

Before:

Metis Settlements Appeal Tribunal

Between:

Cyril Jack Boucher,

Appellant,

-and-

**Buffalo Lake Metis Settlement,
and
Metis Settlements General Council,**

Respondents.

Concerning:

Request Buffalo Lake Metis Settlement (BLMS) Community Corporate Services Manager (CCSM) to produce monthly financial report for Council's review, and that BLMS produce the CCSM's job description

Decision Type:

Paper Review Process

Decision Date:

September 28, 2017

DECISION

MSAT Panel members:

Lorne Dustow, Chairperson
Phyllis Collins, Panel Member
Joyce Parenteau, Panel Member

MSAT Staff:

Harold Robinson, Tribunal Secretary
Amanda Wyatt, Dispute Resolution Officer

Hearing:

By Written Submissions and Paper Review
August 22, 2017

1.0 Context

[1] Buffalo Lake Metis Settlement (BLMS) Council member, Cyril (Jack) Boucher wrote to the Appeal Tribunal in his capacity as a Council member on June 14, 2017. Jack wrote that he wants monthly financial updates to be provided to BLMS Council for his review, but that he can't get a quorum of Council to order the monthly production of financial updates. Jack wants the Appeal Tribunal to order the production of the monthly financial statements and/or the production of the BLMS Community Corporate Services Manager's (CCSM's) job description; which Jack thinks includes the requirement that the CCSM produce monthly financial statements.

[2] This matter was dealt with through the Appeal Tribunal's "paper review" process. This process is permitted through section 195 of the *Metis Settlements Act*, which allows the Appeal Tribunal to make rules for the conduct of its business, and thereunder, through sections 29 and 30 of the Appeal Tribunal's *Rules of Procedure*.

1.1 Issue

[3] Can the Appeal Tribunal order the production of monthly financial statements at the request of a Council member or otherwise order the production of a staff member's job description?

1.2 Submissions

[4] In his appeal form, Jack wrote:

I feel I am entitled to this [monthly financial statements] for the reason that it is in their job descriptions regardless if quorum of council does not support this. How can I do my role as a councilor if I am not given financial statements of areas of budget items that come into council chambers for approval.

[5] The Appeal Tribunal wrote to Jack and BLMS Council on July 10, 2017, notifying them that jurisdiction is in issue and requesting written submission from each party. Neither party provided any additional submissions concerning the Appeal Tribunal's jurisdiction over the matter.

1.4 Analysis/Reasons

[6] As set out in section 189 of the *Metis Settlements Act*, the Appeal Tribunal is responsible for hearing appeals and references and performing any function given to it under the *Metis Settlements Act*, or other provincial statutes, Metis Settlements General Council (MSGC) Policies, Ministerial regulations, local settlement bylaws or when all the parties to a dispute agree in writing that the Appeal Tribunal decide the matter. Put another way, without an appeal provision—the requirements of which, including appeal deadlines which must be met—or, alternatively, that all the parties agree in writing that the Appeal Tribunal decide the matter, there can be no appeal.

[7] If there is a provision in any provincial statute, MSGC Policy, Ministerial regulation, or settlement bylaw that allows a member of a settlement council to appeal the non-production of monthly financial statements or staff job descriptions, we cannot find it. Nor did Jack point out any such section to this Panel; and neither have the parties agreed in writing that the Appeal Tribunal decide the matter. Without a clear appeal mechanism, or the consent of the parties for the Appeal Tribunal to decide the matter in the alternative, there can be no appeal.

[8] Before leaving this matter, though, the Appeal Tribunal will offer some suggestions under its overriding mandate found under section 187.1 of the *Metis Settlements Act*. Section 187.1 reads that “*The Appeal Tribunal shall exercise its powers and carry out duties with a view to preserving and enhancing Metis culture and identity and furthering the attainment of self-governance by Metis settlements under the laws of Alberta.*”

[9] As a matter of governance, and good governance at that, there can be no doubt that timely disclosure and review of financial statements is critical to local decision-making and accountability. In this regard, the Appeal Tribunal encourages Jack to work with his colleagues to develop local governance frameworks, either by way of bylaw or council resolutions that promote transparency, accountability and good planning.

[10] With respect to accessing information about the CCSM’s job description, if the BLMS Administrator refuses any subsequent request for the CCSM’s job description, Jack may consider utilizing the *Alberta Freedom of Information and Privacy (FOIP) Act* to request the job description. Under FOIP, any person has a right of access to any record in the custody or under the control of a public body, which includes the Metis Settlements of Alberta.

3.0 Decision

[11] Jack Boucher’s appeal is dismissed.

Dated in the City of Edmonton, in the Province of Alberta on this 28th day of September, 2017.



