

**The Labour Relations Board
Saskatchewan**

**JEREMIE MARTEL, Applicant v. CHRISTIAN LABOUR ASSOCIATION OF CANADA,
LOCAL 151, Respondent**

LRB File No. 185-02; September 12, 2003

Vice-Chairperson, Wally Matkowski; Members: Don Bell and Donna Ottenson

The Applicant: Jeremie Martel

For the Respondent: Kevin Kohut

**Duty of fair representation – Scope of duty - Duty of fair
representation application filed naming uncertified association as
respondent – Board finds that s. 25.1 of *The Trade Union Act* only
applies to certified trade unions – Board has no jurisdiction to deal
with application – Board dismisses application.**

***The Trade Union Act*, s. 25.1.**

REASONS FOR DECISION

Background:

[1] Jeremie Martel (the “Applicant”) filed an unfair labour practice application alleging that the Construction Workers Association, Local 151, affiliated with Christian Labour Association of Canada, (the “Association”) violated s. 25.1 of *The Trade Union Act*, R.S.S. 1978, c. T-17 (the “Act”) by failing to represent him fairly and reasonably by advancing a grievance following his employment being terminated on May 8, 2002 by Pyramid Corporation (the “Employer”).

[2] The International Brotherhood of Electrical Workers, Local 2038 (“I.B.E.W.”) was provided with notice of the hearing because the Applicant, in his materials, listed himself as an “electrician’s helper.” The solicitor for I.B.E.W. responded in writing to the Board, advising the Board that I.B.E.W.’s position was that the Association was not certified to represent any employees in Saskatchewan and, for that matter, could not be certified to represent electrical workers in construction in Saskatchewan. I.B.E.W. would not be seeking status as an interested party in this application but would observe the proceedings.

[3] At the start of the hearing, the Board raised the question as to whether or not it even had jurisdiction to entertain this application. Mr. Kohut, on behalf of the Association,

acknowledged that the Association was not certified to represent any employees in Saskatchewan. He informed the Board that the Association is recognized in Alberta but has not yet been recognized in Saskatchewan.

[4] The Board advised the parties that it would initially decide the jurisdictional issue, and provided Mr. Kohut and the Applicant with the opportunity to file written materials in that regard. Neither party filed any written materials before the Board.

Relevant statutory provision:

[5] Section 25.1 of the *Act* provides:

25.1 Every employee has the right to be fairly represented in grievance or rights arbitration proceedings under a collective bargaining agreement by the trade union certified to represent his bargaining unit in a manner that is not arbitrary, discriminatory or in bad faith.

Analysis:

[6] The Board has no jurisdiction to deal with this application. The Association is not certified to represent any employees in Saskatchewan. The Board concurs with the position of I.B.E.W. that s. 25.1 covers certified trade unions. Given that the Association is not certified to represent any employees in Saskatchewan, s. 25.1 cannot apply to it, even though Mr. Kohut asked the Board to apply s. 25.1 to the Association and to hold the Association accountable for its actions.

[7] This application is dismissed.

DATED at Regina, Saskatchewan, this 12th day of **September, 2003.**

LABOUR RELATIONS BOARD

Wally Matkowski,
Vice-Chairperson