



December 11, 2014

Mandatory Security Screening Policy

ARBITRATION DECISION

On December 7, 2012, Canada Post announced its intent to implement mandatory security screening for all employees, as set out in a “Practice Regarding Security Screening of Personnel,” as of April 29, 2013. Under this process, the employer would subject employees to criminal record checks, and, in some instances, fingerprinting and credit and solvency checks.

Refusing to cooperate with the screening process or non-compliance with the practice would lead to discipline, including discharge. The “Practice” would also allow the employer to update the employee’s security clearance every 10 years, or more often, depending on changes in duties, contract agreements, legislation and other obligations (i.e. at the employer’s whim).

INTERIM INJUNCTION

(Clause 9.87 of the collective agreement)

On April 22 and 23, 2013, the parties put forth their respective positions regarding the granting of the Union’s application for a cease and desist order (similar to an interim injunction), filed by the Union on April 11, 2013. On April 26, 2013, arbitrator Swan granted the Union’s cease and desist order. As a result, the employer was required to suspend the mandatory security screening process it intended to implement on April 29, 2013 until a final decision.

Following this interim decision, an initial hearing on the merits of the grievance was held in Ottawa on October 9, 2013, before arbitrator Lauzon. Ten more days of hearings took place, the last of which occurred on September 10, 2014. The cease and desist order (interim injunction) remained in effect through continuation orders until a decision was received on November 19, 2014. That decision permanently maintains the order given to the Corporation to end its mandatory security screening process.

RIGHT TO PRIVACY

“... The right of privacy, including the right of an employee to refuse to permit an employer to take fingerprints, is fundamental to any free society and should not be infringed upon by an employer in the absence of clear and unequivocal statutory authority, clear and unequivocal contractual language or by a clear and compelling inference to be drawn from contractual language. None of these is present in the grievance before me.”

Arbitrator Bird, May 3, 1988 (730-85-00037)

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Arbitrator Lauzon, who was seized with national grievance N00-12-00003, effectively captured the Corporation's intent. Basing his decision on the *Canadian Charter of Rights and Freedoms*, the *Personal Information Protection and Electronic Documents Act*, and relying on arbitrator Bird's formal decision dated May 3, 1988 (730-85-00037), he concluded as follows: "[Translation] ... *In the case at hand, what we have is merely a corporate requirement that is not supported by any legislative provision, and that is predicated solely on business considerations.*"

It was then ordered that the Corporation cease requiring employees to consent to criminal background and credit checks and the verification of other personal information, and to cease providing fingerprints to the Corporation or its officials.

In addition, the arbitrator ordered that the Corporation cease imposing forms of reprisal on employees who refuse to consent to the verification of their personal information.

ATTACK ON OUR BASIC RIGHTS

In recent years, Canada Post has waged a vicious attack on the basic rights of members and union representatives.

The Corporation has tried in vain to prevent union representatives from meeting with members in the workplace, and even tried to muzzle them at the regional forums it organized to discuss working conditions with the members. In fact, the Corporation was ordered to pay damages to the Union and the union representatives in two regions.

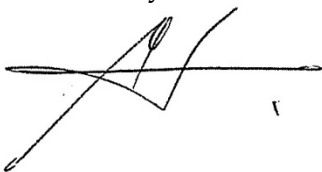
During the CPC mandate review conducted by Robert M. Campbell, a friend of the Conservatives and ardent proponent of deregulation and privatization, the Union produced two buttons to inform the public about the dangers of privatization at Canada Post. The employer then prohibited employees working with the public from wearing buttons and disciplined those who proudly wore their buttons while on duty.

Once again, a national arbitrator sided with the Union and ruled that the Corporation had violated the right to freedom of expression, which is protected by the *Canadian Charter of Rights and Freedoms*. The Corporation had to rescind all disciplinary sanctions and pay those members who had been suspended.

During the last round of negotiations, the Harper government denied our right to free collective bargaining by imposing regressive legislation that was heavily biased in favour of Canada Post. The Union has challenged the constitutionality of Bill C-6 before the courts. We are still standing, proud and ready to defend our interests and our rights!

More than ever before, "The struggle continues!"

In Solidarity,



Philippe Arbour
National Grievance Officer

