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ONTARIO LABOUR RELATIONS BOARD

To: Leeb, Gavin
Ross, Laura
Fax: 613-237-4213
Subject: Decision - November 13, 2019 - Case No: 2762-18-T

Please see attached document(s) with reference to the case(s) noted above.

Vous trouverez ci-joint le(s) document(s) au sujet du/des dossier(s) mentionné(s) ci-dessus.

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**ONTARIO LABOUR RELATIONS BOARD****Labour Relations Act, 1995**

OLRB Case No: **2762-18-T**
Trusteeship

Canadian Union of Public Employees, Applicant v **Canadian Union of Public Employees, Local 1623**, Responding Party

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following document(s):

Decision - November 13, 2019

DATED: November 13, 2019

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

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ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **2762-18-T**

Canadian Union of Public Employees, Applicant v **Canadian Union of Public Employees, Local 1623**, Responding Party

BEFORE: Kelly Waddingham, Vice-Chair

DECISION OF THE BOARD: November 13, 2019

1. The Canadian Union of Public Employees ("CUPE") has requested pursuant to section 89(2) of *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended, ("the Act") that the Board consent to an extension of its trusteeship over of CUPE, Local 1623 ("Local 1623"). The trusteeship was imposed November 13, 2018.
2. CUPE took steps to notify the affected members of its application for an extension, and directed members to provide submissions to the Registrar of the Board, if they wished, on or before October 25, 2019. The Board received one submission from three members of Local 1623.
3. By decision dated October 31, 2019, the Board provided CUPE with a copy of the submission and an opportunity to respond to the members' submission. The CUPE provided a response dated November 6, 2019.
4. The Board has reviewed the members' submission and CUPE's response. The Board is persuaded that it is appropriate for it to grant the extension requested by CUPE.
5. The test applied by the Board to determine whether a trusteeship should be extended is a "balance of convenience test" 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".

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6. Leading up to trusteeship, CUPE received concerning allegations against Local 1623 regarding serious conflicts within the membership which prevented the Local from autonomously moving forward. The conflict resulted in allegations of offences against the CUPE Constitution and an employer led grievance in 2018. Due to the severity of the Local 1623's internal challenges and its associated negative effects on labour relations CUPE placed Local 1623 under trusteeship on November 13, 2018.

7. The will-say statement from the initial Administrator Francois Lapensée who managed the affairs of Local 1623 for the first ten months of the trusteeship provides that in order to bolster member engagement and union leadership Mr. Lapensée:

- recruited members to form a working group that helped the administrator with the daily tasks of the Local;
- arranged training for the working group members about harassment, union leadership and the duty of fair representation;
- drafted harassment policy;
- started a mobilization campaign focused on increasing communication and community;
- kept members informed through general membership meetings that occurred regularly;
- triaged and resolved a significant backlog of grievances;
- oversaw the addition of new members from Local 2841 Sudbury Hospital Services;
- oversaw the payment of outstanding delay.

8. CUPE submits that the trusteeship plan was delayed because membership participation in union renewal efforts such as an interim working group and membership meeting and training sessions remained low during the year of trusteeship.

9. An extension of the trusteeship is required in order to conclude the internal CUPE resolution process which includes a final decision (expected in late Fall 2019). Following completion of the resolution process CUPE plans to move forward with union renewal activities aimed at recruitment and election of a new executive and committees,

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increased communication with the membership, by-law review, records management and training.

10. The submission from the 3 members states in part:

Our greatest concern right now is with the letter that was posted of the statement of facts that Francois Lapensée will testify to. Many of the statements we feel are not factual or the very least embellished. The members would like to have their say as to how they feel and have actually witnessed what has gone on this year.

11. The opposition of the three members of Local 1623 to CUPE's request to extend the trusteeship is completely unparticularized and therefore is not a basis for denying the request.

12. Furthermore the members concern appears to relate to the conduct of the trusteeship, of "what has gone on this year", rather than the need for an extension of the trusteeship. The Board has no jurisdiction to monitor a trusteeship during the first year of its operation. (See *Ontario Secondary School Teachers Federation v. Occasional Teachers Bargaining Unit*, 2004 CanLII 15662 (ON LRB)). To the extent, therefore, that opposition to the trusteeship is based on concerns about events that occurred during that time period, these concerns cannot be considered by the Board and do not form a valid basis for denying the requested extension.

13. In all the circumstances, the Board consents to extend the trusteeship of Canadian Union of Public Employees, Local 1623 for a further period of 12 months expiring on November 13, 2020.

"Kelly Waddingham"
for the Board

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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; 613-237-5508

Canadian Union of Public Employees
1375 St. Laurent Boulevard
Legal Branch
Ottawa ON K1G 0Z7
Attention: Laura Ross
Senior Officer
Tel: 613-237-1590
Fax: 613-237-4213; 613-237-5508

Canadian Union of Public Employees, CUPE Sudbury Area Office
888 Regent Street
Suite 205
Sudbury ON P3E 6C6
Attention: Frank Lapensée
CUPE National Representative

CUPE Local 1623
943 Tulane Avenue
Sudbury ON P3A 4K2
Attention: Sharon Richer

CUPE Local 1623
943 Tulane Avenue
Sudbury ON P3A 4K2
Attention: Dave Shelefontiuk