

Presentation to the Ontario Ministry of Labour

Changing Workplaces Review

June 18, 2015

Good morning, my name is Karen Grella; I am the Secretary-Treasurer & Business Manager of the Hospitality & Service Trades Union, Local 261 in Ottawa. Our union is an affiliate of UNITEHERE International Union of which I am a Vice-President.

Our Union represents over a quarter of a million hospitality workers in North America with about a tenth of those members working in Canada.

We welcome this opportunity to discuss the possibility of reforms to the Employment Standards Act, 2000 and the Labour Relations Act, 1995.

While we have a good foundation to work with, changes to ensure greater protections for workers can always be made.

There are three (3) proposals we will put forward today that we believe will not only enhance the protections already in place but be fiscally beneficial for the Ministry.

Grievance Settlement Officers

One of the main roles of the parties to a collective agreement is to resolve workplace problems. It is common to say that the sooner the parties try to fix a problem, the more likely it is that their efforts will be successful. Also, there is little that is as harmful as a workplace conflict that festers for long periods of time. As well, the more significant the problem, the more likely it is that there will be workplace consequences, especially if it is a case of workplace violence.

The timeframe to settle these grievances can be taxing on all parties causing undue stress on family units, impact on a worker's physical/psychological well-being. The financial hardship due to the loss of income causes many to turn to the government provided social services.

As well, the backlog for Arbitrators to hear the cases can be lengthy, thus causing the hardships for the parties to be ongoing for some time. The GSO would play a hand in early resolution thus freeing the system for Arbitrators to hear cases in a timely fashion and reducing the burdens/liabilities.

For decades, the Ministry of Labour offered the assistance of a Grievance Settlement officer to help the parties resolve their differences. Their success rate was extremely high. It avoided the workplace costs of ongoing problems as well as the straight dollar cost of trying to settle grievances at an arbitration.

We understand that the government may not be able to provide assistance in every case. Minor grievances are often resolved by the parties without the need for assistance.

We propose:

That the Grievance Settlement Officers (GSO) be reinstated for resolution of termination grievances, grievances with an alleged loss of \$5,000.00 or more and issues of workplace violence.

Card Based Certification

The process for unionisation requires the Union to run a campaign and have workers sign cards. Once the required 40% of the worker body signs the cards an application for certification is filed and five (5) days later a vote is taken. Although this sounds like a very straight forward process, it comes with many complications.

An organising campaign can be a period of confrontation, but the concentration of heavy campaigning in the one week period after an application is filed can result in significant litigation if an employer engages in unfair practices to avoid a certification.

In Ontario, the construction industry allows card-based certification. To our knowledge there has been no significant increase in issues with organising campaigns or unionisation. Card-based certification was accepted as a reality in labour relations for decades in Ontario and across Canada.

We recommend a Card Based Certification with full neutrality. When the Union acquires the requisite number of cards it then has to through the process leaving the employer free to go to the employees. This causes strife within the workplace and can cause long lasting damage between coworkers and employees/employer regardless of whether the vote succeeds or not. If the vote is not successful the result leads to likely unfair labour practice complaints and a loop of organising campaigns. This cycle can cause labour instability in the workplace.

It is difficult to understand that there would be opposition to certifying a union when it presents more than 50 + 1 of signed, certified cards from employees in the bargaining unit.

This measure would be a cost savings; it would reduce the chances of a soured start to union-employer relations and would reduce the problems faced by employees when they express support for unionising in an enhanced majority.

We recommend that the process of card-check certification, which was a feature of Ontario Labour Relations for so many decades, be reintroduced.

Interim Relief

It is our recommendation that power be given to the Board to award interim relief.

Currently, the Courts have to award interim relief because they have a residual jurisdiction when a tribunal lacks the power.

The difficulty is that courts are not labour relations specialists. The cost to the government of a day in court is also significantly higher than a day in arbitration or before the Ontario Labour Relations Board.

It is trite to say that justice delayed is justice denied. The ability to provide interim relief would allow quick access to justice. For the same reasons described above, it would mean that many problems would not be allowed to wait for a final decision. That means the parties can get on with building a relationship instead of focussing on the issues of the past.

The criteria can be set like that in an injunction and other relief where the person asking for the interim relief has to show a prima facie case, and then the matter is decided on the balance of convenience test.

This would assist the parties in resolving their differences at an early stage.

Local 261 has represented workers in the hospitality industry since 1956 and can attest to the many changes that have occurred within the workplace over time. We have strived to negotiate the essence of those changes in our collective agreements and continue to fight to protect the workers in their workplaces and welcome changes to Ontario's labour laws which help us to do so in timely and efficient fashion.

It is with respect that we make this submission and would be pleased to have the opportunity to do so in the future.