

Judge rejects Nortel dissident group

BY LEE GREENBERG, THE OTTAWA CITIZEN MARCH 4, 2010

A vocal group of Nortel employees objecting to a sunset deal with the insolvent company lost their first battle in Ontario court Wednesday.

Superior Court Justice Geoffrey Morawetz took only 33 minutes to reject a bid by the roughly 30 long-term disability recipients to halt proceedings for 45 days while they prepared an objection.

A lawyer for the dissenters argued the group had had only five business days to digest and respond to the controversial deal, which would force employees to abandon any potential legal claims against Nortel directors and executives for alleged mismanagement of pension and health and welfare funds.

Morawetz agreed with lawyers representing the company and the majority of pensioners, who argued uncertainty caused by the delay would cause more damage.

"I would suggest, your honour, that the good of the many should not be sacrificed because of the discontent of the few," said Nortel lawyer Derrick Tay, one of more than 22 robed lawyers who appeared in court on the matter Wednesday. If the arrangement is turned down, pension and disability benefits would be cut off March 31.

"That would precipitate a crisis," said Mark Zigler, of Koskie Minsky, the firm representing Nortel's 12,000 former employees affected by the bankruptcy.

"On that basis alone, this matter will continue," Justice Morawetz ruled.

The deal to extend health, pension and long-term care benefits has prompted anger among the dissident group of 30, who object to that provision which will prevent them from suing over what Ernst & Young says is a \$37-million shortfall in the fund.

Anger over that clause spilled into the hallway outside the downtown Toronto courtroom where arguments were heard Wednesday.

Several dissidents accosted their own lawyer, Zigler, and court-appointed representative Sue Kennedy.

"They kept us in the dark for too long," said Josée Marin, one of the angry LTD recipients.

Marin, a former lab technologist at Nortel, has been on long-term disability since 2002. She suffers from Crohn's disease, an inflammatory bowel condition, and scleroderma, a chronic autoimmune disorder.

If the sunset deal goes through, Marin and other LTD recipients will have to make do with less than one-third of their current income, according to estimates by financial analyst Diane Urquhart.

However, Sue Kennedy, the court-appointed representative of LTD employees says the offer is the best deal her side could get. She echoed a message from lawyers that the disgruntled faction has to face the fact that the once-mighty company will soon cease to exist.

"The alternative is to tell them 'OK, March 31 your health and income benefits are gone'," she said.

"They would not be able to do it. That would severely affect people's health. This gives us time to come to grips with the end of Nortel as we knew it. It gives us time to plan. It gives us time to lobby the government for the help we're going to need to get through this."

Court arguments on the deal continue today.

Courts in Toronto and Wilmington, Delaware Wednesday approved the sale of a carrier voice division to Genband Inc., a Texas company. Nortel will get \$182 million U.S.

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