



Stewards' Action Bulletin

Canadian Union of Postal Workers

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Community Mail Box Conversion

On December 11, 2013 Canada Post Corporation (CPC) notified the Union about its 5 Point Plan approximately 1 hour prior to sending out a press release. This plan included eliminating door-to-door mail delivery. On February 20, 2014 CPC announced the first 11 communities to lose their door-to-door delivery. The depots situated within these eleven communities are listed below:



DEPOT NAME
Dartmouth Stn Bedford
Dartmouth LCD Lower Sackville
Oakville LCD 1
Oakville Station Main
Repentigny Stn Bureau-Chef
Boisbriand Stn Rive-Nord 2
Kanata Stn Kanata
Calgary LCD 7
Calgary LCD 21
Winnipeg LCD G
Fort McMurray Stn Main
Fort McMurray LCD 1

The implementation date for these communities is October 20th, 2014. The conversion to CMBs in these communities will impact 99,146 points of call. Canada Post estimated an average reduction of 30% to 35% of its workforce in the depots that are undergoing CMB conversion restructures. The results have shown that number to be closer to 50%.

Since the February 20th announcement, Canada Post has slowly provided the Union with the communities that will see the elimination of door-to-door mail delivery in 2015. The national Union was notified of these locations at the

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same time as local management made the announcement to the work floor. The only information provided to the union was the name of the depot being converted. The locations below, slated for conversion, were provided over the previous 5 months.

DEPOT NAME
Depot N Ottawa
Dartmouth Stn East
Dartmouth Stn Main
Halifax LCD 1
Hamilton Mountain
Hamilton LCD 5
Hamilton LCD 2
Milton LCD
Winnipeg LCD R
Calgary LCD 6
Calgary LCD 18
Windsor Stn Tecumseh
Stratford Stn Main
Tillsonburg Stn Main
Simcoe Stn Main
Delhi Stn Main
Rouyn Noranda Bureau-Chef
St-John's, NL Depot

Canada Post has provided little information to the Union. What we do know through consultation is the following:

- CPC will be converting 5 to 5.5 million points of call, 20% of

these will be businesses

- Industrial park areas will automatically retain their current delivery status (door-to-door, LBA, CMB, Panel)
- Indoor shopping malls that currently receive door-to-door delivery to each store will continue to receive the same delivery
- A strip mall in a primarily residential area will likely be converted to CMB delivery
- Apartments receiving door-to-door delivery will be converted to CMB delivery
- Apartments with Lock Box Assemblies or mailrooms will not be converted
- Customer points of call that have been granted accommodation status will only receive delivery to the door on Wednesday every week
- If you have a personal contact item or parcel for an accommodated CMB POC on a day other than the scheduled day of delivery you will not be permitted to bring the regular mail to door
- A reminder for the letter carrier will be attached to the accommodated CMB POC receptacle
- CPC proposed an Interim Standard to deliver to the door for the accommodated CMB POC customer. The Union is reviewing this proposal.

Through media coverage CPC learned that customers had been notified of the site locations prior

to consulting with customers and the municipality. CPC told the Union they will no longer provide 038's until after consultation with customers and the municipality. CPC will only provide to the Union a list of points of call that will be converted to CMBs. The Union is opposed to these changes and informed CPC that if the 038s are not provided that they would be in violation of article 47.04.

Union members across the country are fighting against this plan to eliminate services and jobs. This plan was concocted by Conservative appointed Deepak Chopra with full support, and likely guidance, by the Federal Conservative government. Therefore, this is a political fight that must be addressed during the next Federal election. Local executives have to speak to their members about the dire consequences of voting for the Conservative Party in the next election. The Conservatives have already legislated CUPW workers back to work through draconian legislation and passed legislation to have a member of Treasury Board sit on the negotiating committee for Canada Post. If the next round of negotiations takes place with a Conservative government in place, postal workers will suffer even more. The national Union is having dialogue with the other parties in an effort to get support to stop the elimination of door-to-door mail delivery. Therefore, the next election,

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Family Status Accommodation

In 2004, Fiona Johnstone, a border services officer at Toronto's Pearson airport filed a Human Rights Complaint based on family status. Ms. Johnstone had just returned from maternity leave and was expected to work an irregular, around-the-clock rotating shift schedule.

She argued that this schedule prevented her from finding daycare for her two children. The employer offered her an "unofficial" accommodation with a fixed schedule that required her to demote to part-time status, thereby, reducing her income and benefits. Ms. Johnstone believed this amounted to discrimination based on family status. The employer did not argue that they were unable to accommodate Ms. Johnstone, but rather, they weren't obligated to do so. The Canadian Human Rights Tribunal ruled in Johnstone's favour in 2010. Family status is one of the 11 prohibited grounds. As such, the employer was obligated to accommodate her to the point of undue hardship. Forcing Ms. Johnstone to accept working conditions that are inferior to other employee's amounted to discrimination.

The Tribunal ruling was challenged in the Federal Court of Appeal. In March 2014, the Court upheld the Tribunal's decision. In addition, para 93 of this decision outlines a four part test to establish a case for family status accommodation. It states:

"I conclude from this analysis that in order to make out a

prima facie case where workplace discrimination on the prohibited ground of family status resulting from childcare obligations is alleged, the individual advancing the claim must show (i) that a child is under his or her care and supervision; (ii) that the childcare obligation at issue engages the individual's legal responsibility for that child, as opposed to a personal choice; (iii) that he or she has made reasonable efforts to meet those childcare obligations through reasonable alternative solutions, and that no such alternative solution is reasonably accessible, and (iv) that the impugned workplace rule interferes in a manner that is more than trivial or insubstantial with the fulfillment of the childcare obligation."

On the same day the federal Court of Appeal released the Johnstone decision, it also released a decision on a similar case for Denise Seeley. In this decision, the court noted that a collective agreement's seniority provisions "*do not normally constitute an impediment to an accommodation required under human rights legislation.*"

The duty to accommodate is a newer and constantly evolving aspect of our workplace.

Unfortunately, many people are of the opinion that accommodation rights give individuals a type of "super seniority". While accommodation does provide members with protections, it does not completely waive the provisions of the collective agreement. Arbitrators have fairly consistently ruled that all other options must be exhausted before collective agreement provisions are overridden. These issues are examined in the realm of undue hardship. *However, as noted in Central Okanagan School District No. 23 v. Renaud*, 1992, The Supreme Court of Canada stated that interference with the collective agreement rights of other employees had to be substantial to satisfy the undue hardship factor and that consideration of employee moral must be applied with caution.

As noted by Arbitrator Lynk in 1991, seniority is "*widely recognised as a significant cornerstone of modern labour relations in Canada*" and "*an important tool to promote equity at work*". However, there are times when seniority rights will clash with human rights. Judges and arbitrators have been far from

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and the result, is critical for our struggle to maintain decent postal service and good jobs across Canada. Please speak with your members at all of your local general membership meetings to inform the members about this, and if you need assistance or advice please do not hesitate to contact your regional office.

This is the biggest struggle postal workers have faced since the previous Conservative government of Brian Mulroney stated they

would close all Corporate post offices across the country, save for 4 in large cities. CUPW launched a similar campaign at that time. The Conservatives were defeated and the first Act of Parliament of the new governing Liberal Party was to put a moratorium on the closure of those post offices. This moratorium exists to this day. We can and must do this again. The struggle continues...

Family Status Accommodation

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unanimous in determining which right takes precedence, resulting in a conflicting body of law.

CUPW consulted with CPC on this issue, in Appendix "HH" meetings and at national consultation. We were very clear, in both venues, that jurisprudence dictates that accommodations are a tri-party process, requiring involvement from the member, the employer and the Union. Family status accommodations are no different. CUPW MUST be involved right from the initial application for accommodation. In addition, the employer was reminded that we already have an accommodation process in place. Although article 54 only speaks to accommodating "the employee who is permanently-disabled or temporarily-disabled" we believe the article 54 committees should address the family status

accommodations. We already have knowledgeable, experienced individuals doing this work, why not utilize them?

Shop stewards should be on the lookout for any family status accommodation applications that the Union has not been made aware of. The employer should be reminded, at every opportunity, that the Union's involvement in this process is mandatory. Grievances should be filed for any accommodation that goes forward without our input. We cannot have these accommodations left to front line supervisors. We are well aware of the favouritism and sweet heart deals that come into play when this is the case.

Staffing of Vacant Assignments and Positions – Article 13

Following CPC's announcement of its five-point plan that includes the elimination of door-to-door delivery, many locals have noticed that the employer is taking its time to fill, or failing to fill, vacant assignments under Article 13.

If, in your local, there are positions that have been vacant either internally or externally for more than a month, and the Corporation has not sent you any notice of whether it intends to abolish them under clause 13.08, we recommend you consult with the employer and ask why it is refusing to fill these vacant positions and assignments.

If the employer is failing to abide by the collective agreement, file the grievances necessary to have these positions and assignments filled by regular employees on the basis of seniority.

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*** For more information, see 2011-2015/Bulletin no. 326*

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