

INTEREST ARBITRATION

On Behalf Of

**THE BRANDON TEACHERS' ASSOCIATION
OF
THE MANITOBA TEACHERS' SOCIETY**

In Order to Bring About A
Settlement of a Dispute

Between

**THE BRANDON TEACHERS' ASSOCIATION
OF THE MANITOBA TEACHERS' SOCIETY**

And

THE BRANDON SCHOOL DIVISION

Arbitration Board:

Mr. Wally Fox-Decent

Mr. John Laplume

Mr. Denny Kells

Representation for the Teachers:

Mr. Wayne Bradshaw (BTA President)

Mr. Peter Buehler (Collective Bargaining Chair)

Mr. Tom Paci (MTS Co-Ordinator)

Mr. Henry Shyka (MTS)

Mr. Mike Bell (MTS Research)

And Others

Representation for the Division:

Mr. Jim Murray (School Board Chair)

Dr. D. Michaels (Division Superintendent)

Mr. Gerald Barnes (Secretary Treasurer)

Mr. Craig Wallis (Manager MAST Negotiations)

And Others

June 16, 2006

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INTRODUCTION:

This Interest Arbitration Board held eighteen (18) days of hearings between November 2005 and April 2006. The Board subsequently met for six (6) days in May and June 2006 to deliberate.

From the outset of our deliberations, we agreed that each issue would be decided by consensus and not necessarily by unanimity. Accordingly, each member of the Board has agreed to support the award as a whole, even though each member did not necessarily agree with the majority in each instance.

There was much interest evident in our process, with excellent attendance and participation by school trustees of Brandon, the Manitoba Association of School Trustees, senior administration officials (the Division), and by teachers, led by the Brandon Teachers Association (BTA) and the Manitoba Teachers Society (MTS).

We may have set a record for number of hearing days, but the process was infused by the dedication and keen interest of all who participated.

What follows now in this report is the award or decisions of this Arbitration Board.

1. *Obligation to Act Fairly (New Article)*

Although this provision is in *The Labour Relations Act*, we see merit in incorporating it, for all to readily see, in the collective agreement. In awarding this clause, we recognize that the Division nevertheless retains all

management rights that are not otherwise fettered by the terms of the collective agreement or applicable legislation.

New Article Wording:

In administering this agreement, the Division shall act reasonably, fairly, in good faith, and in a manner consistent with the agreement as a whole.

2. *Effective Period (Article 7.01)*

The Board believes a longer collective agreement is desirable at this time; all relevant matters being considered.

This agreement shall become binding and take effect as from the first (1st) day of July, A.D. 2003 and shall remain in full force until the thirtieth (30th) of June, A.D. 2007 . . . (no change to balance of wording).

3. *Scope (Article 3)*

We have declined to change the scope of the agreement at this time. Substitute teachers are therefore not presently included within the scope of this agreement.

4. *Classification (Article 5.02)*

The Board declines any change to the present wording.

5. *Qualifications (Article 5.03)*

The existing clause is to have new wording added as follows:

The teacher has an obligation to act diligently and in a timely manner in seeking to have Manitoba Education recognize his/her increased qualifications. Failure to act in such a fashion will result in the increased qualifications not being recognized for pay purposes until the first (1st) day of the month immediately following the date on which the teacher provides the Division with the required statement from Manitoba Education.

6. *Salaries (Article 6)*

Much of the salary package has been agreed to by the parties (3 + 3) and now this formula is extended to the third and fourth years (3 + 3).

Brandon teachers are in the bottom third of teachers' salaries by division in Manitoba.

We believe that adjustments are called for in the fourth year to bring Brandon teachers into a more reasonable and defensible position in comparison to other divisions.

Should any issues arise regarding implementation of salary increases, we will remain seized to assist.

Increase all steps of the salary scale (across the board on a compounded basis) by:

- 3% retroactive to the 1st day of the Fall Term 2003,*
- 3% retroactive to the 1st day of the Fall Term 2004,*
- 3% retroactive to the 1st day of the Fall Term 2005.*
- \$250 effective the 1st day of the Fall Term 2006,*
- 3% effective the 1st day of the Fall Term 2006 (compounded, i.e., after application of the \$250), and*
- \$250 effective January 1, 2007.*

7. *Increments (Article 7)*

The Board has declined any change to this article.

8. *Allowances (Article 8)*

The parties have agreed to the changes we award to this article (except Article 8.04). The Board has confirmed the decisions as follows:

Principal Allowances (Article 8.01)

Effective the first day of the Fall Term 2003:

- Increase the minimum by 5%*
- Increase the maximum by 4%*

Effective the first day of the Fall Term 2004:

Increase the minimum by 7%

Increase the maximum by 5%

Increase the allowance amount for each teacher over ten (10) by 3% effective the Fall Term 2003 and a further 3% effective the Fall Term 2004.

Date of Computation (Article 8.02)

Amend to read as follows:

The number of teachers assigned to a school as of October 31st shall be the basis for computation of the principal's allowance . . . (no change to balance of wording).

Head Teachers' Allowances (Article 8.04)

Add the following to the existing wording:

For the purpose of this article, any period of absence of the principal that is greater than ninety (90) minutes but less than one-half (1/2) day shall be considered to be a half day of absence.

Administrator's Allowance (Article 8.05)

Increase 3% effective Fall Term 2003 and 3% Fall Term 2004.

Consultant's Allowance (Article 8.06)

Increase 3% effective Fall Term 2003 and 3% Fall Term 2004.

The Board has awarded the following percentage increases for the 3rd and 4th year of this agreement:

Effective the 1st day of the Fall Term 2005, increase all allowances (principal, administrator and consultant) by 3%.

Effective the 1st day of the Fall Term 2006, increase all allowances (principal, administrator and consultant) by 3%.

9. *Payment of Salary (Article 9.01 to 9.05)*

The existing article is to be amended as follows:

Article 9.01

Annual salaries determined in accordance with the provisions of this collective agreement shall be paid on the basis of one-twelfth (1/12th) of the annual salary payable for each month, September to August.

It is understood and agreed upon by the parties to this agreement that the July and August salary payments shall be deemed to have been earned in the immediately preceding school year.

Article 9.02

Salaries shall be paid by direct deposit in the teacher's personal account at the financial institution of his/her choice on the last teaching day of the month or last business day in the case of July and August, including the year of resignation as of June 30th. Adjustments in salary shall be made in accordance with the following clauses.

Article 9.03

Teachers who commence or return to active employment following an unpaid leave of absence after the commencement of a school year shall be paid as follows:

- a) *In the first month of employment, the salary shall be paid on the basis of number of teaching days remaining in the school year as a fraction of the total number of days in the current school year, as prescribed by the Minister, less the amount to be paid in the number of months remaining to August 31st next, as applicable.*
- b) *For the remaining months, the salary shall be paid in accordance with the salary schedule in Article 6 in approximate equal monthly installments the last teaching day, or business*

day in the case of July and August, of each month remaining to August 31st next.

- c) *Thereafter, the teacher shall be paid in accordance with Article 9 – Payment of Salary.*

Article 9.04

No change.

Article 9.05

Adjustments in salary resulting from a change in a teacher's salary entitlement pursuant to this agreement, excluding Article 5.03, shall be calculated and paid as follows:

- a) *Number of teaching days in the current school year to the date of adjustment as a fraction of the total number of days in the current school year, as prescribed by the Minister, times the annual salary rate in effect for that period of time, plus*
- b) *Number of teaching days remaining in the current school year from the date of adjustment as a fraction of the total number of days in the school year, as prescribed by the Minister, times the annual salary rate in effect for that period of time, less*
- c) *The salary paid to the teacher from the beginning of the current school year to the date of adjustment.*
- d) *The balance of the salary payable shall be paid based on the new salary or assignment in accordance with the salary schedule in Article 6 in approximate equal monthly installments on the last teaching day, or business day in the case of July and August, for the number of months remaining to August 31st next from the date of the change with any required adjustment being made during the month of the change.*
- e) *Thereafter, the teacher shall be paid in accordance with Article 9 – Payment of Salary.*

10. Interest on Retroactive Pay (Article 9.06)

For clarity, we have stated part of Article 9.06 with the changed words or amendment in bold print.

*The Division shall pay to members of the Association interest on any retroactive pay which may be paid to such members, on condition that the interest shall be paid for the period of time between the **date one of the parties applies for interest arbitration** and the date on which any payment is subsequently paid and, in addition, will be paid only on such amounts as would have been outstanding from time to time until such time as payment is finally made . . . (no change to balance of wording).*

NOTE: The BTA/MTS applied for interest arbitration on May 7, 2004, and therefore, the interest on retroactive pay will begin on that date.

11. Deduction of MTS Fees (Article 10)

This provision is to be amended. It does not apply to substitute teachers at this time.

Delete the existing article and replace it with the following:

10.01 The annual provincial fees of the Manitoba Teachers' Society shall be deducted from the salary payments of every teacher employed by the Division.

10.02 The annual local fees of the Brandon Teachers' Association shall be deducted from the salary payments of every teacher employed by the Division.

10.03 The fees, both provincial and local, of every teacher shall be deducted monthly from her or his salary payments, and the Division shall pay over to The Manitoba Teachers' Society and to the Association the appropriate sums, payable not less frequently than once in each month.

12. Sick Leave (Article 12)

For clarity, we have bolded the changes to this article.

The amendments are effective start of new term September 2006.

Amend 12.01(b) to read as follows:

Teachers shall accumulate entitlement for sick leave at the rate of one (1) day of sick leave for every nine (9) days of actual teaching service, or fraction thereof, to a maximum of twenty (20) days per year, but the total sick leave, which he/she shall be entitled to accumulate shall not exceed one hundred and fifteen (115) days.

Amend subsequent sub-articles to reflect a maximum accumulation of one hundred and fifteen (115) days.

Amend 12.03 to read as follows:

A teacher shall be entitled to use up to four (4) days of accumulated sick leave per school year to attend to the illness or injury or medical appointment of his or her spouse or common law partner, child, parent, sibling, step-parent or grandparent. In the case of a child, if both parents are teachers in the Division, both parents cannot access the provisions of this article concurrently.

Add a new sub-article to read as follows:

Sick leave is not payable to a teacher:

- (i) who, while receiving sick leave benefits, is engaged in employment for wage or profit with another employer, except when such employment occurs as a result of a program of rehabilitative employment approved by the Disability Benefits Plan; or*
- (ii) who, in respect of injury resulting from a motor vehicle accident, is receiving wage-loss replacement benefits from the Manitoba Public Insurance ("M.P.I.") to the extent that such benefits and paid sick leave exceed the teacher's normal salary and up to the maximum number of sick leave days accumulated by the teacher. In such cases, the teacher shall reimburse the Division the amount of benefit received from M.P.I.*

Add a new sub-article to read as follows:

The Division may require teachers to produce reports from a duly qualified health care practitioner(s) on matters related to their illness and absence from the workplace.

13. *Maternity/Paternity Leave (Article 13)*

Although we are aware of the ongoing discussions and proposals around this issue, this Board has decided to remain with the status quo and, therefore, no change will be made to this clause.

14. *Leave of Absence for Executive Duties (Article 16)*

The Board has decided a new clause is needed on this subject to deal with teacher attendance at arbitrations.

Add a clause after 16.01 to read as follows:

Time required by teachers to attend grievance or interest arbitrations within the Division shall not be counted within the aforesaid maximums.

15. *Discipline (Article 19.01)*

The Board has declined any change to this article.

16. *Lay Off (Article 20.01)*

There will be no change to this article.

17. *Disputes (Article 22)*

There will be no change to this article.

18. *Hours of Work (New Article)*

While the importance of this subject to the parties is recognized, we decline to make an award on this issue.

19. *Lunch Period (New Article)*

The large majority of other school divisions in Manitoba have provided for a duty free lunch period for teachers in their collective agreement. We agree that such should be provided in the Brandon Division and, accordingly, have decided as follows:

Every teacher shall be entitled to an uninterrupted duty free lunch period (mid-day intermission) of sixty (60) minutes, exclusive of scheduled non-contact time, between 11:00 a.m. and 2:00 p.m. of each school day, unless the Brandon Teachers' Association on behalf of a majority of teachers in a particular school and the administration responsible for that school agree to a different arrangement.

This article shall be effective with the 1st day of the 2006 Fall Term.

20. *Extra Curricular Activities (New Article)*

Teachers contribute significantly to extra curricular activities beyond the regular school day and they deserve praise and gratitude for their endeavors. However, we decline in this award to translate this into monetary or time reward related to specifics of this service. There is, therefore, no new clause provided on this issue.

21. *Final Settlement Provision (New Article)*

The Public Schools Act (Section 100) permits an alternative dispute resolution process. We encourage the parties to discuss, consider and adopt such a process. Meanwhile, we decline to adopt a new article.

22. *Consultation (New Article)*

Support and strong endorsement is offered by this Board to such a process and we have awarded as follows:

A Liaison Committee shall be appointed, consisting of three (3) representatives from the Association and three (3) representatives from the Division. The Committee shall meet at the request of either party for the purpose of discussing matters of mutual concern. The Committee shall not have jurisdiction to interpret and/or amend any

of the terms and conditions contained in the Collective Agreement. A summary of discussions will be recorded and a copy provided to each member of the Committee, as well as a copy posted on each school bulletin board.

23. *Complaints Against Teachers (New Article)*

There needs to be a process in the Collective Bargaining Agreement to deal with complaints against teachers that do not relate to the employer/teacher relationship. Accordingly, we have decided on a new article as follows:

- (a) When a complaint is made against a teacher, every reasonable attempt will be made to resolve the matter informally, through discussion with the teacher against whom the complaint is made.*
- (b) If these attempts to resolve the matter are not successful, before the Board or Superintendent considers any complaint further, the complaint must be committed to writing and signed by the complainant. At least one week prior to any action being taken by the Board or Superintendent, the teacher concerned shall be given a copy of the complaint and the Association President shall be informed of the complaint, together with the name of the teacher in question.*
- (c) Sub-sections (a) and (b) shall apply under all circumstances except in the case of an urgent situation affecting the welfare of the Division, or of a student or students, or of a teacher.*
- (d) The Division and Association and their respective agents shall act fairly, reasonably and in good faith in dealing with complaints.*
- (e) For the purpose of this Article, complaint shall mean an issue not related to the employer/teacher relationship.*

24. *Copies of Collective Agreement (New Article)*

A new clause is declined.

25. *Access to Division Premises (New Article)*

Little convincing evidence was presented to us that challenges the present arrangements, so a new article is declined.

26. *Personal Leave (New Article)*

The Board has declined to provide a new article on this matter.

27. *Inclement Weather (New Article)*

A new article on this subject is declined.

28. *Part-Time Teachers (New Article)*

Preference should be given to current part-time teachers when applying for a full-time position in the Division, subject to certain reasonable conditions. We therefore award the following new article:

When a teaching position becomes vacant within the Division, preference shall be given to any currently employed part-time teacher who applies for the position over any applicant from outside the Division, provided the Brandon applicant has training, academic qualifications, and experience equal to those of any outside applicants or better than those of outside applicants.

When more than one part-time teacher from the Division applies for a full-time vacant position, and the teachers have the necessary training, academic qualifications and experience to fill the position, preference shall be given to the teacher having the greater seniority in accordance with Article 20 – Layoff.

29. *Substitute Teachers (New)*

There has been a strong and close community of interest between substitutes and their regular teacher colleagues. This relationship has not been recognized in our Manitoba school system until very recently. Recognition in the teacher collective agreements across the province has been generally restricted to provision of a salary scale for substitutes. The community of interest between regular teachers and substitute teachers has now been recognized by the Minister of Education.

Overview of the Substitute Teacher Issue:

The Association has made the following proposals with respect to inclusion of substitutes under the terms of the collective agreement.

- Revise Article 3.02 (Scope): by adding the bolded portion, with the clause then reading as follows:

“Scope: All teachers employed by the Division, **including substitute teachers**, come under the scope of this agreement.”

- Inclusion of a new Article entitled “Substitute Teachers” to set forth the rates of pay for substitute teachers and to address certain other matters regarding substitutes.

It is common ground that substitutes were not referred to in the teachers collective agreement nor have they been covered under the terms of that agreement.

The Division, through its counsel, argued the proposition that given that substitutes were not covered by the collective agreement, matters pertaining to substitutes are not and could not be matters of dispute over which this Board has jurisdiction.

Much of the relevant background is set forth in the bargaining certificate that the Manitoba Labour Board issued to the Association in 2003. That certificate (MLB-6030) recited the following:

“On May 26th, 1959, the Collective Agreement Board, through the provisions of *The Public Schools Act*, by way of Certificate No. E-564-59 certified the Brandon Division Association No. 40 as the properly chosen Bargaining Agent for a unit composed of all teachers employed by the Brandon School Division No. 40.

In August of 2000 *The Public Schools Act* brought teachers employed with[in] the public school system under certain provisions of *The Labour Relations Act*. As a result of these amendments, it was the intent of the Manitoba Labour Board to

review all certification Orders previously issued by the Collective Agreement Board, with the view to re-issuing them pursuant to *The Labour Relations Act*.

On April 5th, 2002, the Applicant [Brandon Division Association No. 40] filed an application . . . requesting, in part, that new certificates be issued through the provisions of *The Labour Relations Act*, determining that all teachers, including all substitute teachers, are “employees” as defined by *The Labour Relations Act*, and included in the bargaining unit represented by the Applicant.

On January 14, 2003, the Manitoba Labour Board, by way of Order No. 1286, following consideration of material and Replies filed and evidence and argument presented at a hearing into the matter, determined that “substitute teachers” are not “teachers” as contemplated in the Certificates issued by the Department of Education. The Board further determined that there has been no voluntary recognition by the Employer to include “substitute teachers” within the scope of the respective Collective Agreements.”

The Labour Board, pursuant to Certificate MLB-6030, then certified the Association for a unit described as “All teachers employed by the Brandon School Division No. 40.” That Certificate was issued on January 14, 2003.

We were also provided with a copy of a document that arose out of the negotiations between the parties for the period from July 1, 2000 to June 30, 2003. Under the heading of “Other Undertakings”, the parties had agreed as follows:

“2. Substitute Teachers

This matter is to be left until after the Labour Board deals with this issue. At that date, unless the Collective Agreement is within 90 days of June 30th, 2003, and provided that the Labour Board rules that substitute teachers are determined to be part of the bargaining unit, then the Parties will open negotiations in regard to substitute teachers.”

As noted earlier, the Board did not certify the Association to represent substitute teachers.

During the period from December of 2003 to March of 2004, local teacher associations in Portage la Prairie, Flin Flon, Pine Creek and Swan Valley school divisions filed applications to certify a unit of substitute teachers in each of those school divisions. On December 6, 2004, the Manitoba Labour Board issued a preliminary ruling in respect of these applications, wherein it ruled that the purported units of substitute employees would be appropriate for collective bargaining. It created a modified formula for determining employee support, and stated that it would include any substitute teachers whose names appeared on the Division's list of substitutes on the date of the application and who had worked any time during the 12 weeks prior to the date of application.

The four affected divisions subsequently sought a review and reconsideration of that order. Their application was ultimately dismissed by the Manitoba Labour Board.

We were advised that on June 7, 2005, the Manitoba Labour Board certified the local teachers association of the Pine Creek School Division for a separate bargaining unit comprised of certified teachers. The other applications were said to have been put in abeyance.

The parties here commenced negotiations for a new collective agreement that would take effect as at July 1, 2003. By letter dated May 7, 2004, the Association gave the Division notice of its intention "to submit all matters in dispute, on a without prejudice basis, to arbitration in accordance with section 103 of *The Public Schools Act*." That is the arbitration with which this Board is charged.

On July 29, 2005, a regulation was registered under *The Public Schools Act*, with the regulation to be effective September 1, 2005. That regulation amended "The Forms of Agreement (School Boards and Teachers) Regulation, Manitoba Regulation 218/2004" by adding the following:

"An agreement between a school division and a substitute teacher must be in the form set out in Schedule E."

Schedule E is a one page agreement between the substitute teacher and the division that is employing the teacher. The only reference to the collective

agreement in that one page document is paragraph 3 that states, “The school board agrees to pay the teacher in accordance with the collective agreement.”

During the course of this hearing, we heard that 37 of the 39 collective agreements in the province (none of which currently cover substitutes) included a reference to a rate of pay to be paid to substitutes. We also heard that the substitute rate can be a matter of concern for regular teachers in those bargaining units, for they are often granted leave at the cost of a substitute. The Brandon School Division is one of only two school divisions that do not contain a substitute rate clause.

In early August of 2005, the Minister of Education, Citizenship and Youth, forwarded a copy of the new form of substitute teacher agreement to the Executive Director of the Manitoba Association of School Trustees. The accompanying letter stated in part:

“You will note that revisions to the agreement have occurred that support the government’s intent to allow substitute teachers to become part of existing teacher bargaining units. Putting in place an agreement for substitute teachers has no other intended purpose. The parties will have to bargain for all benefits that are not provided for in statute, or already explicitly provided to substitute teachers in existing collective agreements.”

In a separate letter to the Chairs of School Boards, the Minister noted that the Labour Board had determined that it would now certify units comprised only of substitute teachers. The letter went on to note that:

“An agreement for substitute teachers is necessary to bring substitutes within the statutory definition of teacher, that is, a teacher employed under a written contract. To this end, the existing regulation respecting forms of teacher agreements has been amended to include an agreement to be used by school boards when agreeing to employ a teacher as a substitute and by teachers when agreeing to accept employment as a substitute.”

The Minister’s letter went on to state that:

“In this way, rather than making it necessary to certify separate bargaining units for substitute teachers in every school division

and as a result requiring all school boards to undertake separate negotiations with these new units, substitute teachers can enter the collective bargaining arena consistent with the Manitoba Labour Board decision and become part of existing teacher bargaining units. Putting in place an agreement for substitute teachers has no other intended purposes. The parties will have to bargain for all benefits that are not provided for in statute, or already explicitly provided to substitute teachers in existing collective agreements.”

Neither the regulation nor the Minister, by way of his letters to the boards or the chairs of the boards, purported to deprive substitute employees of the right to determine if they want to organize and be represented, either in a separate bargaining unit, or the larger teacher unit, for collective bargaining purposes. That right would include the right to select a bargaining agent of their choice. Nor could the Minister, in our view, by way of regulation, deprive substitute teachers of their rights under the terms of *The Labour Relations Act*.

The Association has not made an application to certify the substitutes that it is seeking to have covered under the terms of this collective agreement. It is our view that if the Association had applied for and been successful in amending its Certificate to include substitutes, then we would as a Board have had jurisdiction to address the various substitute issues that the Association has requested that we consider. Alternatively, if either the Association or another bargaining agent applied for a separate unit of substitutes, then that would in our view require that any unresolved issues in their initial round of bargaining be submitted to a first contract arbitration under the terms of *The Labour Relations Act*.

We will retain jurisdiction for a limited period of time in order to provide the parties with an opportunity to resolve these issues. In that regard, it is our view that if the Association is successful in expanding its bargaining unit to represent substitutes, then it would be incumbent upon the parties to meet to attempt to negotiate those provisions of the collective agreement that would cover substitutes. In that case, we would, as a Board, retain jurisdiction so that we could then address any unresolved issues as between the parties.

If the Association is not so certified within a reasonable period of time, then it would be our expectation that the parties would meet with a view to attempting to determine an appropriate substitute rate that would be included

in the collective agreement so as to place Brandon in the same position as the other 37 divisions whose collective agreements now contain a substitute rate. If the parties are unsuccessful in those negotiations, then we would at least retain a limited jurisdiction for the purposes of establishing such a rate in the collective agreement.

We would encourage the parties to address the issue of our retention of jurisdiction. In the absence of an agreement, we will retain jurisdiction until June 30, 2007, in order to address the substitute issue in accordance with the provisions of this Award (one year after this award has been issued).

As a summary of this Arbitration Board's position and decisions on substitutes in Brandon, we have brought the most salient matters together below. There will be some further detail that may be required to be decided between the parties or this Board.

Substitute Teachers (Summary)

- We agree that substitute teachers are “teachers” within the meaning of *The Public Schools Act* and are eligible to engage in collective bargaining.
- We recognize that Manitoba Regulation 109/2005, Schedule E, sets out the form of agreement that must be used between a school division and a substitute teacher.
- We recognize that Schedule E requires a school board to “pay” a substitute teacher in accordance with the collective agreement.
- It is the right of substitute teachers in the Brandon School Division to determine whether they wish to apply for certification as a bargaining unit for the purposes of collective bargaining.
- There are several options open to substitute teachers, including joining the existing Brandon Teachers' Association Bargaining Unit.
- We acknowledge our jurisdiction to establish the “pay” for substitute teachers under this collective agreement.
- In order to allow sufficient time for the substitute teachers to indicate their intentions, we will defer making a decision in respect to the “pay” under the collective agreement for a period of up to one year from the date of this interim award, or for such further extension of time as may be granted to the BTA/MTS.
- A decision by this Board of Arbitration may become unnecessary if the parties negotiate a settlement on their own.

- For greater certainty, we retain jurisdiction to deal with any matters involving the application of the Brandon teachers' collective agreement to substitute teachers such as, but not limited to, the "pay", which may arise subsequent to certification of a bargaining unit of substitute teachers as part of the teachers collective bargaining agreement (BTA and Division).

Despite the result with respect to substitute teachers in this case, our conclusions are based on circumstances that may apply only to substitutes in the Brandon School Division. Therefore, it could be misleading to suggest that this result may necessarily be relevant in other school divisions.

ECONOMIC AND FINANCIAL ISSUES

This Board is required by law to consider economic realities in its deliberations and decisions. We believe we have discharged this duty in a reasonable manner.

Where the parties have agreed to changes in the collective bargaining agreement which have increased cost, we would expect the School Board and administration to have provided for them in the budget and, if necessary, collateral documents.

Where increased costs flow from this award, it remains for the Division authorities to provide this by re-allocation of existing resources or by tax increase, or both.

We are satisfied that the existing Division surplus is very modest, and would be of little or no use as a source for additional funding.

Much time and care was taken in our deliberations on economic and financial issues. Many changes recommended which had cost implications were declined or reduced, in part or in whole, because of cost considerations.

Prudence on this issue may be in the eye of the beholder. It is our view as a Board that our decisions here are affordable, all relevant matters considered, including the low school mill rate in Brandon. In our view, our duty has been discharged according to law.

"RURBANITY"

Is Brandon Division urban or rural? It is increasingly urban, but with significant influence from its largely rural catchment area. Although Brandon may be

properly described as urban, it is not metro Winnipeg or Thompson. Indeed it has a unique reality, different from all other “urbanity” in Manitoba.

CONCLUSION


General jurisdiction regarding the application of this award is retained. We are prepared to assist the parties as may be necessary. At other places in our award (such as regarding substitutes), we specifically indicate retention of jurisdiction as well.

As Chair, I thank my two colleagues on this Board for their co-operation and never-flagging support to our common endeavor.

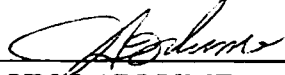
As a Board, we thank the parties for their extensive preparation for hearings, thus providing us excellent input to our decisions.

It has been a most interesting and informative process!

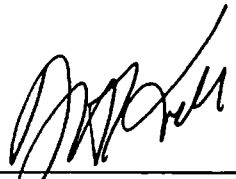
Dated this 16th day of June, 2006.



WALLY FOX-DECENT



JOHN LAPLUME



D. H. KELLS