



ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 0409-23-T
Trusteeship

Canadian Union of Public Employees, Applicant v CUPE Local 3651,
Responding Party

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board rescinds and replaces the decision sent earlier today with the attached to correct a typo in paragraph 12.

The Board is attaching the following document(s):

Decision - March 22, 2024

DATED: March 22, 2024

Catherine Gilbert
Registrar

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ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0409-23-T**

Canadian Union of Public Employees, Applicant v **CUPE Local 3651**,
Responding Party

BEFORE: Rishi Bandhu, Vice-Chair

DECISION OF THE BOARD: March 22, 2024

1. The Canadian Union of Public Employees ("CUPE") assumed supervision over its Local 3651 (the "Local") by placing it under trusteeship effective April 5, 2023.
2. On March 18, 2024, CUPE filed a detailed submissions with the Board requesting an extension of its trusteeship over the Local pursuant to the requirements of subsection 89(1) of the *Labour Relations Act, 1995* (the "Act").
3. The Local represents approximately 814 healthcare sector employees employed by the Markham Stouffville Hospital.
4. By correspondence dated March 18, 2024, CUPE has requested that the Board extend its trusteeship for a further twelve months pursuant to subsection 89(2) of the Act.
5. CUPE advises that on February 26, 2024 it delivered to affected members a "Notice to All Members of CUPE Local 3651 re Administration/Trusteeship" (the "Notice"). In the Notice, members were provided with the reasons for CUPE's request to extend the trusteeship for twelve months, a proposed timeline to conclude the trusteeship, the Board's contact information, and were directed to send any comments concerning the extension request to the Board by no later than March 8, 2024. CUPE confirmed that the Notice was emailed to members and that it also posted it, *inter alia*, on its website and on bulletin boards in the workplace.

6. The Board has not received any comments from affected members in response to the Notice.

7. Section 89 of the Act reads:

89 (1) A provincial, national or international trade union that assumes supervision or control over a subordinate trade union, whereby the autonomy of such subordinate trade union, under the constitution or by-laws of the provincial, national or international trade union is suspended, shall, within 60 days after it has assumed supervision or control over the subordinate trade union, file with the Board a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Board, file such additional information concerning such supervision and control as the Minister may from time to time require.

(2) Where a provincial, national or international trade union has assumed supervision or control over a subordinate trade union, such supervision or control shall not continue for more than 12 months from the date of such assumption, but such supervision or control may be continued for a further period of 12 months with the consent of the Board.

8. In a Will Say statement attached to CUPE's request for the extension of trusteeship, National Servicing Representative and Administrator of Local 3651 Orion Keresztesi explains the progress made toward achieving local governance over the first twelve months of the trusteeship. Nevertheless, Mr. Keresztesi states that additional work must be done before the trusteeship concludes, including with respect to re-building trust with the membership and training new Local leaders. Additional work is required, according to him, with respect to financial reporting, executive elections, strategic planning and labour relations mentorship.

9. Over the course of the twelve-month proposed extension, CUPE states that it will:

- a. Conduct ongoing labour relations representation on behalf of the Local;
- b. Hold Local executive elections;
- c. Hold a bylaw review, vote and seeking CUPE approval;

- d. Conduct a trustee audit and presentation to membership;
- e. Circulate a summary of an external auditor's report to the membership;
- f. Ensure executive and committee training and coaching;
- g. Host Local leadership strategic planning;
- h. Perform ongoing recruitment and education of Local activists;
- i. Conduct member outreach and increase the member email list; and
- j. Prepare for bargaining.

10. In *Canadian Union of Public Employees v. Canadian Union of Public Employees, Local 3903*, 2010 CanLII 62548 (ON LRB) the Board summarized its approach to subsection 89(2) of the Act as follows at paragraph 7:

7. There is extensive Board case law dealing with section 89 of the Act. A number of propositions emerging from that case law may be stated briefly:

- a) Outside of the construction industry, the Board does not scrutinize the rationale for an initial 12-month period of trusteeship, nor does it monitor or oversee the conduct of the trustee or administrator during that period;
- b) The Board possesses the discretion to extend an initial period of trusteeship for a period of time up to, but no longer than, twelve months;
- c) An extension is normally granted if it is unopposed;
- d) Where the Board receives representations opposing a request that a trusteeship be extended, it may decide the issue based on written representations alone, or it may convene a hearing to deal with the matter;
- e) The test applied by the Board to determining whether a trusteeship should be extended is a "balance of

convenience test” as between “the legitimate interests of a local’s autonomy against the desirability of local self-government through officers elected by, and responsible to, the local membership”; and

f) In assessing the balance of convenience, the Board has had regard to a number of factors. They include: how many of the total local union members have indicated their opposition to the extension; how long it might take to adjudicate the dispute compared to the length of the extension sought; the need for an orderly transition from trusteeship to local governance; the extent of any plans outlined for achieving that; the grounds advanced for the extension; and the length of the extension sought.

11. The factors above support CUPE’s request for an extension of the trusteeship. In particular, the Board has not received any comments from affected employees opposing the extension requested by CUPE. In these circumstances, the Board generally grants an extension of trusteeship, and the Board sees no reason to depart from that approach in this case.

12. In all the circumstances, the Board consents to extend the trusteeship of Canadian Union of Public Employees, Local 3651 for a further period of twelve months commencing on April 6, 2024.

13. CUPE is directed to deliver a copy of this decision to each member of the local forthwith.

“Rishi Bandhu”
for the Board

APPENDIX A

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