



Dismissal of a complaint against a radio station in Quebec City

On January 8, 2003, the Canadian Artists and Producers Professional Relations Tribunal rendered decision 2003 CAPPRT 040, a final decision in the matter of the complaint filed by the *Guilde des musiciens du Québec* against radio station CKRL-FM in Québec. On November 9, 2001, the Tribunal received a complaint alleging that CKRL breached its duty to bargain in good faith for the purpose of concluding a scale agreement with the *Guilde*, contrary to paragraph 32(a) of the *Act*.

As for CKRL, it filed a preliminary objection to the filing of the complaint on the ground that it was statute-barred. At the hearing held June 12 and 13, 2002, the Tribunal heard the evidence and the submissions of the parties concerning the respondent's preliminary objection and the merits of the case.

In decision 2003 CAPPRT 040, the Tribunal granted the respondent's motion and dismissed the complaint on the ground that it is inadmissible.

The complete Reasons for Decision are available on the Tribunal's web site at the following address: www.capprt-tcrpap.gc.ca. ♦

Modification of the Editors' Association of Canada's certification order

On November 1, 2002, the Tribunal rendered decision 2002 CAPPRT 039, a final decision in the matter of a request for reconsideration of Decision 2001 CAPPRT 033, as modified by Decision 2001 CAPPRT 036, filed by The Writers' Union of Canada (TWUC).

Decision 2001 CAPPRT 036, rendered on September 27, 2001, follows the Tribunal's interim decision 2001 CAPPRT 033, rendered on February 28, 2001, wherein the Tribunal defined a sector suitable for bargaining as one composed of professional freelance editors and declared that the Editors' Association of Canada (EAC) was the

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association most representative of artists in this sector. As part of Decision 2001 CAPPRT 033, the Tribunal however stayed the proceedings in order to give the EAC time to amend its by-laws so as to bring them into compliance with subsection 23(1) of the *Act*.

While awaiting the amendments to the EAC's by-laws, the Tribunal received three applications for reconsideration of Decision 2001 CAPPRT 033. The first was filed by the Union des écrivaines et écrivains québécois (UNEQ), the second by the Directors' Guild of Canada (DGC), and the third by the Playwrights Union of Canada (PUC).

Upon receipt of the amendments to the EAC's by-laws, the Tribunal issued decision 2001 CAPPRT 036, in which it declared that the EAC's by-laws, as amended, now complied with the requirements of the *Act*. Accordingly, the EAC's application for certification no longer needed to be stayed. In decision 2001 CAPPRT 036, the Tribunal also amended *proprio motu* the EAC's sector definition. Following decision 2001 CAPPRT 036, the UNEQ and the DGC withdrew their applications and the Tribunal dismissed PUC's application.

On October 29, 2001, TWUC filed its own application for reconsideration of decision 2001 TCRPAP 033 as modified by decision 2001 TCRPAP 036. Decision 2002 CAPPRT 039 deals with this application for reconsideration. In this decision, the Tribunal concluded that it should rescind Decision 2001 TCRPAP 033 and Decision 2001 TCRPAP 036, and rescind the certification order issued to the EAC. In decision 2002 CAPPRT 039, the Tribunal issued a new certification order to the EAC, for a sector composed

of

“professional freelance editors who are engaged by a producer subject to the *Status of the Artist Act* to prepare original works in the form of compilations of data, including but not limited to original indexes, glossaries, tables of contents and bibliographies in either French or English, but excluding:

- (a) authors covered by the certification granted to the Periodical Writers Association of Canada by the Tribunal on June 4, 1996,
- (b) authors covered by the certification granted to the Writers Guild of Canada by the Tribunal on June 25, 1996,
- (c) authors covered by the certification granted to the Société des auteurs de radio, télévision et cinéma by the Tribunal on January 30, 1996 as amended on June 8, 2001,
- (d) authors covered by the certification granted to The Writers' Union of Canada by the Tribunal on November 17, 1998,
- (e) authors covered by the certification granted to the Union des écrivaines et écrivains québécois by the Tribunal on February 2, 1996, and
- (f) authors covered by the certification granted to the Playwrights Union of Canada by the Tribunal on December 13, 1996.”

The complete Reasons for Decision are available on the Tribunal's web site. ♦

Notice to Bargain

A recall of the procedure to follow

On January 30, 1996, the Société des auteurs de radio, télévision et cinéma became the first artists' association to be granted certification by the Tribunal pursuant to the *Status of the Artist Act*. Since then, 20 other artists' associations have been certified by the Tribunal. The last two certified were the Associated Designers of Canada and the Association des professionnels des arts de la scène du Québec, both on January 4, 2002.

All these artists' associations have the right, pursuant to the *Act*, to bargain collectively with producers under federal jurisdiction. The first step in the negotiation process is to inform the other party of the intention to begin negotiations. To do so, either the artists' association or the producer, sends a Notice to Bargain to the other party. This is usually done by letter.

Section 31 of the *Act* that deals with this matter does not set specific requirements as to the contents of a Notice to Bargain. It is suggested that the following information be included:

- name of the organization issuing the Notice;
- copy of the Certification Order issued by the Tribunal;
- provision under which the Notice is being issued (section 31 of the *Status of the Artist Act*, S.C. 1992, c. 33);
- indication of the steps the Recipient is expected to take (for example, they should phone you, you will phone them or you expect a response by a specified date).

A copy of the Notice to Bargain must be sent to the Minister of Labour.

It would be appreciated if a copy of the Notice to Bargain was also sent to the Tribunal Secretariat. It helps us to update the tables available on our website that monitor developments in negotiations. ♦

Follow-up on information sessions

In 2000-2001, the Tribunal Secretariat met with artists' associations and producers under federal jurisdiction to answer their questions about the *Status of the Artist Act*. These meetings brought us to several cities across Canada, and were rewarding for participants and for us.

We would like to know if the participants that we have

already met would appreciate meeting with us again, and if representatives from organizations that we did not meet would like to join us for an information session.

If you would like to meet with us, please call Lorraine Farkas, Director, Planning, Research and Mediation, in order to let us know what topics you would like us to address. She can be reached at (613) 947-9604. ♦

Changes at the Tribunal

Lorraine Farkas, Director, Planning, Research and Mediation is back at the Tribunal from a sabbatical year that she spent in Chile and neighbouring countries. Linda L'Heureux, who replaced her during that time period, will be returning to Human Resources Development Canada as the Industrial Relations Advisor for the Federal Mediation and Conciliation Service. ♦

Queen's Golden Jubilee Medal awarded to Tribunal's Chair and Executive Director

David P. Silcox, Chairperson of the Tribunal, awarded Josée Dubois, Executive Director and General Counsel, the Commemorative Medal for the Queen's Golden Jubilee. Mr. Silcox was also awarded the Golden Jubilee Medal by the Canadian Conference of the Arts. As recipients are Canadian citizens who have made an outstanding and exemplary contribution to the community or to Canada as a whole, the Tribunal Secretariat congratulates them on their accomplishments. ♦

We will be moving... take II

The Tribunal Secretariat will be moving on February 7, 2003. We announced in our previous bulletin that we were supposed to move in November 2002. Unfortunately, the move was delayed. Please note that the office phone and fax lines may be down for part of the day on February 7, 2003. We apologize for any inconvenience this may cause.

From February 7, 2003, the Tribunal's Secretariat offices will be located at 240 Sparks Street, 1st Floor West, Ottawa, Ontario K1A 1A1. Between now and February 10, 2003, we strongly urge you to send all written documents to our current address. The Secretariat's telephone and fax numbers as well as the e-mail and web site addresses will remain the same. ♦

Tribunal Secretariat

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Are you currently preparing a course or organizing a conference on professional relations in the cultural sector?

Tribunal personnel are available to make presentations regarding the *Status of the Artist Act* and the role, procedures and activities of the Tribunal.