The Manitoba Association of School Trustees
191 Provencher Blvd., Winnipeg, Manitoba

ARBITRATION BULLETIN

October 2, 1998
No. 05-98

IN THE MATTER OF AN ARBITRATION

B E T W E E N

MIDLAND SCHOOL DIVISION NO. 25
(hereinafter referred to as *"the Board",)*

and

MIDLAND TEACHERS ASSOCIATION
OF MANITOBA TEACHERS SOCIETY
(hereinafter referred to as *"the Association")*

BOARD OF ARBITRATION:	P. S. Teskey, Chairperson G. D. Parkinson, Nominee of the Board G. Smorang, Q C., Nominee of the Association
DATE OF ARBITRATION:	August 12, 1998
LOCATION OF ARBITRATION:	Winnipeg, Manitoba
APPEARANCES:	R. A. Simpson, Counsel to the Board R. Roy, Counsel to the Association Teacher X, Grievor

Jurisdiction Argument
Does non-tenured teacher have a right to have his/her termination arbitrated?

UNANIMOUS AWARD

This matter concerns four grievances, two individual grievances from Teacher X relating to an alleged suspension and an unjust termination and two policy grievances from the Association which essentially involved the same issues.

At the commencement of the hearing, the parties agreed that only jurisdictional issues would be dealt with and, subject to the determination of those issues, the hearing would or would not proceed further as to the merits. Accordingly, this Board does not intend to deal with the merits but some factual background is necessary.

The parties provided us with certain agreed facts and a number of documents which were not entered as exhibits per se but which were made available to us for perusal. Initially, we might note those facts that were agreed as follows:

1. The grievor Midland Division Association No. 25 ("MDA") is the bargaining agent for teachers in the Midland School Division No. 25 (the "Division").

2. MDA and the Division are parties to a collective agreement signed on March 16, 1998 and in force at all material times hereto. (Tab #1)

3. Teacher X was a teacher employed by the Division pursuant to a Form 2 agreement signed on June 16, 1997 which provided that employment was to commence on August 27, 1997. (Tab #2) At all material times, Teacher X was employed by the Division at Miami Collegiate in Miami, Manitoba.

4. The Division has alleged that in December, 1997 it received two complaints alleging obscene phone calls, the first concerning a student at Miami Collegiate, and the second concerning a teacher assistant at Miami Collegiate. Both complaints alleged an obscene call of a sexual nature was placed by a caller with a male voice.

5. Three teachers, Teacher X, Teacher Y and Teacher Z were relieved of their duties with pay on December 19, 1997 until further notice. (Tab #3)

6. The Superintendent of Schools for the Division, Eugene Wiebe, prepared a confidential Superintendent's report dated January 21, 1998 to the Division's Board of Trustees. Mr. Wiebe recommended that Teacher Z be suspended without pay for the period of January 5, 1998 to January 27, 1998 inclusive and that the Form 2 contracts of Teacher Y and Teacher X be revoked immediately and unconditionally with the provision of one month's pay in lieu of notice. (Tab #4) By letter dated January 22, 1998, the Division requested the appearance of Teacher X at the Division's Board of Trustee meeting scheduled for January 27, 1998. (Tab #5)

7. A staff officer of the Manitoba Teachers' Society provided the Division with a reply to the Superintendent's report on January 26, 1998 on behalf of Teacher X. (Tab #6) By letter of January 26, 1998, the Division acknowledged receipt of the MTS letter and confirmed it would be provided to the Board of Trustees. (Tab #7) Teacher X, along with his MTS representative, appeared at the meeting of the Division's Board of Trustees which was held on January 27, 1998. By registered letter dated January 29, 1998, the Division advised Teacher X that the Board of Trustees passed a motion to immediately terminate his employment contract with one month's salary in lieu of notice. (Tab #8)

8. On February 3, 1998 Teacher X wrote to the Division requesting reasons for the termination of his teaching contract pursuant to Section 92(4) of *The Public Schools Act.* (Tab #9) The Division replied on February 5, 1998 stating the reasons for termination. (Tab #10) On February 9, 1998 Teacher X wrote to the Division indicating that he required the matter of the termination of his teaching contract to be submitted to an Arbitration Board. (Tab #11) On February 10, 1998 the Division wrote to Teacher X and took the position he did not meet the requirements set forth in Section 92(4) of *The Public Schools Act* and accordingly it refused to appoint an arbitrator. (Tab #12) On February 13, 1998 Teacher X wrote to the Division indicating that he did not accept their decision with respect to Section 92(4) of *The Public Schools Act.* (Tab #13)

9. Four grievances were filed in this matter in relation to Teacher X:

   a. MDA grievance of February 3, 1998 concerning, *inter alla,* the suspension of Teacher X; (Tab #14)

   b. Teacher X's grievance of February 3, 1998 concerning, *inter alla,* his suspension; (Tab #15)

   c. MDA grievance of February 3, 1998, concerning, *inter alla,* the termination of Teacher X; (Tab #16) and

   d. Teacher X's grievance of February 3, 1998, concerning, *inter alla,* his termination. (Tab #17)

10. On February 17, 1998, the Division responded to the grievances and denied them. (Tab #18, 19, 20 & 21)

11. By letters dated March 5, 1998, from Teacher X and MDA, the above four grievances were requested to be submitted to an Arbitration Board. Teacher X and MDA appointed Mr. Garth Smorang, Q.C. as their nominee for all four grievances. (Tab #22, 23, 24 and 25)

12. By letters dated March 16, 1998 the Division appointed Mr. Gerry Parkinson as its nominee (Tab #26, 27, 28 & 29) and the nominees selected Mr. Paul Teskey as Chair of the Board and confirmed by letter from Mr. Parkinson to Mr. Teskey dated April 21, 1998. (Tab #30)

13. By two letters dated March 26, 1998, Teacher X and MDA advised the Division that the suspension and termination grievances filed by Teacher X and MDA included a claim relating to defamation and injury to the reputation and career of Teacher X. (Tab #31 and 32)

14. The initial hearing date of July 9, 1998 has been set aside to deal with the preliminary objections of the Division and to determine whether the Arbitration Board has jurisdiction to hear all or any of the various claims relating to the grievances aforesaid.

15. It is agreed by the parties that this Record and the documents filed herewith, including any references to those documents, are entirely without prejudice to the rights of the parties, including any rights to object to the admissibility or content of such documents, and neither party is adopting or admitting any of the facts or matters contained or alleged in said documents. The Record and documents are being filed solely for the purpose of assisting the Arbitration Board to deal with the preliminary objections and jurisdictional questions.

We might also note the reasons for dismissal given by the Division are as included in Tab 10 and which read as follows:

> "The Board acknowledges your letter of February 3, 1998 wherein pursuant to Section 92(4) of the PSA, you request reasons for the termination of your teaching contract with the Midland School Division No. 25.
>
> Following the hearing of January 27, 1998, the Board of Trustees deliberated and determined to accept the recommendation as contained in the superintendent's report, a copy of which had been provided to you.
>
> The reasons for termination are as outlined in the superintendent's report which include inappropriate conduct/conduct unbecoming of a teacher which has brought you and the Division into disrespect. Such conduct has resulted in the loss of trust and faith by the administration and the Board in your ability to continue teaching in the Division.
>
> As a result of your actions on the evening of December 6, 1997, and the morning of December 7, 1997 and the aftermath thereto, the Board was not prepared to continue your employment as a probationary teacher in the Division."

We should also note at this point that section 4(2) of the Labour Relations Act specifically indicates that the provisions of that Act (with certain exceptions that do not apply here) do not apply to ". . . a person or organization to which Part VIII of The Public Schools Act applies".

Teachers are covered by a somewhat unique combination of the provisions of The Public Schools Act, the Form 2 Agreement, and the provisions of any relevant Collective Agreement that may exist. The relevant provision of the Collective Agreement between these parties is Article XVI: "Discipline" which read as follows:

> "The imposition of discipline without just cause by the Division or any agent thereof in the form of written warning(s) and/or suspension(s) with or without pay shall be subject to the following provisions:
>
> 1) Where the Division or person(s) acting on behalf of the Division so disciplines any person covered by this Collective Agreement and where the affected person is not satisfied that the discipline is for just cause, the Division's action shall be deemed to be a difference between the parties to or persons bound by this Collective Agreement under Article XV: Provision for Settlement of Dispute During Currency of Agreement.
>
> 2) When such a difference is referred to a Board of Arbitration under Article XV, the Board of Arbitration shall have the power to:
>   a) uphold the discipline
>   b) rescind the discipline
>   c) vary or modify the discipline
>   d) order the Board to pay all or part of any loss of pay and/or benefits in respect of the discipline
>   e) do one or more of the things set out in sub clause a), b), c) and d).
>
> 3) This Article does not apply to Teacher assessment and evaluation processes done pursuant to division policy and practices and amendments thereto, except to the extent that any such assessment or evaluation is used as the basis of or in connection with disciplinary action.
>
> 4) The Association agrees that the Division has the right to suspend an employee with or without pay for just cause."

The most relevant provision of the Form 2 Agreement is Clause 4 which reads as follows:

> "This agreement shall be deemed to continue in force, and to be renewed from year to year, with such variations as to the time of payment and the amount of salary as may be provided by the bylaws, resolutions, or schedules of the school board from time to time in force (of which variations the teacher must be notified forthwith, and concerning which he or she shall have the right of conference with the school board, provided that no variations of salary shall take place before October 1, unless notice be given the teacher on or before June 30 of the same year) unless and until terminated by one of the following methods:
>
> (a) By mutual consent of the teacher and the school board.
>
> (b) By written notice given at least one month prior to December 31 or June 30, terminating the contract on December 31 or June 30, as the case may be, but the party giving notice of termination shall, on request, give to the other party the reason or reasons for terminating this agreement.

(c) By one month's previous notice in writing given by either party to the other in case of an emergency affecting the welfare of the school division or school district or of the teacher, provided that in the event the school board may, in lieu of one month's notice, as aforesaid, pay the teacher one month's salary at the said rate.

(d) By one month's notice in writing by the teacher in case of variation of salary, which notice shall be given, at the discretion of the teacher, at any time after notification of the variation, and shall take effect one month after the date is given."

Initially, Mr. Roy indicated that the issues involved concerned a suspension, termination, whether the grievor been given a full and meaningful opportunity to be heard prior to termination, whether the proper standard was just cause or something less (such as arbitrariness or bad faith), and defamation and injury to his career and reputation.

Mr. Simpson noted that the grievor, although a member of the Association, had been employed pursuant to the Form 2 contract from August 27, 1997. Accordingly, he had been in his probationary period prior to termination. As a result of complaints that had been received and investigated by the Superintendent, and considered by the Board of Trustees, the grievor was terminated with the appropriate one month notice. He had also been given the opportunity to appear before the Board at a special Board meeting on January 27.

After full consideration of the matter, the Board decided to terminate the contract and did so according to the terms of same. The grievor had requested reasons for the termination under s. 92(4) of the Act and they were provided. Given all that, the grievor did not have the requisite service to provide jurisdiction to a Board of Arbitration.

Mr. Simpson also noted that, in substance, there are really only two grievances not four. One related to the suspension and one related to termination.

With respect to the suspension grievances, the position of the Division was that the grievor had never been suspended; he had only been relieved of his duties pending investigation of the matter and had been paid during that time. There was no reference to any suspension in the Division records.

It was also noted that the claims for defamation and/or loss of reputation only arose after the Board of Arbitration had been appointed. That could not be considered as a simple clarification of the grievance and should not be considered as arbitrable or contained in the grievance.

Mr. Simpson provided us with a number of authorities (which will be discussed as need be later in this Award as will be the authorities provided by Mr. Roy) as follows:

Re Inco Limited and United Steelworkers of Americas Local 6166/Grievance of J. Tomms (July 12, 1989, unreported, Teskey)

Re Broadway Hospitality croup Inc. and Canadian Brotherhood of Railway. Transport & General Workers, Local 272 (1990), 14 L.A.C. (4th) 224 (Teskey)

Kowalchuk v. Rolling River School Division No. 39 (1974), 48 D.L.R (3d) 254 (Man. Q.B.)

Teachers' Association of Seine River. No. 14 and Nash v. School Division of Seine River, No. 14 (1985), 33 Man. R (2d) 247 (Man. C.A.)

Manitoba Teachers' Society (Portage La Prairie Division Association No. 24 and Evergreen Teachers' Association No. 22) v. Portage La Prairie School Division No. 24 and Evergreen School Division No. 22 (1981), 14 Man. R (2d) 233 (Man. Q.B.)

Manitoba Teachers' Society (Portage La Prairie Division Association No. 24 and Evergreen Teachers' Association No. 22) v. Portage La Prairie School Division No. 24 and Evergreen School Division No. 22 (1982), 14 Man. R (2d) 340 (Man. C.A.)

Re The Swan Valley School Division No. 35 and The Swan Valley Division Association No.. 35 of The Manitoba Teacher's Society (December 23, 1980, unreported, Hamilton, J.)

Re Cormier v. Board of School Trustees District No. 19 (1974), 46 D.L.R (3d) 704 (NBSC)

Re Regional Municipality of HamiltonWentworth and International Union of Operating Engineers, Local 772 (1993), 35 L.A.C. (4th) 424 (Levinson)

Re Four Seasons Hotel and Hotel, Restaurant & Culinary Employees &: Bartenders' Union. Local 40 (1994), 46 L.A.C. (4th) 367 (Hope, Q.C.)

Re York Region Roman Catholic Separate School Board and Onta rio English Catholic Teachers' Association (1995) 49 L.A.C. (4th) 123 (Keller)

Sandy Bay Education Foundation Inc. v. Sandy Bay Teachers' Association of the Manitoba Teachers Society et al (1996), 112 Man. R. (2d) 40 (Man. Q.B.)

Sandy Bay Education Foundation Inc. v. Sandy Bay Teachers' Association of the Manitoba Teachers Society et al (1997), 115 Man. R (2d) 67 W.A.C. 65

Re Government of Province of British Columbia and British Columbia Government Employees' Union (Daniels) (1990), 22 L.A.C. (4th) 20 (Ladner, Q.C.)

Hall v. Puchniak (November 8, 1995, unreported, Man. C.A.)

It was the Division's position that the grievances ought to be dismissed upon a preliminary basis. We might note at this time the authorities provided by Mr. Roy (as indicated above, they will be discussed as necessary further):

Re Nova Scotia Civil Service Commission and Nova Scotia Government employees Association (1980), 24 L.A.C.(2d) 319 (Christie) Re Corporation of the City of Winnipeg of Windsor and Ontario Nurses' Association (1985), 19 L.A.C. (3d) 1 (McLaren)

Re City of Whitehorse and International Union of Operating Engineers, Local 115C (1997), 68 L.A.C. (4th) 208 (Burke)

Re Morris -MacDonald Teachers' Association No. 19 and Morris MacDonald School Division No. 19 and Mountain Teachers' Association No. 28 and Mountain School Division No. 28 [1995] M.G.A.D. No. 4, 37 C.L.A.S. 248 (Wood)

Re Mystery Lake School District. No. 2355. and The Manitoba Teachers' Society [1993] M.G.A.D. No. 86 33 C.L.A.S. 159 (Baizley)

Kaushal and Agassiz School Division No. 13, [1973] 38 D.L.R (3d) 740 (Man. C.A.)

Wright v. San Antonio School District [1939] 3 W.W.R. 280 (Man. C.C.)

Re The Sandy Bay Education Foundation. Inc. and The Sandy Bay Teachers' Association of The Manitoba Teachers' Society and Bunn (November 12, 1991, unreported, Chapman)

Re Brampton Hydro Electric Commission and National Automobile, Aerospace and Agricultural Implement Workers Union of Canada. Local 1285 et al (1993), 15 O.R (3d) 773 (Ont. D.C.)

Re Regional Municipality of Waterloo and Canadian Union of Public Employees. Local 1883 (1987), 30 L.A.C. (3d) 344 (Brent)

Re Fisher Scientific and United Food & Commercial Workers. Local 1000A (1990), 13 L.A.C. (4th) 350 (Brunner)

Re Reimer Express Lines Ltd. Winnipeg and General Teamsters. Lo cal 979 (1995), 52 L.A.C. (4th) 34 (Teskey)

Re Reimer Express Lines Ltd. v. General Teamsters Local Union #979 affiliated with the International Brotherhood of Teamsters (1996), 109 man. R (2d) 261 (Man. Q.B.)

Re Council of Printing Industries of Canada and Toronto Printing Industries of Canada and Toronto Printing Pressman & Assistants' Union No. 10 et al (1993),

149 D.L.R 93d) 53 (Ont. C.A.)

Municipality of Metropolitan Toronto v. Canadian Union of P ublic Employees. Local 43 (1990), 69 D.L.R. 94th) 268 (Ont. C.A.)

Re Weber v. Ontario Hydro (1995), 125 D.L.R (4th) 583 (S.C.C.)

Re Bhairo v. Westfair Foods Ltd., [1997] 6 W.W.R 397 (Man. C.A.)

Re Praskey v. Metropolitan Services Board et al (1997), 143 D.L.R (4th) 298 (Ont. C.A.)

Mr. Roy suggested that the Weber decision indicated that remedies were available for defamation and/or loss of reputation. As well, Counsel noted that there was no time limit in the Collective Agreement for filing a grievance and the Division had been slow in its response. The only grounds raised by the Division in terms of its preliminary objection were technical in nature and we should deal with this matter in substance.

The nature of the allegations against the grievor were defamatory and damaging to his reputation which should have some impact on the damages awarded.

None of the three sources of the contractual relationship (the Legislation, the Form 2 Agreement, or the Collective Agreement) refer to any probationary period although it was conceded that the grievor did have less than one year of employment pursuant to s. 92(3) or 92(4) of the Act, the relevant portions of which read as follows:

> "Where a complaint is made to a school board respecting the competency or character of a teacher, the school board shall not terminate its agreement with the teacher unless it has communicated the complaint to the teacher or his representative and given him an opportunity to appear personally or by representation before the school board to answer the complaint.
>
> Action on termination of agreement.
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> Where an agreement between a teacher and a school board is terminated by one of the parties thereto, the party receiving the notice of the termination may within seven days of the receipt thereof request the party terminating the agreement to give reasons for the termination, in which case the party terminating the agreement shall, within seven days from the date of receipt of the request comply therewith and where the school board terminates the agreement of a teacher who has been employed by the school board under an approved form of agreement for more than one full school year, as defined by the minister by regulation, the following clauses apply:
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> . . . (d) the issue before the arbitration board shall be whether or not the reason given by the school board for terminating the agreement constitutes cause for terminating the agreement:

> (f) where, after the completion of hearing, the arbitration board finds that the reason given for terminating the agreement does not constitute cause for terminating the agreement it shall direct that the agreement be continued in force and effect and subject to appeal as provided in The Arbitration Act the decision and direction of the arbitration board is binding upon the parties;"

Section 92(3) involved the opportunity to respond to all allegations and the grievor had not been told about the second allegation in this instance, it had only become apparent in the Superintendent's report and that was in breach of the duty of fairness. Section 92(4) was silent in terms of the rights of a probationary teacher and did not restrict access to arbitration whereas ss. 92(6) and (7) did provide for a procedure relating to improper termination and that was buttressed by ss. 101(5), 126(2), and 131.4.

The Collective Agreement did not need to duplicate everything that was contained in the Form 2 Agreement as it was incorporated by reference but the rights pursuant to either ought properly to be enforceable.

S. 101 (5) referred to cause for termination but did not exclude probationary teachers. Article 13 did provide for security of tenure as provided for in the Act and Article 14 (which incorporated s. 92(5) of the Act) required a meaningful opportunity and full discussion of any issues. Neither did Article 15 exclude probationary employees and Article 16 clearly referred to suspensions for just cause with or without pay.

The Division was not entitled in this instance to rely upon the emergency provisions of the Act in s. 101(5) and would at least be required to prove that something had happened to establish that such an emergency existed. The decision that had been taken was arbitrary and unreasonable and was properly the subject matter of arbitral scrutiny.

Ultimately, Mr. Roy suggested that all of the issues raised in the grievances were arbitrable.

In reply, Mr. Simpson suggested that s. 101(5) of the Act and s. 126(2) were not applicable here. As well, he suggested that various authorities indicated that a difference should be made between implied obligations upon the part of teachers into the employment contract rather than what was to be implied into the Collective Agreement. It was also his position that Weber did not provide for any enlargement of jurisdiction for a board of arbitration.

DECISION:

This matter does raise interesting issues but we are also aware of the fact that the hearing, if it does proceed, is scheduled to resume October 7 and 8. Accordingly, while the members of the Board have reviewed all of the authorities furnished to us, we do not intend to discuss them at any length although we will attempt to apply the principles they stand for.

In this instance there are really two primary issues relating to jurisdiction. Those are the extent of what jurisdiction might be possible and which we would, if need be, hear evidence and receive further submissions. The first is the extent of what jurisdiction is available and the second is what forum (or forums) are appropriate for the various issues raised by the grievances. It is fair to say that this Board does have some concern about the possibility of creating a multiplicity of procedure before the parties but, still, we can only act within the jurisdiction we have. Accordingly, we thought it useful to set forth what we consider the limits of our jurisdiction to be.

There is much discussion and debate in the various authorities concerning the essential characterization of any particular dispute in question and, given the characterization, what forum should logically address the issue. Since Weber (and before and after) the general principle has been that a dispute arising out of a Collective Agreement should logically proceed through an arbitral process although there certainly have been circumstances in which concurrent or alternate jurisdiction has been found.

Weber (and the other authorities) must be read with some caution in terms of the context of this particular employment relationship which is governed not only by a Collective Agreement but also by legislative provisions and the Form 2 agreement.

We do believe that we would have jurisdiction, if the Union and the grievor so choose, to hear and to consider the suspension issue (if the evidence ultimately establishes that it was disciplinary in nature) as it is clearly referred to in the Article XVI of the Collective Agreement and which refers to suspensions with or without pay. With respect to that issue, our jurisdiction according to the agreement between the parties is to uphold, rescind or vary or modify the discipline and to potentially order payment for "loss of pay and/or benefits". That jurisdiction in our view does not extend to claims for damages for defamation and/or injury to career or reputation. In our respectful view, such a remedy would only be available in a court of competent jurisdiction.

We are also of the view that we would potentially have jurisdiction to consider the process (in terms of whether it met the requirements of S. 92) adopted by the Board of Trustees in terms of adequacy of opportunity for the grievor, correspond to the allegations as well as to review whether an "emergency" (pursuant to the provisions of the Public Schools Act) did exist. In that regard, our jurisdiction would be limited to an examination of whether or not Teacher X should have been paid (and receive benefits) until the end of June, 1998 or, possibly, for one month further pursuant to S.92(7) of the Act. However, again, we do not feel that we have jurisdiction to consider claims for damages for defamation or impact upon career. We do not believe that Weber casts that broad a net.

We also are of the view that section 92(4) of the Act is explicit in its terms in that the arbitration process pursuant to the legislation is only available to teachers who have been employed for "more than one full school year" and Teacher X does not fall within that definition. It is true that there is no reference to probation specifically but the legislation clearly does contemplate the one year of entitlement to the arbitral process albeit we could consider suspension and compensation until the end of June, 1998. Accordingly, we would have no jurisdiction to order continuation of the contract. Rather, as indicated previously, we would only be considering the issue of loss of compensation or benefits to the extent indicated above.

Since we have only heard submissions regarding the jurisdictional issues, it is difficult for us to determine at this time what the essential nature of the dispute is or what the grievor and the Union perceive that to be. Given the somewhat unique nature of this employment context, it may well be that the better forum to deal with all issues would be through civil litigation rather than arbitration. However, that would be the choice of those who feel that a wrong has been committed and that a remedy to fit that wrong should be provided. In our view, this is an instance where there is concurrent jurisdiction but, as indicated above, the jurisdiction of the Board of Arbitration is limited. We might also add that the interplay of the Collective Agreement, the Public Schools Act and the Form 2 agreement does create complexities. It is not for us to component upon the wisdom of the particular system that has evolved although some clarification might be desirable for all concerned. However, that is not for us to determine.

The above represents our findings as to our jurisdiction if it so chosen. We will expect to hear from the parties as expeditiously as possible as to whether they wish to proceed on October 7 and 8.

We also wish to thank both Mr. Roy and Mr. Simpson for their able and full presentations which were of great assistance to us.

DATED this 28th day of September, 1998.
Paul S. Teskey, Chairperson

I do concur and am providing separate reasons
G.D. Parkinson, Nominee of the Company

I do concur and am not providing separate reasons
G. Smorang, Q.C. Nominee of the Union

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IN THE MATTER OF: AN INTEREST ARBITRATION

BETWEEN:

MIDLAND SCHOOL DIVISION NO. 25
(hereinafter called the "Division") and

MIDLAND SCHOOL DIVISION TEACHERS' ASSOCIATION
OF THE MANITOBA TEACHERS' SOCIETY
(hereinafter called the "Association")

CLARIFYING REASONS

I concur in the Award in this matter. In order to clarify matters, I want to make it clear that I have not yet agreed that there is in fact jurisdiction to consider the process in terms of Section 92 of the Public Schools Act. That issue has not yet been argued before us.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED at the City of Winnipeg, in the Province of Manitoba this is day of 25th day of September, 1998.

G.D. PARKINSON, Board Member