



The Tribunal determines that master of ceremonies is a function covered under the Canadian Actors' Equity Association's certification order

On January 16 and February 20, 2004, a panel of the Tribunal was convened to consider the application for determination of the Canadian Actors' Equity Association (CAEA) and the National Capital Commission (NCC). The question to be determined by the Tribunal was whether Dominic Girard, a person engaged by the NCC as master of ceremonies for the 2003 Winterlude Opening Ceremonies is an artist subject to the scale agreement between the parties. The NCC took the position that the function of master of ceremonies was not covered under CAEA's certification order and therefore was not covered under the scale agreement. CAEA argued that the NCC was engaging an actor to play the role of master of ceremonies and that he was therefore subject to the scale agreement negotiated by the parties. The dispute was referred to arbitration in accordance with the dispute settlement procedures contained in the scale agreement. Because the dispute concerned the applicability of a scale agreement to a particular artist, the arbitrator referred the question to the Tribunal for determination.

Having determined that the list of functions enumerated in CAEA's certification order is not exhaustive and that Mr. Girard is a professional self-employed artist engaged to perform in some capacity in a live presentation, the Tribunal found that master of ceremonies is a function covered under CAEA's certification order and, consequently, Dominic Girard is a performer covered by the

scale agreement negotiated between the NCC and CAEA (2004 CAPPRT 048, for full text of the Reasons for Decision see: www.capprt-tcrpap.gc.ca).

The Tribunal celebrates its tenth anniversary

The Tribunal will begin its tenth year of operation on May 9, 2004. To mark this anniversary year, the Tribunal has planned some celebration activities, including the publication of a special anniversary edition of its annual report. Information meetings with clients will be held throughout the year and a series of interviews with the past and current chairpersons of the Tribunal will be published in its information bulletin. An interview with the Tribunal's founding chairperson is featured in this issue.

In this Issue

Developments on status of the artist in various jurisdictions	page 2
Interview with the Tribunal's founding Chairperson, the Honourable Marie-P. Poulin	page 2
Small federal agencies to be reviewed	page 3
The second edition of the <i>Annotated Act</i> will be available electronically	page 4

Developments on status of the artist in various jurisdictions

In the federal jurisdiction, after releasing the report on the Evaluation of the *Status of the Artist Act* in April 2003, Canadian Heritage created a working group of representatives from their department, Human Resources and Skills Development Canada, and the Canadian Artists and Producers Professional Relations Tribunal. The working group has been doing follow-up work on the recommendations in the report, including exploring other policies and programs to improve the socio-economic circumstances of self-employed artists as well as studying potential legislative amendments.

In Quebec, amendments to the province's status of the artist legislation were introduced in March. With regard to the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*, the amendments include:

- Add multimedia to the artistic sectors covered;
- Minister must consult with the artistic and literary communities before proposing the appointment of members to the Commission de reconnaissance des associations d'artistes et des associations de producteurs;
- Decisions must be rendered by the Commission within 90 days after the start of deliberations.

Amendments are also proposed to the *Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters*. These acts were initially passed in 1987 and 1988 and were previously amended in 1997. Bill 42 proposing the current amendments can be found at:

<http://www.assnat.qc.ca/eng/37legislature1/Projets-loi/Publics/04-a042.htm> .

On the broader status of the artist front, the recent Quebec budget also introduced some improvements for artists, which included:

- Extending the deduction of copyright revenues to performers (previously covered only creators).
- Introducing income averaging for artists.

In Saskatchewan, the Minister's Advisory Committee on the Status of the Artist submitted its final report in the fall of 2003 (see September 2003 issue of this bulletin). Soon after, in November 2003, elections took place in the province. Several departments in the government have been analyzing the recommendations in the report, which deal with collective bargaining for artists and producers among other issues. According to officials in the Department of Culture, Youth and Recreation, it is anticipated that the government will issue its response soon.

In Ontario, the Ministry of Culture is working on creating a Minister's Advisory Council for Arts and Culture, one of the election promises of the new government. One of its mandates will be to prepare a report on the status of the artist in Ontario within two years.

Interview with the Tribunal's founding Chairperson, the Honourable Marie-P. Poulin

During the Tribunal's 10th anniversary year, we will publish interviews with the past and current chairpersons of the Tribunal. In 1992, Parliament passed the *Status of the Artist Act*, and in June 1993 the provisions of the *Act* creating the Tribunal were brought into force. In March 1994, the government approved funding for the Tribunal. It was not until May 1995 that the substantive provisions of the *Status of the Artist Act* were proclaimed, opening the way for the Tribunal to become fully operational and to process applications for certification. Recently, the Tribunal's Executive Director and General Counsel, Josée Dubois, met with the Tribunal's founding Chairperson, the Honourable Marie-P. Poulin, to ask about the challenges during her term from June 1993 until she was appointed to the Senate in September 1995. A translation of the interview follows.

JD: Senator Poulin, what was the situation when you were named Chairperson of the Tribunal?

MPP: It was 1993, and the *Status of the Artist Act* had just been proclaimed. Major changes in the structure of the

federal government were announced. To ensure a solid foundation for this new federal agency, an administrative tribunal, we had to go about establishing good working relations with several departments. This was at a time when many senior public servants were in a state of transition.

JD: Can you tell us a little about your first month?

MPP: Some would say that it was just hard work while others would say it was innovative work: looking for an office, equipment and information, developing a work plan, cooperating with certain key people, at each step explaining the objectives of the tribunal, and I could go on. However, this task was made easier by the enthusiastic response I received from cultural groups whom I had contacted during the first month.

JD: You have already talked about many challenges but are there others that you had to face?

MPP: The *Status of the Artist Act* is tied to two ministers, the minister responsible for labour relations and the minister responsible for heritage matters. So the Tribunal's situation as the entity that would have to implement the letter as well as the spirit of the *Act* appeared, at first glance, somewhat complex.

There had also been some support for the idea that the *Status of the Artist Act* could be administered by an existing industrial relations tribunal. Therefore, it was necessary to ensure that the unique working conditions and the socio-economic environment of self-employed workers be respected and be reflected in the decisions to be made by the Tribunal. As a former Vice-President of Labour Relations for the CBC, I had worked with 32 unions and associations. I was very conscious of the fact that the working conditions of members of the UDA, ACTRA and other associations representing self-employed workers were not at all the same as those of unions representing employees.

JD: Have any of your accomplishments made you particularly proud?

MPP: The saying goes that when you celebrate the 10th anniversary of a business, you will surely celebrate its 25th. I think that milestone is extremely important because it means that the efforts of not just the founding chairper-

son but also those of the founding team and present team were worthwhile investments.

Secondly, I am still surprised by the fact that it took not even two years for this new federal agency to be up and running. Thirdly, I approached the Canadian Centre for Management Development about developing, in collaboration with other administrative tribunals, an appropriate training program for future administrative judges, a program that continues to this day.

But I am particularly proud of the fact that the Tribunal, while maintaining its operating independence, was able to develop service contracts with various departments. The Tribunal developed a financial management model that was very economical: only services essential to the legislation are performed by Tribunal employees, a very small team of professionals.

JD: Would you say you had other hopes for the Tribunal?

MPP: Yes, that the legitimacy of the Tribunal continue to grow, and that it be respected by the self-employed workers and by the producers. I believe this has happened. I want to congratulate all those who continue to contribute to it.

Small federal agencies to be reviewed

On December 16, 2003, the new federal government announced it would carry out an extensive review of government spending. The review is to find more efficient ways of running government and ensure that spending is directed in accordance with changed priorities. The February 2004 budget announced that through this process the government would find \$3 billion which it could take from budgets over the next four years in order to use for new or higher priority expenditure items.

The review is composed of three categories: a review of all programs delivered to Canadians, a review of horizontal initiatives carried out by several government institutions, and a review of government operations, such as corporate administrative services. CAPPRT is a small federal agency with a staff of ten and annual expenditures of approximately \$1.5 million. It will be subject to all the expenditure reviews.

continued on page 4

Agencies reviewed... *continued from page 3*

One of the reviews underway under the government operations category is a review of governance structures of federal institutions. The objectives are to bring greater coherence to federal governance models, streamline the number of federal entities, strengthen management and accountability, and reduce costs.

For the first time, an in-depth review of the governance of all the 55 small federal agencies will be carried out. It will be decided for CAPPRT and each of these agencies: will it continue to operate as a separate entity, and if so, will the structure be changed, or will it be amalgamated with another or others. It is expected this review will be completed by the end of December 2004.

The issue of CAPPRT's creation as a separate agency was discussed at length during the standing committee hearings considering the Status of the Artist Bill in 1991. At the time, it was decided to create a new agency, instead of handing the responsibility to an existing tribunal, like the Canada Industrial Relations Board (CIRB), because the situation of self-employed artists was different from that of employees of federal employers such as the airlines and banks, and the relations between artists and producers are unique. Since the start of CAPPRT's operation in 1995, the issue of amalgamating it with other boards like the CIRB has been raised occasionally, including by some parties consulted during the statutory review of the *Act* carried out by Canadian Heritage in 2002.

***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.**

The second edition of the *Annotated Act* will be available electronically

The *Status of the Artist Act Annotated* has been reedited by the Legal Services of the Tribunal. It will be available shortly, free of charge, on the Tribunal's Web site and will not be sold in paper format. The new, electronic format will allow it to be updated on an ongoing basis.

The *Annotated Act* contains all provisions of the *Status of the Artist Act* and cross references to similar provisions in the *Canada Labour Code* and in the upcoming *Public Service Labour Relations Act* (not yet in force). Also, for the *Act's* provisions, it provides relevant excerpts from the Tribunal's decisions. This enables the reader to quickly gain an understanding of how the Tribunal has interpreted the *Act*, and helps the reader organize the search for pertinent Tribunal jurisprudence.

Tribunal Secretariat

Contacts:

Lorraine Farkas

Director, Planning, Research and Communications

Diane Chartrand

Senior Legal Counsel

240 Sparks Street, 1st Floor West
Ottawa, Ontario K1A 1A1

Tel.: 1-800-263-2787 or (613) 996-4052

Fax: (613) 947-4125

info@capprt-tcrpap.gc.ca

www.capprt-tcrpap.gc.ca