

COURT OF QUEEN’S BENCH OF MANITOBA

B E T W E E N:

JIM BELL,

Counsel:

applicant,) KATHLEEN A. MCCANDLESS

) DANIEL CHORNOPYSKI

- and -

) for the applicant

)

CIVIL AIR SEARCH AND RESCUE ASSOCIATION)

GORDON A. MCKINNON

and CIVIL AIR SEARCH AND RESCUE)

SARAH S. R. THOMSON

ASSOCIATION OF MANITOBA INC.,)

for the respondents

)

respondents.) JUDGMENT DELIVERED:

) June 26, 2017

LANCHBERY J.

INTRODUCTION

[1] Since the beginning of time, people have congregated in groups. First, it was out of necessity. Today, it is to enhance the day-to-day experiences of everyday life. These people are commonly referred to as volunteers. Religious groups, political groups, arts groups, sports clubs and social clubs rely upon like-minded people in order to function.

[2] A potential volunteer may be approached with a question, “Would you like to volunteer this year?” With a sense of community spirit, individuals typically

say "yes". Each individual requested to join a group is somehow assumed to possess the skills that add value to the overall success of the group.

[3] Most groups, in order to manage themselves effectively, elect a leadership group. This smaller group is often referred to as the "board of directors". The board is responsible to manage the day-to-day operations of the group. The board itself is comprised of volunteers. Depending on the nature of the activity, the board may be assisted by professional staff.

[4] The altruism of the volunteer soon comes in contact with the rules, regulations and procedures of the group, which often confound, befuddle and delude the volunteer. It is little wonder that one of the larger themes in today's volunteer organizations is the recruitment and **retention** of volunteers.

[5] The members of a volunteer organization frequently contest the authority and actions of the board. Organizations more often assume the appearance of competing tribes in William Golding's *Lord of the Flies*.

[6] The law, other than in a very narrow set of circumstances, considers the group to be an independent body capable of establishing and maintaining its own rules, regulations and procedures. As such, the decisions made by the group or its board are rarely subject to judicial review.

[7] There are good reasons for this approach. There are thousands upon thousands of volunteer groups across the country. For the courts to act as the policing body for every volunteer organization is logistically impossible.

FACTS

[8] Jim Bell ("Bell") filed an application for judicial review of the actions of the Civil Air Search and Rescue Association ("Canada"), known as CASARA. This is a national organization with its head office located in Winnipeg, Manitoba. Canada's membership is comprised of provincial and/or territorial associations. Bell was a member of the Civil Air Search and Rescue Association of Manitoba Inc. ("Manitoba"). Manitoba's head office is also located in Winnipeg. Bell's membership in Canada and Manitoba was suspended and eventually revoked by a series of decisions that are outlined in this decision.

[9] The question before me is whether or not the actions of Canada and/or Manitoba, which are typically not subject to judicial review, fall within one of the narrow circumstances where the judicial relief sought is available. If judicial relief is not available under that narrow set of circumstances, is this a case where the rules of natural justice have been violated such that judicial review is required.

CHRONOLOGY OF EVENTS

- a) On March 13, 2010, Bell invoiced Manitoba for meal expenses totalling \$663.33, of which \$136.08 he claimed to be his personal expenses.
- b) Bell had the server amend his personal bill so as not to reflect liquor charges he incurred on behalf of the group in the amount of \$60.08. Alcohol is not authorized as a claimable expense.

- c) On May 1, 2010, Bell attended a meeting of Manitoba's Board of Directors (the "Board"). The Board resolved that in addition to repaying the improperly invoiced amount, Bell would be ineligible to serve on the Manitoba Board and would lose his right of final approval for any expense claims for Zone 1 until 2012.
- d) At the January 8, 2011 meeting, the Manitoba Board discussed Bell's failure to reimburse the \$60.08 liquor expense.
- e) Sometime later, as a result of Bell's failure to reimburse Manitoba, a complaint was received from Valerie Uffelman, Zone 3 Commander/CASARAMAN Director (the "Uffelman complaint"), highlighting Bell's improper expense claim of March 13, 2010, as well as conduct by Bell that Uffelman described as intimidating behaviour.
- f) Upon receipt of the Uffelman complaint, Manitoba determined that Canada be requested to investigate Bell's conduct.
- g) Canada's investigation confirmed that Bell had not repaid the \$60.08 to Manitoba. Canada's investigation disclosed that Manitoba members were concerned about Bell's behaviour that had been described as bullying and caustic. The individuals interviewed wished to remain anonymous as they were concerned about Bell seeking retribution. During the investigation, concerns were also expressed that Bell was maintaining an independent record for

Zone 1 as well as his own training program that was contrary to the best interests of Manitoba.

- h) On March 12, 2011, Richard Colvin, a member of Canada ("Colvin"), telephoned Bell and advised him that the \$60.08 was still outstanding. Colvin advised Bell that if he repaid the monies Manitoba would consider this matter to be at an end.
- i) Colvin failed to advise Bell that Canada had set up a review committee as authorized by its by-law and its investigation would continue even if repayment occurred.
- j) On June 4, 2011, Canada rescinded Policy Number A-170 that set forth the dispute resolution and disciplinary procedures.
- k) On June 5, 2011, Bell met with the Canada's investigation committee where the issues identified herein were discussed.
- l) On September 19, 2011, Colvin emailed Bell advising that the review committee requested that he attend a further meeting on October 13, 2011. Bell expressed his concerns, including his right to confront his accusers and to have counsel present.
- m) On October 11, 2011, Bell met with the review committee. He was accompanied by three supporters, but without legal counsel. At this meeting, Bell was advised that Bill Karras ("Karras") was replacing him as the Zone 1 commander. Bell was further advised that he would not be permitted to participate in Zone 1 activities.

- n) On October 17, 2011, Canada issued Directive #1 requiring that Bell stand down as a pilot and a Zone 1 training officer. Bell's participation in Manitoba activities was also restricted for a period of two years ending on October 17, 2013 and at that time his participation as an active member was subject to the approval of Canada.
- o) On October 18, 2011, Bell emailed Karras withdrawing from Zone 1 as a pilot, navigator, newsletter editor and CMS administrator.
- p) On October 22, 2011, Bell requested that Manitoba file an appeal of Directive #1 with Canada as only provincial/territorial organizations were permitted to file an appeal. Manitoba filed an appeal of Directive #1 and directed that implementation of Directive #1 be held in abeyance pending the appeal.
- q) On October 28, 2011, Canada advised that notwithstanding the filed appeal, Directive #1 shall be fully implemented by Manitoba.
- r) Shortly following the issuance of Directive #1, Bell retained counsel. His counsel expressed concerns about Bell being unable to confront his accusers. On January 4, 2012, Bell's counsel filed a written brief on Bell's behalf with Canada.
- s) On January 28, 2012, Bell attended a Manitoba Board meeting. Manitoba considered the attendance at this meeting a violation of

Directive #1. Board members expressed a concern that the appeal was being hijacked by Bell.

- t) On February 20, 2012, Colvin advised Bell's counsel of Bell's attendance at the January 28, 2012 meeting and considered Bell's actions an attempt to circumvent the appeal process.
- u) On May 23, 2012, Canada issued an amended Directive #1 to clarify its intent. Paragraph 8 of the amended Directive reads as follows:

Jim Bell will immediately stand down from all management and operational duties associated with Casara MB or the Winnipeg Zone (Zone 1) and is to relinquish all duties as a Casara pilot and all duties of the Zone 1 Training Officer. Jim Bell shall not participate in any management or operational duties, taskings or activities of Casara Zone 1 activity for a period of 2 years ending 1 June 2014. Casara activities shall include all activities relating to any Casara undertaking including Zone 1 meetings, planning sessions or exercises. Jim Bell will return all Casara owned equipment and material to the Zone commander Bill Karras. Jim Bell will also provide Bill Karras with the latest information relating to Zone 1 members contained on his personal web site commonly referred to as Jim Bell's CMS. If the email address known as casaramember@live.ca is owned or controlled by Jim Bell, Jim Bell is to close the address down.

After 1 June 2014 should Jim Bell wish to assume a management position with Casara MB, his application shall be subject to the approval of the CASARA NATIONAL EXECUTIVE.

- v) Manitoba, on its own initiative, determined that the clarification issue by Canada was sufficient to address the contents of its appeal concerns and withdrew its appeal filed on Bell's behalf without any consultation with Bell.

- w) On May 25, 2012, Manitoba advised Bell's legal counsel of its decision to withdraw the appeal. Manitoba advised Bell's counsel that the review committee wanted to meet with Bell and his legal counsel during the weekend of June 1, 2012.
- x) This meeting occurred on June 2, 2012. Manitoba, in the days following this meeting, met and considered the matters before it. Bell's suspension was extended to June 1, 2015.
- y) In the months that followed, Bell launched a personal appeal to Canada, and he and his supporters began an active campaign to involve the RCAF and the minister responsible for funding. Bell also filed access to information requests. He also contacted the employer of the Manitoba president.
- z) On March 18, 2013, Canada issued a directive to Manitoba to hold Bell's 2013/2014 membership renewal application in abeyance.
- aa) On March 15, 2014, Bell tendered his 2014/15 membership fee to Manitoba. On May 6, 2015, Canada notified Bell that it had rejected his application for membership in Manitoba for the 2014/2015 membership year and for any years subsequent to 2014/2015.

RELIEF SOUGHT

[10] Bell filed an application for the following relief:

- a) A declaration that Canada committed errors of law and exceeded its jurisdiction by issuing directives causing the suspension of his membership in Manitoba and rejecting his applications for reinstatement.
- b) A declaration that Manitoba committed errors of law and exceeded its jurisdiction by carrying out the suspensions and rejection of his membership in Manitoba and withdrawing its appeal of his suspensions.
- c) An order of *certiorari* if private law remedies would have the effect similar to *certiorari* quashing his suspension.
- d) A declaration that the suspension of his membership in Manitoba is invalid.
- e) A declaration that his membership in Manitoba, and the rights and privileges associated therewith should be restored in full and that he is entitled to participate fully in Canada and Manitoba activities.
- f) A stay of suspension, and a reinstatement of his membership pending the hearing of this application.

PARTIES' POSITIONS ON JUDICIAL REVIEW

[11] The application briefs filed by the parties posed a number of questions to be answered in the course of this judicial review. For ease, I have set forth each party's position below each question.

- 1) Is judicial review available to Bell?
- 2) In the event the judicial review is not available, are the decisions of Canada and Manitoba nonetheless reviewable?
- 3) Did Canada and Manitoba fail to comply with the principles of natural justice and the duty of procedural fairness, which resulted in Bell's suspension?

[12] Counsel proposed that the review be divided into the following questions:

- 1) Did Canada and Manitoba follow their rules?
- 2) Did Canada and Manitoba abide by the rules of natural justice, including the question of proper notice?
- 3) Was Bell afforded an opportunity to be heard?

AVAILABILITY OF JUDICIAL REVIEW

[13] The position of Bell is that judicial review is available and cites the following cases in support of that position: ***Ferguson v. Canadian Counselling Association***, 2007 NBQB 46, 315 N.B.R. (2d) 115 ("***Ferguson***") and ***Akhtar v. Canadian Board for Certification of Prosthetists and Orthotists***, 2015 MBQB 46, 317 Man.R (2d) 1 ("***Akhtar***").

[14] Canada and Manitoba argue that the *Ferguson* and *Akhtar* cases are distinguishable as these are about professional organizations providing public services, being counselling and prosthetics. The ability to provide a service only if registered or certified is not present in this case. Each party acknowledged the federal government provided financial assistance through the Department of National Defence. Bell argues that by receiving public funds, Canada's and Manitoba's actions are subject to review. Manitoba and Canada argue that the funds received are reimbursement only for expenses incurred during civil aviation and rescue activities.

ARE THE DECISIONS OF CANADA AND MANITOBA REVIEWABLE BY THE COURT?

[15] *Lakeside Colony of Hutterian Brethren v. Hofer*, [1992] 3 S.C.R. 165 ("*Lakeside*"), is the leading case on the court's jurisdiction to review decisions made by private organizations. Both parties relied upon this decision.

[16] Gonthier J., at paragraph 9, wrote that the question to be answered is:

[W]hether [the rights at stake] . . . is of sufficient importance to deserve the intervention of the court and whether the remedy sought is susceptible of enforcement by the court.

[17] At paragraph 10 he states:

It is not incumbent for the court to review the merits of the decision to expel. It is, however, called upon to determine whether the purported expulsion was carried out according to the applicable rules, with regard to Bell submitted the following cases in support of his position: *Lakeside Colony of Hutterian Brethren v. Hofer, supra*, - Property and Civil Rights at Stake; *Woloshyn v. Assn. of United Ukrainian Canadians*, 2013 ABQB 262 – property and civil rights; *Struchen v. Burrard Yacht Club*, 2008 BCCA 271 – loss of use of boat moorage; and *Schenk v. Bayshore Village Association*, [2001] O.J. No. 3860 (S.C.J.) - property interest in the docks.

[18] The position of all parties is that in a voluntary organization where rights are at issue, the question to be examined from an objective point of view is whether those rights are of sufficient importance and whether or not the individual has been deprived of an important element of their social and family life.

[19] Canada and Manitoba relied on directions found in *St-Coeur v. Conseil Récréatif de Bois Blanc Inc.*, 2010 NBCA 61, 363 N.B.R. (2d) 206, that a court should involve themselves in the rarest of circumstances only. It distinguished the cases cited by Bell as those cases involved civil rights, property rights or quasi property rights, which are not present in this case.

DID CANADA AND MANITOBA FAIL TO COMPLY WITH THE PRINCIPLES OF NATURAL JUSTICE AND PROCEDURAL FAIRNESS WHEN BELL'S MEMBERSHIP WAS SUSPENDED?

[20] Bell argued that as Canada and Manitoba failed to provide him with procedural fairness, a court is not required to establish the appropriate standard of review as the lack of procedural fairness is an error in law. See **2127423** *Manitoba Ltd. (c.o.b. as London Limos) v. Unicity Taxi Ltd.*, 2012 MBCA 75, 280 Man.R. (2d) 292 (paragraph 11) and *Mission Institution v. Khela*, 2014 SCC 24, [2014] 1 S.C.R. 502 (paragraphs 79-80).

[21] Bell argued that the proceedings undertaken by Canada and Manitoba were deficient as:

- a) he was not provided notice of the investigation;

- b) the nature of the complaints against him were never fully disclosed nor was he given the opportunity to respond to those complaints;
- c) he lacked the knowledge of the person or persons who levied the allegations against him;
- d) he was not afforded the opportunity to present his case to the decision maker in person; and
- e) the tribunal assembled by Canada was biased.

Bell argued that ***Baker v. Canada (Minister of Citizenship and Immigration)***, [1999] 2 S.C.R. 817; ***Gymnopoulos v. Ontario Assn. of Basketball Officials***, 2016 ONSC 1525; ***Mayan v. World Professional Chuckwagon Association***, 2011 ABQB 140, 52 Alta. L.R. (5th) 266; and ***Kane v. University of British Columbia***, [1980] 1 S.C.R. 1105, are applicable.

[22] Canada and Manitoba submitted that it followed the rules of natural justice. It acknowledged that the letter of its by-laws may not have been followed. However, the spirit of its by-laws was followed as Bell was granted two appeal hearings. Canada and Manitoba argued that the appeal procedures employed by Canada and Manitoba afforded Bell greater protections than what was provided for under its rescinded Policy Number A-170. Therefore, Canada and Manitoba did not breach the rules of natural justice.

ANALYSIS

[23] The cases cited by counsel in support of its position are fact specific. The facts underlying the termination of Bell's membership by Canada and Manitoba

are complicated. I have turned my mind to the directions of Gonthier J. that I am not to undertake a review of the facts upon which Manitoba and Canada made the various decisions, but determine whether the procedures of Canada and Manitoba were followed in arriving at their decision.

[24] I take notice of the events between March 2010 and June 4, 2011, when the ethics by-law was revoked by Canada. In the months that followed and without an ethics by-law, Canada directed that Manitoba take the following actions:

- 1) On October 17, 2011, Canada issued a directive which directed that Bell's membership was suspended for a period of two years commencing October 17, 2011.
- 2) Manitoba issued its own directive ordering that Bell's suspension be held in abeyance pending Manitoba's appeal of the initial directive.
- 3) Canada in response overrode Manitoba's directive and re-instated the suspension that had been issued on October 17, 2011.
- 4) On May 25, 2012, an amendment of the previous directive was issued clarifying that Bell's membership in Manitoba had not been suspended from all activities, only that his ability to perform management and operational positions were suspended. The amendment also stated that as Bell had failed to comply with the previous directive, his current suspension was extended to June 1, 2013.

- 5) On July 9, 2012, Manitoba extended the date of suspension until June 1, 2014, although all prior suspensions had been issued by Canada.
- 6) On March 18, 2013, Canada issued another directive to Manitoba directing that Bell's 2013/2014 application for membership be held in abeyance.
- 7) On June 24, 2014, Canada issued a directive that for 2014/2015 and years beyond that if Bell applied for membership, it was to be held in abeyance until Manitoba consulted with Canada whether his application should be accepted or rejected.
- 8) On May 6, 2015, Canada notified Bell that it had rejected his application for membership in Manitoba for the 2014/2015 membership year and for any years subsequent to 2014/2015.

[25] In applying *Lakeside, supra*, I must determine whether or not Canada and Manitoba followed its own by-laws and policies.

[26] As noted above, all of the actions taken against Bell, other than Manitoba's action of July 9, 2012, were taken by Canada.

[27] Policy Number A-170 dated May 15, 2010, specifically Articles 5 – 9, set forth the Dispute Resolution Procedure and Disciplinary Procedures that shall be employed by Canada.

[28] This policy was in effect when the Uffelman complaint was received, and Canada began its investigation in March of 2011.

[29] Canada complied with the provisions of Policy Number A-170 when the investigation commenced.

[30] However, on June 4, 2011, one day prior to Bell's initial face-to-face meeting, Policy Number A-170 was revoked. Counsel for Canada and Manitoba, when questioned as to why this policy was revoked, offered that this policy was too onerous for a volunteer organization to follow. Although counsel may have offered this answer, the Colvin affidavit sworn October 15, 2014, does not state any reason for the revocation of Policy Number A-170.

[31] I am troubled that a volunteer organization would pass an ethics policy, dispute resolution procedure and disciplinary procedures by which that organization would operate and then when faced with the Uffelman complaint, would decide that there was no need for the very policy which addressed dispute resolution and discipline. If anything, this was the very time that the dispute resolution procedure and disciplinary procedure was needed.

[32] The argument advanced by counsel may have been effective if the policy had been amended to address procedural concerns. However, by revoking the policy, Canada effectively denied its member, Bell, an appeal process. This is confirmed by the statement of counsel for Canada and Manitoba that it did not follow its procedure, but provided Bell with a better appeal process.

[33] At every turn, Canada's and Manitoba's actions had the effect of frustrating Bell.

[34] It is obvious that Bell disliked Manitoba and Canada. The emails, letters and comments in the filed material are illustrative of this point.

[35] On the other hand, it is equally clear that Canada and Manitoba desired to rid themselves of Bell and his supporters. What began as a \$60.08 expense claim dispute quickly evolved into claims of Bell being a bully and that his attitude made other members uncomfortable. To say that matters spiraled out of control would be an understatement.

[36] As an example, one of the reasons for Bell's suspension by Canada and Manitoba was that he was using the Canada and Manitoba computer system to sell memberships. I find this to be a petty concern. If Bell sold memberships to new individuals that desired to further the goals of Manitoba, and by extension Canada, this could only have added value to Manitoba and Canada. The workload of the volunteers would have been shared by a growing number of like-minded individuals.

[37] The real concern was that if Bell sold memberships to people who may hold similar ideas, Bell might have been able to control the organization through the democratic process. This is what was at the heart of his accessing the computer database.

[38] On the other hand, Bell did not need access to Manitoba's computer system to sell memberships. He just needed to enlist new members. He could also have convinced Manitoba's current members of his leadership abilities using the democratic process.

[39] Bell had been a Manitoba member since 1995. There is nothing to indicate that he failed to comply with the expense claim policy prior to 2010. His decision to have a member of the wait staff alter the dinner bill had a deliberate purpose. Bell must have understood that with 23 people in attendance, his actions could never remain confidential.

[40] I find his refusal to pay a trifling sum for over a year to be puzzling. The argument that he was unaware of the amount is ludicrous. He had agreed to repay the money and could have asked the precise total. His refusal can only be described as a deliberate action to ignore the decision of Manitoba.

[41] Bell ultimately resigned as a member of Manitoba Zone 1. He was aware of the restrictions that were in place. He was pursuing an appeal of these matters. However, Bell deliberately went out of his way to harass Manitoba and Canada in the years that followed. He attended a Manitoba Board meeting that he was not entitled to attend. He enlisted friends to join him in these actions.

[42] Bell filed access to information requests with the federal government, which caused Canada and Manitoba to expend sums of money to ensure that its information held as a not for profit volunteer organization would remain confidential. These actions were not in the best interests of Manitoba and Canada.

[43] Bell wrote to a cabinet minister with the sole purpose of disrupting Canada and Manitoba. The reasonable conclusion is that his intended goal was to affect Manitoba's and Canada's funding.

[44] Bell also sought to discredit a board member by writing a letter to that member's employer. The employer had no ability to control the actions of Canada and Manitoba. The only conclusion is that Bell wanted to create problems for the board member. It is beyond the pale that a volunteer would attack another volunteer by writing his employer.

[45] I find that this does not equate to a person who is interested in participating in the day-to-day operations of Manitoba and Canada. These actions could never be considered consistent with promoting the goals of Manitoba and Canada.

[46] However, the fault in this saga cannot only be laid at the feet of Bell. Manitoba ignored the fact that Bell had not repaid the \$60.08 for almost a year. Manitoba had many opportunities where it could have withheld this amount from any subsequent expense claims. Manitoba could have written to him requesting payment.

[47] Bell, in how he approached his dispute with Canada and Manitoba after his membership was initially suspended, acted with *mala fides*. The effect of his actions provided confirmatory evidence to the very people responsible for any decision to grant him an appeal and revoke his suspension.

[48] So returning to ***Lakeside***, *supra*, and Gonthier J.'s statement in paragraph 10:

It is not incumbent for the court to review the merits of the decision to expel. It is, however, called upon to determine whether the purported expulsion was carried out according to the applicable rules, with regard to the principles of natural justice, and without *mala fides*.

[49] Canada and Manitoba did not provide Bell with a hearing in accordance with Policy Number A-170. He was prohibited from volunteering as a pilot. Bell's piloting skill was the reason why he joined in the first place.

[50] Bell was also suspended from all management activities. If he could not be a pilot and he could not participate in management, there were very few, if any, volunteer activities remaining for Bell.

[51] Notwithstanding the amended Directive #1 issued on May 23, 2012, Bell effectively was expelled after October 22, 2011.

[52] Any decision taken by Canada and Manitoba after June 4, 2011 cannot be permitted to stand. These actions can only be considered in bad faith or with *mala fides*.

[53] Bell was left without a viable appeal avenue to effectively answer the allegations made as to his conduct. Counsel argues that Bell's 75-page written presentation proves that he was granted an opportunity. However, the process did not take place in accordance with Policy Number A-170. The volume of the material is irrelevant if the process is flawed.

[54] Any dispute resolution procedure, disciplinary procedure or appeal process undertaken by Canada and Manitoba, occurred without the benefit of the membership rights that existed at the time of the filing of the initial complaint. Looking only in hindsight, there is no way of knowing with any certainty what the outcome of the process may have been if Policy Number A-170 had been followed in a timely manner.

[55] By revoking Policy Number A-170 on June 4, 2011, Canada and Manitoba did not carry out the suspension in accordance with its own policy. I find that the original two-year suspension followed by a series of extensions, and the ultimate revocation, all done without the benefit of Policy Number A-170, Canada and Manitoba constructively expelled Bell.

[56] Turning to the principles of natural justice, Gonthier J. in *Lakeside*, *supra*, states at paragraph 79:

The content of the principles of natural justice is flexible and depends on the circumstances in which the question arises. However, the most basic requirements are that of notice, opportunity to make representations and an unbiased tribunal.

[57] Once Canada revoked Policy Number A-170, it was impossible for Bell to appear in front of an unbiased tribunal. The members would be the very people who caused Policy Number A-170 to be revoked. The revocation taints any decision made by Canada and Manitoba. Therefore, the argument that Bell was afforded enhanced member's rights is unsustainable.

[58] The old adage that justice delayed is justice denied. If Canada and Manitoba had followed Policy Number A-170, Bell's fate would have been known in a matter of months, not years. This delay is not in keeping with the procedural protections granted under the rules of natural justice.

[59] The process commenced under Policy Number A-170. The revocation of this policy mid investigation can only be considered a breach of the rules of natural justice. What Canada and Manitoba purported to accomplish after

June 4, 2011 could not be corrected. Once revocation occurred, Canada and Manitoba sealed their respective fates as it pertained to Bell.

[60] This case, from an objective point of view, is of sufficient importance as Bell was deprived of an important element of his social and family life. Bell has been a volunteer since 1995. Air rescue provides an important service to Canadians. Canada and Manitoba receive funding from the Department of National Defence to provide this valuable service. Without volunteers, the service would be diminished if not severely compromised. The Boards of Canada and Manitoba have increased responsibilities that set them apart from the boards of other volunteer organizations. Therefore, this is one of those rare cases where judicial review is warranted.

[61] I find that the standard of review, whether it be reasonableness or correctness, that judicial review is available to Bell. Applying **2127423 Manitoba Ltd. (c.o.b. as London Limos) v. Unicity Taxi Ltd.**, *supra*, and **Mission Institution v. Khela**, *supra*, Canada's and Manitoba's failure to follow Policy Number A-170 is *prima facie* error. It is unnecessary to deal with the standard of review as any decision taken by a volunteer organization that terminates the policy for dispute resolution procedures in the middle of a ongoing dispute resolution, can never be correct or reasonable.

[62] Therefore, I find the actions taken by Canada and Manitoba violated the rules of natural justice when it failed to provide Bell with an investigation and appeal in accordance with Policy Number A-170.

[63] In the law of equity, there is the concept of clean hands. A party that seeks relief from another party should be an innocent actor. You should not be rewarded for your poor behaviour. All parties to this action demonstrated some degree of *mala fides*. There is more than enough blame to go around.

[64] Should either party be granted any form of relief? This is especially true for volunteer organizations where relief should be granted in “the rarest of circumstances” as set forth in *St-Coeur v. Conseil Récréatif de Bois Blanc Inc., supra*.

[65] I find that the courts are not an appropriate venue to resolve what amounts to internal personality conflicts inside a volunteer organization. The very nature of human interaction contemplates the existence of some level of conflict. The organization should be responsible for resolving its own problems.

[66] However, Canada and Manitoba by failing to comply with its own by-laws on a question of membership makes this one of those “rarest of circumstances”. The rights put in place by Manitoba and Canada under Policy Number A-170 are not to be applied to some of its members, but to **ALL** of its members. This includes Bell, no matter how disagreeable Canada and Manitoba found his actions to be.

[67] Volunteer organizations must be held to account when they deny its members the protections contained in its foundational documents. That is a breach of the foundational principles upon which Canada and Manitoba were founded. Anything that followed the revocation was a breach of procedural

fairness, and therefore the rules of natural justice. Bell, as with any volunteer, deserves better treatment by organizations that grant them membership.

[68] If a volunteer organization is not required to follow its own rules, or if it can change the rules midstream, chaos ensues. This type of action cannot be condoned.

[69] Therefore, in reviewing the actions of Canada and Manitoba, I find that there was a violation of the rules of natural justice. I order the following:

- a) That no later than December 31, 2017, no matter when this order is taken out, Canada shall conduct an investigation in accordance with Policy Number A-170.
- b) In the event that Bell wishes to appeal any decision reached by the investigation committee, he shall be permitted to appeal to an unbiased tribunal formed in accordance with Justice Gonthier's statement in *Lakeside, supra*. The decision of this unbiased tribunal shall be considered final and binding.
- c) In the event that Canada fails to take any action within the time frame stipulated, Bell, upon payment of the applicable fee, shall be reinstated as a full member of Manitoba.
- d) Bell shall be entitled to let his name stand for any elected office.
- e) Bell shall only be entitled to hold any management position, in the event that he is elected or appointed to that position, in accordance with Manitoba's and/or Canada's foundational documents.

[70] These actions restore Bell's membership to the status he enjoyed prior to the issuance of the October 17, 2011 Directive #1. Bell's decision to withdraw from Zone 1 activities was not a subject of any appeal launched as a result of the issuance of Directive #1.

[71] The timelines imposed are to effectively create deadlines to resolve a dispute that has lasted over seven years. Finally, in what shall be considered *obiter* Bell, Canada and Manitoba should consider how the relationship can work in the days ahead. I believe there may be a way forward without further investigations or appeals.

COSTS

[72] Although Bell has been successful in this judicial review, each party acted in bad faith. What should have been a straightforward appeal into the allegations, ended with politics of personal destruction. This cannot be condoned. Therefore, in exercising my discretion, each party shall bear their own costs.

_____ J.