

Federal Court



Cour fédérale

Date: 20170209

Docket: T-615-16

Citation: 2017 FC 163

Ottawa, Ontario, February 9, 2017

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

**DARWIN HAMELIN, KEVIN HAMELIN AND
WILMA GOODSWIMMER**

Applicants

And

STURGEON LAKE CREE NATION

Respondent

JUDGMENT AND REASONS

[1] Darwin Hamelin, Kevin Hamelin and Wilma Goodswimmer [the Applicants] challenge decisions by the Sturgeon Lake Cree Nation [SLCN] Election Appeal Committee [Appeal Committee]. Each of the Applicants had appealed to the Appeal Committee regarding the Band election of March 23, 2016 [the election], and were not successful.

[2] The Sturgeon Lake Cree Nation is a “Band” as defined by the *Indian Act*, RSC 1985, c I-5 [*Indian Act*]. Sturgeon Lake Cree Nation is a Treaty 8 nation, located in Northwestern Alberta, approximately 350 km from Edmonton. The Band’s elections are governed under the Customary Election Regulations of Sturgeon Lake Cree Nation [election regulations].

[3] On February 2, 2016, SLCN Chief and Council appointed a non-Band member, Robert Hall as electoral officer for the election. On March 9, 2016, Robert Hall held a nomination meeting at the SLCN community hall for the positions of Chief and Councillor. Under the election regulations, nominations are only accepted at a designated nomination meeting (s. 6.6(a)).

[4] According to section 6.4(a) of the election regulations, eligibility of candidates for the positions of Chief or Councillor require:

- i) that he/she is at least eighteen (18) years of age by Election Day;
- ii) that he/she continuously resided on the Sturgeon Lake Reserve for at least twelve (12) months prior to the date of nomination; and
- iii) that if he/she owes money to the Band, including rent, a repayment plan has been set up three months prior to the Election Day and payments have been maintained continuously.

[5] Of the eighteen nominations received at the nomination meeting, Robert Hall refused two nominees as ineligible due to violations of the election regulations. Kevin Hamelin was refused because Robert Hall believed that at all pertinent times he owed SLCN money. Kevin Hamelin, along with Darwin Hamelin, had previously been elected Council members.

[6] On March 10, 2016, Kevin Hamelin wrote Robert Hall expressing his desire to appeal the decision to refuse his nomination. Robert Hall advised him by email that “After reflection upon your representations, my decision to disqualify and not to accept your nomination stands.” Robert Hall then informed Kevin Hamelin that an appeal should be sent to him in writing within 14 days after the election as per section 12.2(b) of the election regulations.

[7] The Appeal Committee was selected on March 10, 2016, by Chief and Council pursuant to section 12.4 of the election regulations.

[8] The SLCN election was held on March 23, 2016. Jeannine Calliou and Susan Wale were elected to Council along with four other candidates. Darwin Hamelin received four votes less than the last successful candidate. Robert Hall determined there would be no recount.

[9] Kevin Hamelin filed an appeal on April 5, 2016, that was dated March 30, 2016. He appealed his ineligibility as well as the failure of other nominees to meet residency requirements amongst other concerns.

[10] Additional appeals were filed by Darwin Hamelin, Wilma Goodswimmer, and one other person not relevant to these proceedings. Darwin Hamelin and Wilma Goodswimmer appealed multiple alleged voting irregularities. As well they alleged that Jeannine Calliou and Susan Wale were not eligible candidates in the election as they did not continuously reside on the Sturgeon Lake Reserve for at least twelve months prior to the date of nomination. Each candidate had

scrutineers present at the election, one of whom (Denise Chalifoux) raised objections the day after the election in a letter to Robert Hall.

[11] On the same day he filed the appeal (April 5, 2016), Kevin Hamelin was informed that Robert Hall had determined that his appeal would not be heard by the Appeal Committee. He contacted Robert Hall to find out why and a heated discussion took place. Robert Hall indicates he had several calls and emails from Kevin Hamelin leading up to the appeal hearing. As a result of a particularly contentious telephone call, Robert Hall brought a complaint to the RCMP.

[12] A later call was made to Robert Hall by Kevin Hamelin and Robert Hall was informed that the call was on speaker phone with witnesses present as was the case with all of their conversations. Kevin Hamelin's affidavit says the tone of that call changed after his disclosure that the call could be heard and Robert Hall even invited Kevin Hamelin to attend the appeal hearing but as an observer only.

[13] The Appeal Committee under the direction of Robert Hall met by telephone conference on April 8, 2016, to consider the notices of appeal that had been filed. At the conclusion of the meeting, the Appeal Committee decided that only the eligibility of Jeannine Calliou and Susan Wale would be considered at an appeal hearing. Robert Hall told the committee that Kevin Hamelin's appeal would not be heard on any of the issues he raised nor would any of the other issues raised by the other appellants.

[14] An appeal hearing was set and duly convened on April 12, 2016, in Edmonton. Approximately 20 Band members as well as committee members and legal counsel attended the appeal hearing. Before the appeal hearing, an agenda was circulated with the hearing procedure set out and Robert Hall acted as chairman. Robert Hall indicated there were no objections to the agenda as circulated nor were any written submissions presented.

[15] Darwin Hamelin, Wilma Goodswimmer and a third party were each afforded 15 minutes to speak. Replies by Susan Wale and Jeannine Calliou were also allowed 15 minutes each. Two other interested parties gave advance notice of their intent to speak and were provided time but failed to show. Robert Hall's affidavit evidence is that the Appeal Committee voted by secret ballot separately on each appeal after some discussion. The result was that each of the appeals was refused by majority vote and the results posted at the Band office on April 15, 2016, and sent to the appellants.

I. Issues

[16] The Applicants' issues revolve around alleged breaches of procedural fairness of the Appeal Committee including an allegation of Robert Hall's bias or an apprehension of bias.

[17] In this application there are many facts and issues that are raised that are important to the social fabric of the Band members but are not at the core of what needs to be determined. The issues I will address are the allegation that appeals did not go before the Appeal Committee, the procedural fairness of holding the appeal hearing in Edmonton, and the alleged bias surrounding Kevin Hamelin's appeal.

II. The Law

[18] Under Part 5 of the SLCN election regulations, an electoral officer is appointed by Chief and Council by Band Council Resolution [BCR]. The electoral officer's qualifications, term and remuneration are contained in sections 5.1-5.4 of the election regulations with an outline of duties in schedule A (attached as Appendix A to this decision). The electoral officer can be a member of the Band but it is not a requirement. For this election the Band hired a non-Band member – Robert Hall – and his team to conduct the election of Chief and Council pursuant to the election regulations. The electoral officer is not involved in the selection of the Appeal Committee but they chair appeal meetings and have a vote.

[19] Section 12 of the election regulations addresses election appeals. Section 12.1 (reproduced below) sets out the grounds for an appeal while 12.2 and 12.3 address appeal notification requirements. The Appeal Committee itself is governed by 12.4 (reproduced below) with 12.5, 12.6, and 12.7 governing meetings of the Appeal Committee, notice of the appeal meeting, and submissions to the committee respectively. The final two sections (12.8 and 12.9) address decisions of the committee and notification of the decision.

[20] Section 12 of the election regulations under the heading "Election Appeals" states:

12.1 *Grounds for Appeal of Election*

Within fourteen (14) days of and including the Election Day, or in the event a Councillor or Chief is elected by acclamation, with fourteen (14) consecutive days of and including the day of the Nomination Meeting, any Elector may appeal the results of an Election, By-Election or Run-off Election if, on reasonable and probable grounds, they believe:

- a) An error was made in the interpretation or application of the Regulations materially and directly affecting the conduct and outcome of the Nomination Meeting, Election, By-Election or Run-Off Election;
- b) A Candidate did not meet the eligibility requirements set forth in section 6.4 and 6.6 of these Regulations;
- c) A Candidate was guilty of promoting or aiding corrupt Election practises including, but not limited to, bribery, threats and intimidation of Candidates, Electors, the Electoral Officer or Polling Clerk;
- d) A person voted who was not eligible to vote; or
- e) Any other circumstance or event materially and directly affected the conduct and outcome of the Nomination Meeting, Election, By-Election or Run-Off Election.

...

12.4 *Election Appeal Committee ("Committee")*

The Election Appeal Committee:

- a) Shall consist of:
 - i) Two (2) Elders from the First Nation;
 - ii) Two (2) Electors thirty (30) years of age or older but under the age of fifty five (55); and
 - iii) Two (2) Electors eighteen (18) years of age or older but under the age of thirty (30);
- b) Members shall not be part of the immediate family of the person or persons who are the subject of the appeal or who are bringing the appeal or anyone who may be in a conflict of interest, as determined by the remaining members of the committee;
- c) Members who have not been disqualified pursuant to section 12.4(b) shall be responsible for replacing any member who have been disqualified pursuant to section 12.4(b);

III. Analysis

[21] The standard of review for procedural fairness is correctness while the application of the election regulations of the Sturgeon Lake Cree Nation attracts a reasonableness review (*Gladwa v Kehewin First Nation*, 2016 FC 597 at para 17; *Orr v Peerless Trout First Nation*, 2015 FC 1053 at para 44; *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 57 & 62).

Applicants' Arguments

[22] The Applicants allege that Robert Hall was biased and did not act in a fair and equitable way. Specifically, the Applicants argue the following:

- a) That Robert Hall was biased because he decided the appeal of his own decision;
- b) That Robert Hall made decisions alone and without discussion with the Appeal Committee members. He also intimidated and dictated to committee members by describing the financial implications of proceeding any other way than as he wished;
- c) That Robert Hall acted outside the power given to him in the election regulations by unilaterally deciding which appeals would be heard by the Appeal Committee;
- d) That with respect to Kevin Hamelin, the decision became personal and he was not accorded the same procedural fairness as the other appellants;
- e) That having the Appeal Committee sit in Edmonton (some 350 km from Sturgeon Lake Cree Nation) made it unfair as many members could not attend or participate.

[23] Robert Hall filed a lengthy affidavit in these proceedings. He was not cross-examined on the affidavit. Some of his evidence relates to procedural fairness and bias arguments raised by

the Applicants. In the affidavit, Robert Hall sets out that in 2015 he was issued two certificates by Aboriginal and Northern Development Canada for training as an electoral officer under the *Indian Act* and *First Nations Elections Act Regulations*, CRC c 952. He has been recertified as an *Indian Act* electoral officer every two years since 2002. His evidence is that he has served as an electoral officer or deputy officer on average of two or three elections each year between 2002 and 2010. He indicates that he was recognized as a senior electoral officer during recent training. He was appointed by the Sturgeon Lake Cree Nation in a BCR dated February 2, 2016, and was paid as per the proposal in the amount of \$29,600.00. His selected team of polling clerks consisted of Saskatchewan residents: Diane Ahenakew-Boyer; Donna Ahenakew; Lester Lafond and Brian Clark (British Columbia).

[24] Robert Hall's evidence is that his team received 18 nominations for candidates on March 9, 2016, including two nominations for Chief. He excluded two candidates – including Kevin Hamelin – for owing money to the Band contrary to section 6.4(a)(iii) (see paragraph 4 above). Robert Hall made this finding as he had been provided a list by the SLCN Finance Director of Band members that owed money on nomination day and Kevin Hamelin was on the list as owing money.

[25] On April 5, 2016, Robert Hall contacted the Appeal Committee to inform them he had received four notices of appeal. He convened a telephone conference call on April 8, 2016, with the Appeal Committee after providing them copies of the notice of appeals.

[26] Three of the appeal notices were from the Applicants. Kevin Hamelin appealed the decision by Robert Hall refusing his nomination as well as appealing the nomination of people that did not meet the residency requirement in the election regulations. Darwin Hamelin appealed the nomination of Susan Wale on the basis that she did not meet the residency requirements in section 6.4(a)(ii (see paragraph 4 above). As well he appealed on the grounds of the manner in which elections were conducted under the following provisions of the election regulations: 8.5 secret vote; 8.7 manner of vote; 8.8 refusal of permission to vote; 8.9 removal of persons from polling station; 9 counting of votes; and 9.2 void votes. Wilma Goodswimmer appealed the nominations of Susan Wale and Jeannine Calliou alleging that neither met residency requirements as well as appealing how the ballots were counted.

[27] The Applicants advocate that Robert Hall denied them procedural fairness. They submit that Robert Hall unilaterally dismissed Kevin Hamelin's appeal without considering its merits. The Applicants argue that the Appeal Committee, not the electoral officer, is to deal with appeals in accordance with the election regulations. Similarly, the Applicants argue Robert Hall restricted the appeals of Darwin Hamelin and Wilma Goodswimmer to the residency qualifications of Jeannine Calliou and Susan Wale. They submit it should have been the Appeal Committee who made the determinations with respect to all of the grounds in the notices of appeal.

[28] The Respondent's position is that Robert Hall has a duty to know and apply the election regulations. An electoral officer's job, pursuant to section 12.1 (above at paragraph 20) of the election regulations, is to act as a gatekeeper and not let matters proceed which have no

reasonable or probable grounds. Furthermore, Robert Hall made a decision pursuant to section 6.4, based on information he received from the Band's Financial Director. Kevin Hamelin did not deny he owed money to the Band yet challenges his ineligibility nonetheless. Since Robert Hall found that there were no reasonable and probable grounds advanced in the appeal of Kevin Hamelin, it was appropriately dismissed.

[29] The Applicants agree that on the document given to Robert Hall by the Band a debt is listed under Kevin Hamelin's name as being owed to the Band. However, the Applicants argue there is no legal basis for the debt to be owed. Kevin Hamelin's evidence is that the debt was due to an ongoing housing dispute which had not been resolved. He attempted to provide Robert Hall a letter showing he does not owe money which Robert Hall returned to him. But more importantly, Kevin Hamelin was not afforded the opportunity to present this evidence to the Appeal Committee as Robert Hall summarily dismissed his nomination. In this application I make no finding of whether there was a debt owed by Kevin Hamelin.

[30] The Respondent argues that the Appeal Committee is required to refuse Kevin Hamelin's appeal on a preliminary basis due to the express inclusion of the words "reasonable and probable grounds". When asked for authority under the election regulations for an electoral officer to make preliminary unilateral determinations, the Respondent could not provide me with such authority. The Respondent instead suggested that an electoral officer merely needs reasonable and probable grounds that an appeal would not be successful to determine whether an appeal should be put to the Appeal Committee.

[31] In his affidavit, Robert Hall indicates that his role was to streamline appeals and not waste time or money by hearing matters that did not have reasonable and probable grounds. He also states that he brought the appeals to the Appeal Committee's attention during the telephone call of April 8, 2016, where the Appeal Committee decided what grounds would proceed to a hearing in Edmonton.

[32] Robert Hall's evidence was that the Appeal Committee members were given the appeal notices in advance of the telephone call and that the decisions of what would proceed to a hearing were made by unanimous vote. It is Robert Hall's position that it was the Appeal Committee that decided that only the grounds of appeal that met the requirements of section 12.1 of the election regulations were the appeal grounds regarding residency eligibility of Jeannine Calliou and Susan Wale and that none of Kevin Hamelin's appeal would be heard including his ground regarding residency of candidates.

[33] In direct contrast to Robert Hall's evidence, Appeal Committee member, Victoria Sunshine in her affidavit stated that Robert Hall alone decided which appeals would be heard. She described in her affidavit the comments made by Robert Hall of what was a valid ground of appeal. Victoria Sunshine states in her affidavit that "Robert Hall, alone, decided that none of the appeals by Kevin Hamelin would be heard and he told the Election Appeal Committee that that [word repeated] was because "Kevin and himself had an understanding.""

[34] She goes on to describe how Robert Hall told the Appeal Committee that the Band would suffer if they had to pay for an appeal as it would be an unnecessary expense and she was lead to

believe that they would be personally responsible for costing the Band unnecessary money if they voted in favor of any appeal. Her evidence is that the Appeal Committee did not have further discussion in Edmonton regarding the appeals as Robert Hall was in a hurry to return to Saskatchewan. The Appeal Committee was told in his experience that appeals never go anywhere so they are a waste of time and she found this a scare tactic as well as an attempt to influence the outcome of the election appeals. I find that Victoria Sunshine is credible as she had nothing to gain by agreeing to disclose her recollection of the April 8 telephone call or the appeal hearing. I will rely on Victoria Sunshine's evidence when in contrast to Robert Hall's.

[35] I conclude that Robert Hall alone, not the Appeal Committee determined the appeals. My conclusion is further supported by Robert Hall's letters to Kevin Hamelin. In Robert Hall's letter to Kevin Hamelin dated March 17, 2016, Robert Hall described his own decision not to accept Kevin Hamelin's nomination. On April 5, 2016, the same day Kevin Hamelin filed his appeal, Robert Hall produced a "Notice Response to Notice of Appeal of Kevin Hamelin." In that notice Robert Hall stated that section 12.1 "requires reasonable and probable grounds to justify an Appeal hearing and the notice of appeal does not meet the requirements for a hearing." Then on April 8, 2016, after the Appeal Committee phone call Kevin Hamelin received a letter that is identical other than the opening sentence, to the email of April 5, 2016. The identical responses lead me to determine that the decision was already made by Robert Hall before the Appeal Committee meeting and was not a determination by the Appeal Committee.

[36] The election regulations passed by the Band set out the composition of the Appeal Committee. All members of the Appeal Committee are members of the Band except in this case,

the electoral officer who chaired the Appeal Committee. The importance of the Appeal Committee to Band governance cannot be overstated. The Appeal Committee composition being members of the Band makes sense because they know their Band and what is best for their community. They may not have the expertise or experience of the electoral officer which is why the electoral officer provides guidance as chair. It remains for the majority of the Appeal committee which are all band members to make decisions regarding appeals. In his attempt for efficiency, Robert Hall appears to have lost sight that the regulations do not give him the right to unilaterally determine appeals.

[37] I agree with the Respondent that protecting Appeal Committee members from intimidation is important. However, it is not an electoral officer's role, under the SLCN election regulations, to screen which appeals will go to the Appeal Committee and which will not. Nowhere is it written in section 12.1, that an appellant can be screened out based on a lack of reasonable and probable grounds. What the regulations do state is that the appellant themselves must believe they have reasonable and probable grounds. The members of the Appeal Committee determine whether a matter will go to a hearing and set out their own procedure at the hearing (*Therrien (Re)*, 2001 SCC 35 at para 88; *Knight v Indian Head School Division No. 19*, [1990] 1 SCR 653 at page 685).

[38] I find there was a breach of procedural fairness in not having the notices of appeal that were filed determined in whole by the Appeal Committee.

Bias

[39] The Applicants argue that since Robert Hall acted alone in deciding an appeal of his own decision, he created a reasonable apprehension of bias.

[40] The test for a reasonable apprehension of bias was set out in *Committee for Justice & Liberty v Canada (National Energy Board)*, [1978] 1 SCR 369 at paragraphs 40-41 as follows:

What would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude?

[41] The Applicants submit that the refusal of Robert Hall to even put Kevin Hamelin's appeal before the Appeal Committee indicates that Robert Hall's decision was biased. In particular, Robert Hall's bias is made apparent by the fact that other nominees were allowed to stand for election despite not meeting minimum requirements for candidacy – such as residency – whereas Kevin Hamelin was unilaterally denied.

[42] Madam Justice Kane in *Felix v Sturgeon Lake First Nation*, 2014 FC 911, determined an application for judicial review where an appeal tribunal was involved in the disqualification of a candidate running for election of Chief because he owed the Band money from an earlier court order for costs. Justice Kane found a breach of procedural fairness on those facts as there was a reasonable apprehension of bias because the appeal tribunal assisted in disqualifying the applicant to run in the election and then heard the appeal of the disqualification. This case is very similar in that Robert Hall made the determination that Kevin Hamelin was disqualified and then decided the appeal would not be heard.

[43] As I have already determined that the matter will be returned for a breach of procedural fairness, I need not make further comment on the bias issue other than to say that it would seem obvious to most observers that you should not sit in appeal of your own decision. A concern for this Band may be that their election regulations allow the electoral officer to vote in an appeal which may lend itself to possible bias allegations.

Location of Hearing

[44] Finally, the Applicants submitted that by holding the appeal hearing in Edmonton (approximately 350 km away from the First Nation) prevented Band members and witnesses from attending, rendering the appeal process procedurally unfair.

[45] The Respondent argues that the decision to have the meeting in Edmonton rather than on reserve was to avoid intimidation and ensure the Appeal Committee's independence. The Respondent says that this decision was made by majority vote. According to Robert Hall "the EAC hoped to avoid any intimidation or other tactics that would affect the outcome of the meeting, and to ensure the independence of the committee." In his affidavit he indicates he was informed by Council that half of the Band members do not live on reserve but did not elaborate how this supported his position. His evidence is that the Appeal Committee did not attend in 2013 when a hearing was held on the Sturgeon Lake Cree Nation reserve as they "felt intimidated and did not want to take sides."

[46] The following persons were present at the appeal meeting in Edmonton: members of the committee, their legal counsel, the appellants, the two newly elected councillors whose eligibility

was at issue, and 20 SLCN Band members. Some witnesses that had been given the opportunity to speak were notably absent though there was no evidence as to why they did not attend.

[47] The Appeal Committee can set out its own rules and procedure. It is within the power of the Appeal Committee to pick the time and place as well as the structure of the hearing.

Underlying these powers are the fundamentals of natural justice and fairness. It is not for this court to dictate the specifics of the hearing as long as it is still within the perimeters of fairness.

[48] Though I may not agree that the Appeal Committee should hold the meeting almost 350 km away from the First Nation, that is not my role and in this case it was within the range of reasonableness.

[49] Nor do I find any breach of procedural fairness in how the meeting was conducted as the Appeal Committee had set out how it would proceed in advance and set the procedure out in their agenda. We do not know why the witnesses chose not to attend and their failure to attend does in itself render the hearing procedurally unfair.

Hearing on residency

[50] The Applicants argue that the appeals regarding residency were procedurally unfair and the decisions were unreasonable.

[51] As addressed in the reasons already, the court found procedural unfairness for the electoral officer to unilaterally determine whether an appeal had reasonable and probable

grounds. For that reason, I will not determine if the actual decision that was heard by the Appeal Committee regarding the residency of two nominees was reasonable as the appeals will be re-determined.

IV. Conclusion

[52] The application is successful and the decisions regarding the appeals will be re-determined. The court is well aware that this is not an easy or inexpensive process for the Band because Chief and Council that were elected have been in place since March 23, 2016.

[53] This decision is made with a full understanding of the ramifications on the Sturgeon Lake Cree Nation. But this order must be made out of respect for the members that voted in this election and the hope that future governance determinations will proceed as directed in the election regulations.

[54] For all of the above reasons, including fairness to all the parties involved, the Appeal Committee's re-determination needs to proceed as expeditiously as possible.

[55] The Appeal Committee should be the same as was previously constituted otherwise we would be asking the current Chief and Council to form a committee when the appeals are regarding the election from which they were successful. If the previous committee members are no longer able to be on the Appeal Committee they will need to be replaced. Even though this is not the optimal solution for the reasons indicated above, if Appeal Committee members need to

be replaced then the current Chief and Council would have to make these appointments in a fair and transparent way according to the election regulations.

[56] It is for the Appeal Committee to decide the process of how they will determine the appeals. Robert Hall should not be the electoral officer that chairs and votes on the Appeal Committee as to do so would have him sitting in appeal of his own decisions. The Chief and Council may or may not appoint a new electoral officer. If a new electoral officer is appointed they may participate in Appeal Committee decisions pursuant to the regulations.

[57] If none of the appeals are successful, then the election results stand. If the Appeal Committee finds that Kevin Hamelin's appeal is successful then he must be placed on the ballot and a new election held. This will also occur if any of the other appeals are successful regarding residential eligibility of nominees or any of the other grounds in the appeals.

V. Costs

[58] The Respondent sought costs on a substantial basis because of weak supporting evidence that they say "constitutes frivolity". This application was not frivolous and costs will not be awarded on that basis. The Applicants sought costs on a solicitor client basis as the judicial review was brought as a matter of public interest to the Band. This was not a situation where it would be appropriate to award solicitor client costs to the Applicants as the Respondent was fully cooperative and professional. As the Applicants were successful, costs will be awarded in the amount of \$200.00 to each Applicant (total \$600.00) to be paid forthwith by the Respondent.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application is granted with the four appeals previously filed to be determined by the Appeal Committee. The appeals will be heard without electoral officer, Robert Hall's involvement.
2. The current Chief and Council will remain in their positions until the appeals are heard and a decision by the Appeal Committee is made. Depending on the outcome of the appeals, the Appeal Committee will then decide if a new election will be held.
3. Costs are awarded in the amount of \$200.00 to each of the Applicants to be paid forthwith by the Respondent.

"Glennys L. McVeigh"

Judge

Appendix A

Customary Election Regulations of Sturgeon Lake Cree Nation

ELECTORAL OFFICER

5.1 Appointment

- a) At least thirty six (36) days prior to the date set for an Election, an Electoral Officer shall be appointed by a Band Council Resolution.
- b) The Band Council Resolution shall also provide for the appointment of an Alternate Electoral Officer.

5.2 Qualifications

The Electoral Officer shall:

- a) Be over 30 years of age;
- b) Not be an employee of the Sturgeon Lake Cree Nation, First Nation owned Companies or Western Cree Tribal Council;
- c) Not be a member of the Sturgeon Lake Cree Nation or any other First Nation;
- d) Provide a clear Criminal Records Check and Child Welfare Check;
- e) Sign an Oath of Confidentiality; and
- f) Understand these Regulations and be able to administer them.

5.3 Term of Appointment

- a) The Electoral Officer's appointment will commence on the date specified in the Band Council Resolution and continue until six (6) months after the expiry of the Election Appeal period described in section 12 of these Regulations;
- b) Unless otherwise determined by a Band Council Resolution, the Electoral Officer will serve as the Electoral Officer for any Run-off Elections arising from the Election for Councillors or Election for Chief.

5.4 Remuneration

- a) The Band Council Resolution appointing the Electoral Officer shall state the remuneration to be paid to the Electoral Officer as determined by Council, subject to section 5.4(b) of these Regulations.
- b) The remuneration shall be fair and reasonable.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-615-16

STYLE OF CAUSE: DARWIN HAMELIN ET AL v STURGEON LAKE
CREE NATION

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: SEPTEMBER 22, 2016

JUDGMENT AND REASONS: MCVEIGH J.

DATED: FEBRUARY 9, 2017

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