

Before:

Metis Settlements Appeal Tribunal

Between:

Cyril (Jack) Boucher

Appellant,

-and-

**Buffalo Lake Metis Settlement
and
Metis Settlements General Council**

Respondents.

Concerning:

Reimbursement for Expenses

Decision Date:

September 21, 2017

DECISION

The Hearing – parties, place and date

MSAT Panel members:

Lorne Dustow, Chairperson

Phyllis Collins, Panel Member

Joyce Parenteau, Panel Member

MSAT Staff:

Harold Robinson, Tribunal Secretary

Amanda Wyatt, Dispute Resolution Officer

Hearing:

By Written Submissions and Paper Review

August 22, 2017

1.0 Context

[1] Cyril (Jack) Boucher attended a meeting in Edmonton on April 19, 2017, with the Executive Director of Metis Relations with Indigenous Relations. When he submitted his expense claim to the Buffalo Lake Metis Settlement (BLMS) council for review, his claim was denied.

[2] This matter was dealt with through the Appeal Tribunal's paper review process through which preliminary jurisdiction issues can be decided through written submissions (see sections 29 and 30 of MSAT's Rules of Procedure).

1.1 Issue

[3] Does Jack have the right to appeal council's decision to deny his expense claim?

1.2 Evidence before the Panel

[4] Jack attended a meeting with the Executive Director of Metis Relations, on April 19, 2017.

[5] In his MSAT appeal form submitted on June 14, 2017, Jack stated that he went to see the Executive Director "because of settlement business that we felt was not being dealt with by quorum of council and BLMS staff".

[6] BLMS provided a copy of their expense policy, which reads:

1. APPROVAL

A quorum of council is responsible for approving monthly expense claims for Council Members to ensure that

- a. The reasons for the expense are valid
- b. The expense relates to Settlement business

[7] Jack provided a copy of his expense claim that he submitted on April 21, 2017, for \$56.81. There is a hand written note on the expense claim that says "on hold until council meeting, due to meeting not being council business".

[8] Jack provided a copy of an email from the Executive Director to another councilor who attended the same meeting with him. The email confirms the meeting took place regarding "issues of concern with respect to governance matters and challenges you were facing within Council and asking ways to address financial requests and a forensic audit you would like to see occur on all settlement businesses".

[9] Jack provided meeting minutes dated May 30, 2017, which show that he advised council he "would like to be paid for his expense and hospitality, if not approved he will be taking it to MSAT".

1.3 Findings of Fact

[10] Jack attended a meeting in Edmonton with the Executive Director of Metis Relations on April 19, 2017.

[11] Jack submitted a travel expense claim for Council's approval. The expense claim was not approved.

[12] On June 14, 2017, Jack filed an appeal with the MSAT, requesting an order directing BLMS to provide him compensation for attending the April 19, 2017 meeting.

[13] BLMS has an expense policy which does not outline procedural steps to submitting an expense policy, or whether pre-approval is required. It also makes no reference to a right of review or appeal of the decision made by council when an expense claim is not approved.

1.4 Analysis/Reasons

[14] This panel reviewed the evidence before it, and concluded that the Appeal Tribunal can only review matters that it is empowered to do so under the *Metis Settlements Act* (MSA), Metis Settlements General Council (MSGC) policies, or local Settlement bylaws.

[15] The BLMS expense policy confirms that a quorum of council is responsible for approving monthly expense claims for councilors. There is no mention of a right of appeal if a councilor disagrees with the quorum of council's decision on their expense claim.

[16] This panel feels that in the case before us, there is no right of appeal.

[17] This panel would, however, like to draw attention to section 187.1 of the MSA, which states that "*The Appeal Tribunal shall exercise its powers and carry out duties with a view to preserving and enhancing Metis culture and identity and furthering the attainment of self-governance by Metis settlements under the laws of Alberta*".

[18] With this in mind, this panel is enabled to comment on issues of governance with the view that Settlements demonstrate accountability and transparency by the way they manage their affairs, and that this is particularly important in how it manages its expenditures.

[19] Separation of powers is an important principle of accountability, and the current practice of having quorum of council approve expenses of their colleagues may allow the possibility of a real or perceived conflict of interest. It is important that there is a process that supports a separation of powers and emphasizes the benefit of an independent review when it comes to expenses incurred for Settlement business.

[20] Some recommendations that BLMS may consider in its next review of its expense policy are:


- Formalizing the expectation of pre-approval prior to a councilor incurring expenses;
- Having an independent body review expense claims, such as the Settlement administrator
- Publically posting expenses either physically or electronically on a quarterly basis
- Updating the expense policy at regular intervals (ex. every 4 years)

[21] It is in the interest of all Settlement members, that council regularly review their own policies to ensure that those policies are aligned with current best practices, as well as emerging benchmarks. The above recommendations would provide clarity to councilors on expectations, improved accountability within the process with an independent review, and greater transparency by providing clear communication to Settlement members and councilors on actual expenses paid to councilors in their work on behalf of the community.

3.0 Decision

[22] Jack Boucher's appeal is dismissed.

Dated in the City of Edmonton, in the Province of Alberta on this 21st day of September, 2017.



Lorne Dustow
Panel Chair

