



Canadian Artists and Producers Professional Relations Tribunal

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Information Bulletin

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Complaint withdrawn after scale agreement concluded between London Musicians' Association and Rogers Television

On March 6, 2003, the London Musicians' Association (LMA), Local 279 of the American Federation of Musicians of the United States and Canada, issued a notice to bargain a first agreement with Rogers Television Cable 13 in London, Ontario. On August 25, 2003, the LMA submitted a complaint to the Canadian Artists and Producers Professional Relations Tribunal alleging a failure to bargain in good faith on the part of Rogers. Accordingly, a panel was appointed to hear the case and a hearing was scheduled for November 18-19, 2003. Before the hearing date, the parties requested that the hearing be adjourned until further notice as they wanted to pursue negotiations. The parties reached a settlement and signed a scale agreement. The Tribunal authorized the LMA's withdrawal of its complaint on September 23, 2004.

As required by sub-section 33(2) of the *Status of the Artist Act*, the parties have filed a copy of the scale agreement with the federal Minister of Labour. A copy of the agreement (as well as other scale agreements under the *Status of the Artist Act*) can be obtained free of charge by contacting the Workplace Information Directorate of the Department of Human Resources and Skills Development by phone: (819) 997-3117 or 1-800-567-6866, by fax: (819) 953-9582 or via the Internet: <http://www110.hrdc-drhc.gc.ca/information/index.cfm?doc=english&Aloc=2>.

Certification application of the Independent Media Arts Alliance (IMAA) dismissed

The IMAA (formerly the Independent Film and Video Alliance) filed an application for certification with the Tribunal to represent "a sector composed of independent artists in the media arts, an independent media art work being a film, video, new media or audio art creation, on any format and/or device of presentation envisioned, over which the creator maintains complete editorial and artistic control up to the final version."

The IMAA is composed of 81 organizations, representing more than 10,000 media artists across Canada, working in film, video, new media, audio art and web art. Membership is open to any non-profit organization in Canada whose mandate is to encourage, promote

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and facilitate the independent production, distribution or exhibition of films, videos and new media works. The first matter dealt with by the Tribunal was determining whether the IMAA is either an artists' association or a federation of artists' associations for the purposes of section 5 of the *Status of the Artist Act*. As allowed in sub-section 19(6) of the *Act*, the Tribunal's Chairperson appointed the Vice-chairperson to study the matter—to gather further evidence, examine all the evidence and submit a report on whether the IMAA meets the definition of "artists' association" under section 5 of the *Act*.

The Vice-chairperson met with the IMAA and prepared a detailed report of her findings. In her report, the Vice-chairperson reviewed the information and provided comments to assist the Tribunal in its determination. The Vice-chairperson concluded that based on the information received from the IMAA, the IMAA as currently constituted did not meet the requirements of the *Act* to seek certification as a federation of artists' associations. She also included comments in her report regarding further information needed from the IMAA should it decide to complete its application. A copy of the report was provided to the IMAA for their comments or follow-up as desired.

A panel of the Tribunal met on August 18, 2004, and on the basis of the report dismissed the IMAA's application for certification at this time.

Judicial review of Tribunal decision dismissed

In April 2003, the Attorney General of Canada filed an application for judicial review of Tribunal decision 2003 TCRPAP 041 before the Federal Court of Appeal. In the decision, the Tribunal had granted certification

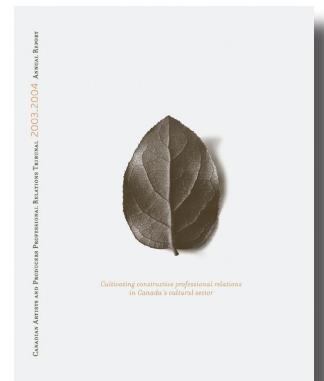
to a federation of artists' associations made up of the Association des professionnelles et des professionnels de la vidéo du Québec (STCVQ) and the Syndicat des techniciens du cinéma et de la vidéo du Québec (APVQ) (now known as the Alliance québécoise des techniciens de l'image et du son).

At the hearing held in Montreal on May 18 and 19, 2004, the Attorney General maintained that the Tribunal had erred in its interpretation of the *Professional Category Regulations* by certifying several professional categories (assistant director, first assistant director, lighting director, sound man, sound effects technician, computer graphics designer, computer graphics special effects technician, supervising make-up artist, make-up artist, make-up assistant, special effects make-up artist, prosthetic make-up technician, prosthetic make-up assistant, supervising hairstylist, hairdresser, wig-maker, costumer, assistant art director, set designer, propsman crewleader, head painter, scenic painter, sculptor-molder, draughtsman, studio special effects technician, floor director or manager (excluding dubbing directors), production assistant, location manager, script-clerk, off-line editor, in-line editor, sound editor, sound mixer). The Court found that the Tribunal had not exceeded its jurisdiction and dismissed the application.

The Court's decision is available at: <http://decisions.fca-caf.gc.ca/caf/2004/2004caf199.shtml>. (Only the original French version is available.)

10th anniversary annual report issued

As mentioned in the previous Bulletin, the Tribunal entered its tenth



year of operation in May of this year. To mark this occasion, we have issued a special annual report in which we chart some of the important events in our brief history as well as in the history of labour relations in the arts and culture sector over the last century. We have also included an overview of how we have been meeting the ongoing challenges of supporting positive relationships among producers and artists in our jurisdiction. Furthermore, we describe how we operate as a model small agency, contributing to the federal government's central goals of effective management, transparency and efficient operations. To obtain a copy, please contact the Tribunal.

Interview with Tribunal's second Chairperson, Mr. André Fortier



During the Tribunal's tenth year of operations, we are conducting interviews with the Tribunal's past and current chairpersons. The last Bulletin featured an interview with the founding Chairperson, Senator Marie-P. Poulin. The Tribunal's Executive Director and General Counsel, Josée Dubois, met with the Tribunal's second Chairperson, Mr. André Fortier, to ask about the challenges during his term from September 1995 to February 1998. He was also Vice-chairperson from March 1995 to February 1999. A translation of the interview follows.

JD: You became acting chair following Madame Poulin's appointment to the Senate. What was happening at the Tribunal at that time?

AF: Before I was appointed vice-chair, I had worked in the arts and the idea of taking part in a labour relations process

that would contribute to the cultural community interested me greatly. When I became acting chair, the Tribunal had started receiving applications for certification.

JD: The SARDeC matter was the Tribunal's first public hearing. In that case you rendered your decision from the bench, why?

AF: You are referring to SARDeC's application for certification, now SARTeC, the Société des auteurs de radio, télévision et cinéma. I must say that we always had this idea in the back of our minds—to simplify relations between the Tribunal and the various organizations, not to have the kind of formalized process that courts have. So rendering a decision from the bench seemed the appropriate step in a simple and expedient process. I should note that we weren't able to continue this practice because cases became more complicated over time.

JD: What was your philosophy regarding the management of the Tribunal Secretariat?

AF: Our philosophy was that we weren't going to spend our budget if we didn't need to. We had surpluses, a few thousand dollars, which is not really huge, but in the eyes of the community it was important they know that management was prudent.

JD: Do you have any comments about the legislation?

AF: What always surprised me was that despite the efforts of the Tribunal to inform the provinces and artists' associations about the *Status of the Artist Act*, there was a lack of interest in the provinces, except in Quebec where there is similar legislation, to act on matters within their jurisdiction and a lack of sufficient action on the part of artists' associations regarding status of the artist on a provincial basis.

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JD: Mr. Fortier, can you talk about some of the successes during your mandate?

AF: We granted 16 certifications to artists' associations up to February 1998. In order to do that, we had to decide, under the guidance of the *Act*, how to define the sectors suitable for bargaining. Should the sector be defined, for example, on geographic or linguistic lines? Then we had to determine the criteria for deciding whether the applicant association should be certified to represent the defined bargaining sector. Also, the legislation provided a clear set of rights and obligations for negotiations between certified associations of self-employed artists and producers. The Tribunal's communications program helped to clarify the new rights and obligations for the parties.

Canadian Conference of the Arts conference on status of the artist

The Canadian Conference of the Arts' (CCA) next national policy conference will focus on federal and provincial status of the artist legislation. Scheduled to take place in Regina on November 19 to 20, discussion at the conference will center on: how existing legislation is working, how it affects the lives of working artists, what improvements can be made and the situation of artists in other countries, among other issues. The Tribunal will be participating in the conference. Complete information is available on the CCA's web site: <http://www.ccarts.ca/en/events/index.html>.

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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.