

MANITOBA) Order No. 98/05
)
THE PUBLIC UTILITIES BOARD ACT) July 5, 2005

BEFORE: Graham F. J. Lane, C.A., Chairman
M. Girouard, C.G.A., Member

APPEAL RESPECTING THE DISCONNECTION OF
SERVICE BY CENTRA GAS MANITOBA INC.

Introduction

The Orders of The Public Utilities Board are public documents and to protect the confidentiality of the Appellant's personal history the Board in this Order will not identify such information.

The Public Utilities Board ("the Board") conducted a paper-based hearing on June 23, 2005 from an appeal of a family known as "Appellants" of Centra Gas Manitoba Inc.'s ("Centra") decision to disconnect natural gas service to the Appellant's residence in the City of Winnipeg.

This matter was heard on the basis of correspondence and information submitted by Centra and the Appellant, with the consent of both parties. On June 17, 2005 the Board had written to Centra and the Appellant clarifying the process to be used in this proceeding.

Manitoba Hydro ("Hydro") is the parent company of Centra. Centra's functions and responsibilities are carried out by employees and agents of Hydro; thus, any references to Hydro made herein pertain as well to Centra.

Background

Previously, Centra disconnected service to the Appellant's residence as a result of outstanding arrears on natural gas bills. The Appellant appealed to the Board, and, on December 20, 2004, the Board issued Order 158/04. The Order, amongst other things, required Centra to reconnect service to the Appellant while providing certain requirements that included an energy audit of the Appellant's residence by Hydro.

Subsequently, Centra reconnected service and the Appellant met the requirements established pursuant to Order 158/04. Subsequently, several months later, the Board received a copy of Centra's letter of May 18, 2005 to the Appellant, wherein Centra requested the Appellant make payment arrangements for an outstanding balance of \$2,040.33; in the absence of same, service would again be disconnected.

In the Appellant's response of May 30, 2005 to Centra, the Appellant questioned whether Centra had complied with Board Order 158/04, and claimed that Centra had

incorrectly calculated the outstanding balance. In the response, the Appellant also offered Centra additional payments of \$200/month for the months of June, July, August and September 2005.

The Appellant has also indicated to the Board that Centra has a lien against their residence for an amount of \$1,307.17, as security for the indebtedness.

Based on information provided by the Appellant, the Board further understands the Appellant to:

- a) have limited monthly employment and other income;
- b) be the sole income earner in the family of three;
- c) have no monetary reserves other than savings intended to fund renovations required to increase heating efficiency;
- d) have other debts including property tax and mortgage arrears; and
- e) have significant family responsibilities, with two children living at home.

The Board understands the Appellant's regular monthly net income to be approximately \$1651, including family allowance and other miscellaneous income of \$300/month. The Appellant's monthly mortgage and property tax payment is reported to be \$712; the regular monthly utility bill payments to be \$112 (excluding Centra Gas), and the other monthly fixed obligations to be in the range of \$200. The Board understands that the disposable monthly income available to meet food, clothing, transportation, miscellaneous medical and other payment is approximately \$593, before taking into account the obligations to Centra. The Appellant provided copy of payslips and other information to substantiate income and debts.

Jurisdiction and the Public Interest

Manitoba law restricts the ability of Centra to disconnect gas service during the moratorium period; the period extends from October 1 to May 14 of any year.

Outside the moratorium period, Centra may disconnect service subject to an appeal to the Board, an appeal that the Appellant has exercised.

The Board's mandate concerns the public interest. The public interest extends

beyond what may be considered "consumer interests" to the fiscal health of the utility and equity between customers. It is not in the interests of the other customers to have a customer fail to meet the lawful billings of the utility.

The Board's public interest also extends to environmental concerns, and it is in no party's interest for there to be the inefficient use of natural gas. Residences, businesses and other organizations should concern themselves with proper insulation, temperature levels and efficient heating facilities. In the absence of same, natural gas is wasted and monthly bills are inflated.

Difficulties arise when consumers are unable or unwilling to:

- a) pay their natural gas bills; and/or
- b) make improvements to ensure appropriate heating efficiency; and/or
- c) honour the terms of arrangements made arising out of disconnection processes.

Board Involvement

The Board requested that the Appellant meet with Centra to finalize a payment schedule, and, failing an agreement with Centra acceptable to both parties, to return to the Board for adjudication with disconnection of service prohibited in the interim. The Appellant and Centra did not meet, and the Appellant failed to meet Centra's demand for payment or arrangements for payment, and this proceeding then followed.

By way of written submission, the Appellant offered to pay Centra \$300 per month for the months of June, July, August and September, to be applied to the current outstanding arrears of \$2,040.33, and on the assumption that service would not be disconnected.

Centra holds that payments of \$440 per month for the five months June through October are necessary to justify it not disconnecting service, and also requested the Board adjudicate on the matter.

The Appellant disputed some specifics of the bill, which included late fees, and the resultant balance.

The Appellant submitted details of their current financial position and stated they could not make payments on the arrears in excess of \$300 per month. The Appellant noted that their priority is to proceed with the recommendations of a recent energy audit completed by Hydro. The audit indicated a need to renovate the residence to improve the energy efficiency by eliminating major air leakage and improving draft proofing and insulation (combined together, the repairs were projected to be capable of reducing gas usage by 29%). The audit recommended blown-in insulation for now empty cavity walls, as one of the needed repairs.

The Appellant indicated that the limited additional income they had managed to obtain during the period March 27 to June 3 was designated for use in repairing a leaking roof. The Appellant provided pictures confirming significant damage to the ceiling and walls resulting from the leaking roof. The Appellant also submitted a letter from their mortgage holder that reported their property tax account to be in a significant deficit, and noted that they are now obliged to pay a higher aggregate monthly mortgage and property tax payment. The Appellant noted that this situation was a major factor in their inability to meet Centra's demands.

The Appellant further noted that they had consented to Centra's placing a lien on their property, and suggested that their arrears be considered to be net of that amount (taken into account). The Appellant concluded that they were unable to make larger payments than the Appellant had offered given their current monthly income.

Centra advised that while the Appellant had made regular payments, the payments were only \$100 per month and did not meet their requirements. Centra submitted that the Appellant's limited payments were insufficient to reduce the outstanding arrears, which had risen to \$2,040.33 as compared to \$1,307.17 at this time last year.

Centra submitted that it could not rely on the lien, as in order to recover any shortfall via the property lien a lengthy and expensive process of forcing the sale of the property would have to be undertaken. Centra concluded that it was unable to arrive at a satisfactory agreement with the Appellant, and that their proposal would result in the account remaining in arrears into next heating season.

In summary, Centra's position is that a monthly payment of \$440 per month is required to allow for the recovery of the current debt plus meet the costs of current consumption, and, if this payment schedule was met, the Appellant would start the heating season with a zero balance. In summary, the Appellant's position is that they have inadequate income or assets to meet that requirement, and that their offer of \$300 per month through to September is the best they can manage.

Board Findings

The Board finds that the Appellant:

- a) did not violate the provisions of Order 158/04; and
- b) lacks the monetary resources to meet either Centra's demand for \$440 per month or their own offer of \$300 per month, without risking the ability to care for the children.

The Board's Order dealt with the provision of service in the winter months, and Centra's rights to disconnect for arrears. The Board notes that the records in the file indicate that the Appellant has made regular payments, albeit insufficient amounts regularly since 2003.

The Board notes the Appellant's willingness to increase payments on account of their outstanding arrears to \$300 per month, yet doubts the family's ability to honour that offer. The monthly disposable income is insufficient to allow for them to do so without compromising the responsibilities as a parent, mortgagor and municipal taxpayer. The Appellant has resided at this address for eighteen years, and has developed some equity in the home that is in need of considerable repair.

With respect to the lien on the Appellant's property, the Board agrees with Centra that a lien does not guarantee future payment of the account, even in the case of sale. Other factors such as the level of equity in the home, prior liens and or foreclosure possibilities would also have to be considered. This is particularly relevant given their situation vis a vis their mortgage and property tax arrears.

As a first step towards the rehabilitation of this account, the Board requires

that Centra, given the Appellant's evident distressed financial position, discontinue late fees and cancel past late fees included in the Appellant's outstanding balance.

The Board suggests that the Appellant become a zero interest account and continue with that status as long as they meet the obligations set in this Order.

While the Board has sympathy for the Appellant's situation, the Board also understands the obligation of all of Centra customers to meet their billing obligations.

The Board will conclude that until the Appellant's income level increases markedly, the best they will be able to prudently do is make payments on the gas bill on a going-forward basis. The Board suggests that they be placed on the equal monthly payment plan, starting with July 2005.

As to the arrears, Centra will have to rely upon its lien.

With respect to the lien, the Board suggests that the current outstanding balance less accrued late fees to this date form the base on which further interest at the rate of no more than 5% compounded annually shall apply. In short, the lien will likely gradually increase until, hopefully, the Appellant's income prospects improve.

The Board also notes that the Appellant was making \$100 monthly payments, but had made no additional payments since their service was reconnected in December 2004 and only offered to make additional payments when service was to be disconnected in June 2005. From July forward, the Board suggests that the Appellant be obliged to and pay \$150 on current bills, budget plan any overage per month, each month.

The Board applauds the Appellant's intent to attend to the matters arising out of the energy audit, as well as their contribution to the Individual Development Account Program (IDA) for roof repairs (a program of a local credit union), and expects the family to attend to this matter at their earliest convenience. In the absence of corrective action, gas wastage and excess bills will continue, and the situation will only worsen.

The Board is sensitive to the realities of the Appellant's financial position and the presence of children in the residence. The Board is of the view that to order the Appellant to pay a greater amount would result in other financial and parental obligations suffering.

Accordingly, the Board will direct the Appellant to pay \$150 per month starting in July, and would expect the heating efficiency to improve as soon as possible.

The immediate goal should be to best ensure the annual average rate of gas usage going forward is no more than the annual accumulative monthly payments of \$150 at current gas prices.

The Board suggests that the Appellant obtain credit counselling as soon as possible, and to seek assistance with respect to the needed home repairs.

The Board will direct that the Appellant file an update of the Appellant's financial situation with the Board next May, as well as an update on repairs undertaken, and will reopen this case for further consideration if the Appellant does not meet the conditions set out herein.

IT IS THEREFORE ORDERED THAT:

1. The Appellant will pay a \$150 per month on an annual budget plan to Centra Gas commencing July 2005.
2. If the Appellant fails to fulfil the terms of the above payment arrangement, Centra has the right to terminate the service as per the Centra Gas Manitoba Inc.'s approved Disconnect Policy and Procedures. In such a case, the Notice period of disconnection may be reduced to a minimum of 5 days.
3. The Appellant is to file an update of their financial situation with the Board in May 2006, as well as an update on repairs undertaken, at which time the Board will enquire of Centra as to the status of the Appellant's payments and outstanding balance.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, C.A."
Chairman

"H. M. SINGH"
Acting Secretary

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98/05 issued by The Public
Utilities Board

Acting Secretary