

Is Canada Day celebration controversy worth breach of contract claim?

Employment & Labour | Employment Law | Litigation | Litigation & Dispute Resolution | Ontario | Termination | Toronto | Toronto Politics

5 July 2017

On 1 July 2017, Canada turned 150 years old. All across the nation, public and private organizers hosted fabulous events.

In Toronto, residents and visitors were treated to a series of free events hosted by the City's government at Nathan Phillips Square. The finale, however, has resulted in controversy and threats that Canadian song artist Belly be sued for breach of contract.

According to city officials, the Ottawa rapper's use of profanities during his performance was "inappropriate" and "not acceptable". In an issued statement, the City explained: "As per contracts, the city expects all artists to deliver G-rated, family-friendly shows suitable for all ages."

In response to the statement, Belly explained that organizers were made aware beforehand that he would be swearing during his performance and that the City's complaints amounted to an attempt to censor his art.

So, did Belly breach his contract?

The language of the contract is important and as far as we are aware it has not yet been made publicly available.

From the statement issued by the City, if the terms of the agreement merely provided for an "expectation" that a "G-rated" performance be delivered, it may be difficult to prove that Belly breached his agreement. He certainly performed at the event and thereby fulfilled this part of the bargain.

In addition, even if the contract contained more specific language, Belly's explanation suggests that the parties had further discussions about the scope of his performance and that Belly's performance would include the use of profanities. These discussions would certainly be important in assessing any breach of contract claim.

Indeed, according to media sources, even a surprise by Drake at the festivities included the use of a handful of swear words. Yet Drake's use of profanities have not be chastised by the City. Instead, a city official seemed to have shrugged off Drake's use of profanity on the basis that he didn't sign a contract. Yet if Belly's use of profanities were unacceptable, then Drake's use of profanities to the same audience should have been unacceptable.

Lastly, even if there was a breach of contract, the damages to the City may be difficult to measure. The City has likely lost no money from Belly's performance. This would be fatal to any claim for breach of contract.

While the City intends to review its policies and contracts, the following words of Councillor Pasternak perhaps inject some reality into the controversy: "What did people expect when a rapper performs, nursery rhymes?"

It will be interesting to see how this controversy unfolds at Toronto's City Hall.

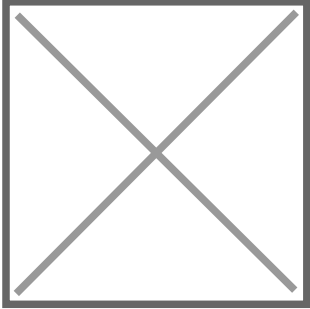
(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

Gardiner Roberts

Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com

Author



Stephen A. Thiele

Partner

416.865.6651

sthiele@grllp.com