

MANITOBA) Order No. 54/14
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THE PUBLIC UTILITIES BOARD ACT) May 15, 2014

BEFORE: Susan Proven, P.H.Ec., Acting Chair
The Hon. Anita Neville, P.C., B.A. (Hons.), Member

VILLAGE OF WINNIPEGOSIS
APPEAL OF MR. DOUG CLARKSON FOR
DISCONNECTION OF WATER SERVICES FOR NON-PAYMENT

Executive Summary

The Public Utilities Board (Board) hereby denies Mr. Doug Clarkson's appeal of the decision by the Village of Winnipegosis (Village) to disconnect the water supply to 113 2nd Street (account number 024405 000), Winnipegosis, Manitoba for non-payment of account.

Background

Mr. Clarkson received his utility billing for the quarter ending April 30, 2013; his account was charged \$772.03 for an actual reading showing consumption of 37,200 gallons. Mr. Clarkson disputed the level of consumption and contacted Mr. Jordan Willner, Chief Administrative Officer (CAO) of the Village at the time.

In his appeal documents, Mr. Clarkson submitted to the Board that Mr. Willner contacted him June 2013 and advised that "he found the problem that he charged around 30,000 gallons of water too much." Mr. Clarkson advised the Board that he has experienced billing errors on his account at least one other time, in 2010.

Mr. Willner is no longer working for the Village, and when contacted, advised the Board that he recalled discussing the bill with Mr. Clarkson. Mr. Willner stated that he did not find any errors in the billing and did not advise Mr. Clarkson that the charges would be reversed; he did say that there was an

error previously, but that was a keying error which came to light immediately when the meter readings were checked for continuity. A review of the meter readings before and after the April 2013 bill showed no disparity in the readings, leading the Village to conclude that the water had gone through the meter.

Mr. Clarkson appeared before Village Council on September 5, 2013 to dispute the unpaid bill. Council advised Mr. Clarkson by letter dated September 11, 2013 that they had reviewed his account, could not see anything to support the billing being in error, and that they would not approve any amendments. The letter stated that Council expected Mr. Clarkson to pay the outstanding balance, and that if Mr. Clarkson believed the meter to be faulty the meter would be replaced with a new one and the current meter would be sent away for calibration testing.

The letter further explained that the cost of testing the meter was \$150 and if the testing yielded no signs of irregularity, Mr. Clarkson would be expected to pay the outstanding balance on his account, along with the additional \$150 to have the meter tested. Should the test results indicate an inaccurate or malfunctioning meter, the Village would pay for the testing and adjust the disputed quarter consumption down to a four-quarter average.

On January 20, 2014, the first letter was sent to Mr. Clarkson by the Village to begin the disconnection process. Mr. Clarkson met with Mr. Kevin Drewniak, the Village CAO, on February 6, 2014 to discuss the matter. Mr. Drewniak advised Mr. Clarkson of Council's position and offered to have the meter changed and

sent away for testing. Mr. Clarkson declined to have the meter tested, indicating to Mr. Drewniak that he felt it was in working order. By this time, several more quarterly billings had been processed and the consumption had returned to normal for each. Mr. Drewniak advised Mr. Clarkson that the Village would be proceeding with the disconnection if payment arrangements were not made.

After following the conditions precedent for disconnection for non-payment, set by Board Order Nos. 127/08 and 39/09, the Village notified Mr. Clarkson that if payment was not made by March 28, 2014 they would be disconnecting his water supply on March 31, 2014.

Mr. Clarkson contacted the Public Utilities Board and faxed an appeal of the disconnection for non-payment on March 31, 2014. He was disputing the disconnection, stating that he felt that his meter was working fine and that he had been told by Mr. Willner in June 2013 that the billing was an error and his account would be adjusted. Mr. Clarkson also noted that he had had an element replaced on his hot water tank in June 2013.

The Village was notified of Mr. Clarkson's appeal and put the disconnection on hold until the Board had an opportunity to conduct the appeal. The Village responded to the appeal with a timeline of the communications between the Village and Mr. Clarkson; a copy of the letter sent to Mr. Clarkson September 11, 2013; a copy of the utility ledger report for Mr. Clarkson's account; a copy of the consumption report for Mr. Clarkson's account; a copy of a work order request form from October 22,

2013 ordering the replacement and testing of the meter in Mr. Clarkson's home; and copies of the past due statements sent to Mr. Clarkson in January and March 2014.

The Village stated its reasons for not adjusting Mr. Clarkson's bill as; all utility customers are treated the same way, the water meter reading is used to determine billings; if a customer feels a meter is faulty, there is a process to check the meter and adjust the account if the meter is found to be at fault; it is unfair to the utility and its other customers to have to cover the cost of disputed bills.

Mr. Clarkson was given a final opportunity to respond, which was received by the Board on May 2, 2014. Mr. Clarkson repeated that Mr. Willner had told him that it was an error and would be adjusted. Mr. Clarkson requested that the Board contact the previous CAO, Ms. Jackie Patterson; the Board did contact Ms. Patterson, and confirmed that she was no longer in the employ of the Village at the time of the disputed billing period. Her knowledge of Mr. Clarkson's account extended to the previous billing error, which is not disputed by the Village and was corrected several years ago. The previous error has no bearing on this appeal.

Board Findings

The Village of Winnipegosis Utility provides water and sewer service to the community, which includes Mr. Clarkson's property. The Village uses water meters to determine consumption and bills accordingly. In case of dispute, there is a process which allows for testing of the meter, and it is similar to processes adopted by most rural water and sewer utilities. Mr. Clarkson was given the opportunity to have the meter tested and declined, claiming the meter is working fine.

The Board finds that without testing the meter for accuracy, there is nothing to refute that the water in question went through the meter. The Board has long been supportive of the user-pay principle and agrees with the Village that it is unfair to expect other ratepayers to carry the burden of unpaid billings.

In Board Order Nos. 127/08 and 39/09, the Board outlined the *Conditions Precedent Allowing for Collection and Disconnection of Water and/or Sewer Services for Non-Payment of Accounts'* (Conditions Precedent). The Board notes that the Village followed the Process of Conditions Precedent and that Mr. Clarkson followed the Appeal Process as required.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca

IT IS THEREFORE ORDERED THAT:

1. Mr. Doug Clarkson's appeal of the decision by the Village of Winnipegosis to to disconnect the water supply to 113 2nd Street (account number 024405 000) Winnipegosis, Manitoba for non-payment of account is HEREBY DENIED.

Fees payable upon this Order by Mr. Doug Clarkson have been waived at the discretion of the Board.

THE PUBLIC UTILITIES BOARD

"Susan Proven, P.H.Ec."
Acting Chair

"Jennifer Dubois, CMA"
Acting Secretary

Certified a true copy of
Order No. 54/14 issued by The
Public Utilities Board

Acting Secretary