but this is belied by the information contained on the Power Point presentations that Mr. Oliveira posted to the Local's website and which he testified constituted the agenda items dealt with at several membership meetings. Consequently these submissions do not provide a reason for not extending the trusteeship.

- Some submissions expressed concern that the administrator will be drafting the new By-laws rather than Local members doing it. This ignores the fact that there are two Local members on the administration team and that the By-Laws must secure the support of a two-thirds majority at the meeting where presented. These submissions do not provide a reason not to extend the trusteeship.
- Two of the submissions were made anonymously and CUPE submitted that they should not be given any weight, a proposition with which I agree, although I have addressed above the concerns raised in these submissions in any event.

6. In summary, I find that CUPE has made out a case for an extension of its trusteeship over Local 786 until December 31, 2018, and I hereby consent to its extension until that date.

“Mary Anne McKellar”
for the Board

APPENDIX A

Canadian Union of Public Employees
1375 St. Laurent Boulevard
Legal Branch
Ottawa ON K1G 0Z7
Attention: Gavin Leeb
Director
Tel: 613-237-1590
Fax: 613-237-4213

Canadian Union of Public Employees
CUPE Hamilton Area Office
#1700 - 21 King Street West, Commerce Place
Hamilton ON L8P 4W7
Attention: Gus Oliveira
CUPE National Representative

Canadian Union of Public Employees
1375 St. Laurent Boulevard
Legal Branch
Ottawa ON K1G 0Z7
Attention: Juliana Saxberg
Senior Officer CUPE Legal Branch
Email: jsaxberg@cupe.ca

CUPE Local 786
c/o: Liz Marck
13 Freeman Place
Hamilton ON L8N 2G6
Attention: President/Director/Manager

CUPE Local 786
c/o: Lui Carino
28 Woodburn Road
Hannon ON L0R 1P0
Attention: President/Director/Manager