

Order No. 106/18

**DECISION ON COMPLAINT FILED BY MS. E. MARTIN
AGAINST THE RURAL MUNICIPALITY OF PIPESTONE
RESTON WATER AND WASTEWATER UTILITY**

July 31, 2018

**BEFORE: Shawn McCutcheon, Panel Chair
Marilyn Kapitany, B. Sc. (Hons.), M. Sc., Member
Irene A. Hamilton, Member**

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1.0 Executive Summary

On February 23, 2018, the Public Utilities Board (the Board) received a complaint from Ms. E. Martin (the complainant), of Brandon Manitoba, formerly of Reston Manitoba. The complaint involves a water and wastewater utility bill in the amount of \$1,406.48 which showed an increase in water use during a three-week period, July 22 to August 12, 2017, that she received from the Rural Municipality of Pipestone (RM), Reston Water and Wastewater Utility.

The decision of the Board is that the complaint should be dismissed.

2.0 Complaint

The complainant owns a residential property in Reston Manitoba. In response to the water and wastewater utility bill she received, dated September 25, 2017 the complainant advised that:

“as of May 2017, we have had all water to our house turned off via the indoor tap and to our tubs/taps/toilets separately. We have been living and working in Brandon since May 2017 and our house is currently locked while we are away, with us checking on it on a weekly basis on weekends. In late November 2017, we received the one and only notification of our water bill status and it was dated for August 29, 2017.”

The complainant has requested that the Board review this complaint as this matter was unable to be resolved between the complainant and the Utility. As of February 7, 2018 the outstanding utility bill has been applied to the complainant’s property tax bill, as per the RM’s By-law 2015/09. The complainant is requesting that the Board find that charge is excessive and that it be reduced.

On May 10, 2018 the Board advised the RM of the complaint, requested information about the complaint and provided the Utility an opportunity to respond to it. The RM provided a

response on May 15, 2018 addressing each of the information requests in the Board's letter.

In an email dated May 25, 2018, the Board provided a copy of the RM's response for the Complainant's review and rebuttal for the Board to consider by May 30, 2018. The Complainant provided a response on May 30, 2018.

Powers of the Board

When reviewing a complaint or an application, the Board has at its disposal two approaches, either a paper review or an oral hearing. The Board considers the matter and determines which method of review is the most appropriate one to use given the circumstances. In this case, the Board decided to proceed by way of a written hearing in order to minimize costs to all parties.

Pursuant to *The Public Utilities Board Act* (the Act), the Board exercises powers to investigate complaints using various provision of the Act, however the general subsection below applies to this complaint.

Power of board on complaints generally

33 *Where the Minister of Justice, a municipality, or a person interested makes a complaint to the board that the owner of a public utility, a municipality, a corporation, or any person, has unlawfully done or unlawfully failed to do, or is about unlawfully to do, or unlawfully not to do, something relating to a matter over which the board has jurisdiction as aforesaid, and requests the board to make some order in the matter, the board shall, after hearing such evidence as it may think fit to require, make such order as it thinks proper under the circumstances.*

3.0 Available Evidence

The Board notes that the utility bill in question, submitted by both parties as evidence, dated September 28, 2017 related to a billing date from June 28, 2017 to September 25, 2017. It was mailed to the Complainant accompanied by a letter that stated:

“Enclosed is your Third Quarter Utility Bill. Upon obtaining the reading we noticed it seemed significantly large. We are able to pull usage reports from your water meter and have enclosed them with the bill.

As you can see on the daily report from July 22 to August 12 something inside your home was running continuously which is why the reading is so large. It looks like the issue has since been resolved as nothing going forward looks out of the ordinary.

If you would like we can also turn the water off at the curb so you will no longer receive a water bill and it would prevent another incident like this happening.

Please contact the office or use the service request option on our website if you would like the water to your house shut off. This is also a good idea if the house is going to be vacant through the winter months to prevent the meter from freezing and causing damage.”

In the information request, dated May 10, 2018, the Board asked the RM if the property owner provided notice to the Utility of her change of address. In the RM's response of May 15, 2018 the RM stated there was no change of address provided by the Complainant until October 2, 2017. In the complainant's rebuttal, dated May 30, 2018, she confirms that a change of address was never made.

Further By-law 2015/09, submitted by the RM, states:

“AND WHEREAS under Section 252 of The Municipal Act, S.M. 1996, C. 58, empowers a municipality, subject to the approval of the Public Utilities Board, to pass By-laws to establish the amounts to be charged for the sale and supply of water supplied to a customer and to make regulations with regard to the collecting of amounts charged and the adding of penalties to charges in arrears and for the enforcing of regulations by cutting off the supply to the person offending the service and generally deemed necessary in matters connected with the carrying on of such a utility;

AND WHEREAS it is deemed expedient and in the best interests of the R.M. of Pipestone that a reasonable rate be set and levied for maintenance and operation against those utilizing the services of the Water Distribution System regulating the time or times and manner that such rental rates shall be paid;

Section (2): THAT each customer connected to the system shall be charged the minimum quarterly charge as set out in Schedule “A” paragraph 2 based upon the meter size for the service to that customer, payable in advance together with the commodity rates in accordance with the said Schedule paragraph 1 for consumption through that meter in excess of the consumption included in the quarterly minimum charge for the previous quarter. No reduction in minimum rates will be made because of stoppage of water supply or frozen pipes inside of the premises of the owner of the property without just cause.

Schedule A – Section 6.0 BILLINGS AND PENALTIES

Accounts shall be billed quarterly and shall be due and payable fifteenth day of the month following the month of the quarter being billed. A penalty of one per cent (1%) of the total amount of the bill shall be added if not paid by the due date.

Schedule A – Section 9.0 – OUTSTANDING BILLS

Pursuant to section 252(2) of the Municipal Act, the amount of all outstanding charges for water and sewer service are a lien and charge on the land serviced, and shall be collected

in the same manner in which ordinary taxes are collectable, and with like remedies. A consumer who has not paid their bill will be charged an administration fee of \$10.00 to cover costs of adding outstanding accounts to the tax roll.

Lastly, in the response letter from the RM to the Board dated June 29, 2018 the RM states the following answers to the Board's information requests:

"In order for the water meter to register use, the water must travel through the water meter. The water meter has an impeller that rotates as water flows through it. A curb stop leak would not affect a water meter because the leak is before the meter is able to register. If there is no water running after the water meter, the meter remains at 0.00 usage."

4.0 Board Findings

Based on the relevant evidence submitted by both parties, the decision of the Board is that the complaint should be dismissed.

The Board finds that without tests being performed on the water meter to determine its accuracy, there is nothing to refute that the water use was accurately measured by the meter. In addition, the evidence indicates an offer was made by the RM to have the meter tested but the complainant never acted on this offer. Therefore, it is the responsibility of the property owner to pay the charges incurred.

The Public Utilities Board Act specifies the following:

Expenses of board

97(4) The expenses and costs of and incidental to proceedings to be taken by the board under this section are in the discretion of the board; and the board may direct by whom and to what extent they shall be paid.

The Board has the authority to assign costs for the Board's review of this complaint to one or both of the parties involved.

The Board has decided not to assign costs of \$500 to the complainant, even though the Board has concluded that the complaint should be dismissed.

The Board advises the complainant to promptly pay the amount owed and any interest costs related to the unpaid bill.

Seeking redress from the Board should be a last resort when attempting to resolve a dispute of this nature. The parties involved should make every attempt to come to an agreed upon resolution before the Board is asked to settle a dispute.

5.0 IT IS THEREFORE ORDERED THAT:

That the complaint made by Ms. E. Martin's against the Rural Municipality of Pipestone, Reston Utility be dismissed.

Fees payable upon this Order have been waived at the discretion of the Board.


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.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Shawn McCutcheon"
Acting Chair

"Rachel McMillin, B.Sc."
Acting Secretary

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issued by The Public Utilities Board



Acting Secretary