

April 28, 2016

Big CUPW Win in Court — 2011 Back-to-work Legislation Struck Down

When back-to-work legislation cut off our collective bargaining in 2011, after the NDP filibuster in the House of Commons, after a frustrating round of bargaining with Canada Post Corporation, we knew our rights were being violated. We knew we were signing a collective agreement under duress, accepting conditions that we would have rejected if not threatened with such legislation.

As members, we all faced a difficult choice: ratify an agreement with diminished wages and working conditions, or submit to the Final Offer Selection arbitration process. This position was entirely created by the Harper government's back-to-work legislation – free collective bargaining could not have brought us to such a moment.

So in October 2011 we filed a *Canadian Charter of Rights and Freedoms* challenge with The Ontario Superior Court, claiming that the *Restoring Mail Delivery for Canadians Act* violated our right to free expression. The decision was issued today: the court found that it did violate our rights, and was unconstitutional.

Sisters and brothers, we won – we are vindicated!

You can read the decision, attached. (Available in English only.)

What happens to our collective agreement

While the decision clearly says that the Act was invalid, and has no force or effect, damage was done. The decision scraps the law, but not the agreement that we signed in its shadow. While the court process unfolded, that agreement came into effect, and then expired. Nonetheless it remains in force while we are negotiating.

What effect this may have on ongoing negotiations

The effect remains to be seen, but this decision clearly says that the context of working out the

existing collective agreement was shaped by an unconstitutional and invalid Act of legislation.

Though the decision doesn't change the terms of the contract, it confirms that the agreement was arrived at in an unfair environment that denied one of our basic human rights.

There are problems in our collective agreement, because of the legislation, that we're now trying to address at the bargaining table. And we're determined to see improvements. Even if the court couldn't throw out the agreement we signed in 2012, it tells Canada Post that they can't pretend those wages and conditions were freely negotiated.

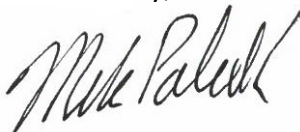
We continue the current negotiations with a new sense of the value and sanctity of our Charter rights to assert our bargaining power and make Canada Post pay serious attention to our demands.

A great day for the whole Canadian labour movement

This decision tells the federal government and everyone that back-to-work legislation impinges on the right to free expression, ruins the collective bargaining process, and causes long-lasting harm to workers' interests.

The government must be more respectful of these rights before drafting such legislation in the future, and employers too must be more aware of the fundamental nature of the right to free collective bargaining. If our rights are trampled on, we will always fight back. It's at the core of why we unite as a union.

In Solidarity,



Mike Palecek

National President

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