

Changing Workplaces Review

Submission and Recommendations



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INTRODUCTION

Canadian Actors' Equity Association (Equity) is a professional artist's association representing 5,800 performers (including actors, singers and dancers), directors, choreographers, fight directors and stage managers, working in live performance, in English, all across Canada.

Equity has been negotiating agreements with engagers since 1956. Our first agreement was with the Stratford Festival. In 1976 we amicably split off from our U.S. colleagues and became an autonomous, Canadian association.

We negotiate rights and protections for artists, through bargaining for scale agreements which include guaranteed minimum terms for fees, maximum hours of work, and safe harassment-free work environments. Our agreements also provide our members with access to health and insurance benefits and a RRSP plan, to which contributions are made intermittently, only when under contract.

In the province of Ontario, our membership is just over 3,000 active members, working in theatre, opera and dance, on and offstage. While union membership has declined over the last past 10 to 20 years, our membership in this province has grown by 10 percent (10%) in the last two years alone.

Arts and culture is in general a growth industry, which significantly contributes to the quality of life, the economy, and social well-being of Ontario. Our industry generates 23.8 billion dollars of Ontario's direct GDP. Statistics Canada's *Provincial and Territorial Culture Satellite Account Report (2010)* further states that the cultural industries in Ontario (not including sports industries) account for more than 301,000 jobs. To put these numbers in perspective, the information, culture, arts, entertainment and recreation sectors' contribution to Ontario's GDP exceeds that of the agriculture, forestry, fishing, hunting, mining, quarrying, oil and gas extraction and utilities industries combined.

HOW WE WORK

At first glance the live performance sector might not be seen as replete with precarious workers. But it is in fact composed of a transient workforce, one in which workers perform in multiple contexts, quickly change from worksite to worksite and constantly shift work environments. It is not uncommon for a stage manager to be engaged on more than 15 contracts in a single year.

A performer member might work in a play, have a voice-over contract, appear in a TV commercial and teach at a community college - all over the course of a single month and in different parts of the province. Our members must cope without the assurance of income security that comes with stable employment and regular hours of work while dealing with the risks inherent in transient employment and variable workplaces.

Equity's agreements and bargaining relationships have developed over many years and are tailored specifically to what best protects our members. But there are issues. We cannot fix everything ourselves. Our unique industry requires unique solutions.

ANSWERS

We will now answer several of the questions posed in the *Guide to Consultations* document, identifying Equity's concerns and recommendations.

Question 1: How has work changed for you?

Live performance industry practice has always been precarious by nature. Artistic and not-for-profit funding limitations have created a labour model consisting of short- and medium-term contracts in a multiplicity of contexts. For us, this is not new, nothing has changed.

Question 3: As workplaces change, new types of employment relationships emerge...are new models of worker representation, including potentially other forms of union representation, needed beyond what is currently provided in the LRA?

Both the *Employee Standards Act* and the *Labour Relations Act* enforce rights for employees. However, the majority of Equity's membership is predominantly engaged as independent contractors, who do not benefit from these protections. We have had to bargain for many of the rights that other workers have by statute.

Recommendation #1

While our industry is probably considered to be remarkably stable in comparison to some of the, when things do go wrong (and this has happened in the past), we presently have no Ontario Labour Relations Board access to protections, making us vulnerable to employer groups deciding to withdraw their voluntary recognition of Equity.

Artists were promised the establishment of a collective bargaining framework that reflected the workplace realities of artists and those who employ them through the Status of the Ontario Artists Act. This promise was not fulfilled. To address this, we are here today seeking an amendment to the Labour Relations Act to recognize Equity's mature bargaining relationships and existing scale agreements in the live performance sector. While Equity is not a trade union in the province of Ontario (we are certified elsewhere), we seek recognition as the collective bargaining agent for our sector with access to the full rights, services and protections offered by the OLRB to resolve disputes.

This said, like our colleagues at ACTRA who have already presented before you, we believe that these changes must *Do No Harm* to our existing national agreements or undermine existing productive relationships. A scenario that would place our members in a position where they are forced to bargain province-by-province would prove disastrous.

Recommendation #2

Our workplaces are complicated by the fact that stage managers are considered employees by Canada Revenue Agency, meaning we have mixed bargaining units. Some of our stage manager members work for the same employer, for either serial short-term engagements (for example at the Canadian Opera Company or with Souleppper) or on long-term engagements for the same employer year after year (for example at the Shaw Festival, or Mirvish Productions). However, these employees are not considered permanent and therefore are ineligible for severance pay if they suddenly find themselves "not renewed" at the end of an engagement. As our members are not the only precarious workers with serial jobs for the same employer, we ask that this Review fully address issues relating to almost full-time employment across all sectors.

Question 7: Should this leave be revised in any way?

Currently, the only access to days off, vacation, sick leave, bereavement leave or other urgent personal matters exist as a result of what Equity has negotiated in our various agreements and polices. We seek the extension of certain "leaves of absence" as stated in Part XIV of the *Employment Standards Act* to self-employed artists.

Question 12: Are broader bargaining structures required either generally or for certain industries? Are changes needed in regard to protecting bargaining rights?

There are productions in which an employer refuses to bargain with Equity. Currently, we estimate a large percentage of commercial engagements (at casinos, hotels, and trade shows etc.) are taking place without the benefit of Equity contracts.

Of particular concern is theatre for young audiences, a sizable niche market in the province of Ontario. Currently, there are only six professional theatres producing work for young audiences hiring artists under a contract negotiated with Equity. This genre of production mostly hires artists at the beginning of their careers, when they are most vulnerable to exploitation. Sectoral recognition and access to the OLRB would greatly assist in bringing reluctant engagers to the bargaining table.

Question 14: Are changes needed regarding the unfair labour practices set out in the LRA, or to the OLRB's power to provide remedies in response to unfair labour practices?

Unfortunately, that old chestnut of "a fair day's work for a fair day's pay" unfortunately is often exploited in modern employee/employer relationships. There are employers who will twist the legislation into something other than its intent in order to exploit a vulnerable worker. We know of cases in which a theatre has engaged an "unpaid intern (in our parlance an apprentice stage manager), outside the terms of our agreement, where they can be "fired" with or without cause. All for no pay! Or in one case a \$400 honorarium for eight weeks of work.

It is essential that nothing jeopardize or undermine our long-standing bargaining relationships. Our members, who are independent contractors, are very concerned about retaining their tax status. Any change to labour law that has the unintended consequence(s) of altering that status would be disastrous. Further, any changes that would force Equity to bargain province by province would destroy our national agreements. However, we feel strongly that new legislation is critical to assist in the oversight and, where necessary, enforcement when a producer refuses to bargain with us.

Thank you very much for your time and kind attention.