

# ***UFCW Canada Local 175***

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**Submission To The Changing Workplace Review**



**9/9/2015**

Mr. Mitchell, Mr. Murray

On behalf of the membership of UFCW Canada Locals 175, I welcome and thank you for the opportunity to appear before you today to present our Local Union's submission and comments with respect to the Changing Workplace Review.

Before I begin however I would like to bring greetings from UFCW Canada Local 175 President Sean Haggerty, and regrets from Executive Assistant Harry Sutton who unfortunately due to an urgent Family matter is unable to appear.

UFCW Canada Local 175 is Canada's largest and leading private sector Local Union. Together we are more than 70,000 strong, and together we are building a stronger future for our members, families and communities, while protecting and promoting employees rights and social justice for all.

UFCW Local 175 is a leading force for workers in the retail, food processing and hospitality sectors. As Canada's most progressive and largest local union, our membership live or work in all parts of Ontario, from Kenora to Cornwall and from

Kapuskasing to Windsor, and thousands of members in the GTA.

Our members are your neighbours. They are your grocery clerk or cashier, you have gotten to know at your local grocery or drug store. They work in industrial warehouses, packaging plants, production facilities, distribution warehouses, and the hospitality industry. In addition, many are health care workers at community care providers, nursing homes and retirement care homes, along with, many other sectors of the economy.

By giving you this brief description of our members and where they work, I hope that you will understand that the comments made in this submission represent the concerns of our members, your neighbours, with respect to the workplace review.

Our members have many economic and social concerns with respect to the labour relations culture in this Province and how it impacts workers in Ontario, but in this submission we will focus on four specific issues; card check certification, first

contract arbitration, temporary workers and finally, the attack on privacy issues relating to workers and their advocates, namely unions.

## ***The Right to Unionize and Card Based Certification***

As you will know Ontario has one of the lowest unionization rates in Canada, second only to Alberta.

In the 1995, the Mike Harris Conservative government, abolished what was one of the cornerstones of the Ontario labour relations system for more than 40 years by eliminating card based or card check certification and replacing it with a vote based system for union certification. It has been found that the certification voting system reduces union organizing success rates.<sup>1</sup>

The requirement for a vote gives the employer an extended period of time to interfere in the union certification process to dissuade workers from joining a union. Whereas, a card-based system for

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<sup>1</sup>*Union certification success under voting vs. card check procedures: evidence from British Columbia from 1978-1998. Chris Riddell, published in 2004. Cornell University ILR School*

certification of unions, effectively reduces the temptation of employers to intimidate and coerce employees.

To impose a vote, after the signing of a union card by an employee, leaves workers open and vulnerable to employer influence and pressure.

However, in a review of the Canada Labour Code certification and card based certification, the Sims Report found that; "The card-based system has proven to be an effective way of gauging employee wishes and we are not persuaded that it is unsound or inherently unconvincing to employers. It requires a majority of all workers, not just those who vote. It reduces the opportunities for inappropriate employer interference with the employees' choice." <sup>2</sup>

By signing a union card, employees are indicating their desire to join a union and when a clear majority have done so, then the union should be

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<sup>2</sup> *Andrew Sims, Rodrigue Blouin and, Paula Knopf, Seeking a Balance, Review of Part I of the Canada Labour Code, 1995.*

certified. We therefore recommend the reinstatement of card based certification.

### ***First Contract Arbitration***

While it is generally accepted that most workers in Ontario, when they join a union, they have a right to collective bargaining which will result in a collective agreement, however for many after they have overcome the hurdles they may have faced in gaining union representation they may find themselves facing another obstacle. This obstacle involves tactics being used by employers causing unnecessary delays in obtaining a first contract. A contract, which arguably, may have been the reason for wanting a union.

In Canadian jurisdictions where, first contract arbitration legislation has been enacted, it has shown to create an incentive for the parties to reach a first agreement, without resorting to work stoppages.

In Manitoba, our sister UFCW Canada local unions have found the legislation for first contract

arbitration in that Province has been a boon to obtaining a collective agreement.

Furthermore, a study by Professors Sara Slinn and Richard Hurd have shown that in provinces that have a progressive model of contract arbitration leads to a high rate of voluntary settlement.<sup>3</sup>

Although existing legislation in Ontario provides for the settlement of a first contract through a process of arbitration, the process has been found to be far too onerous and expensive, particularly for smaller unions, and the threshold for accessing this route is still too high.

We recommend that the Ontario government review first contract arbitration in other jurisdictions and with input from stakeholders in the Province, develop a system that best suits the Ontario labour relations model.

### *Temporary Workers*

Temporary workers perform some of the most dangerous and precarious work in the Province.

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<sup>3</sup> *Myths & Evidence: EFCA v. Canadian First Contract Arbitration Experience Sara Slinn, Osgoode Hall Law School Richard W. Hurd, ILR School, Cornell University*

UFCW Canada has been a leading advocate for migrant workers and more specifically, migrant agricultural workers for more than two decades. During this period, UFCW Canada has operated migrant workers support centres for the more than 20,000 workers who come to Ontario each year. Many of these migrant workers are exploited by unscrupulous employers. Migrant workers end up working long hours for low pay, along with deplorable living conditions and the constant threat of being sent back to their country of origin, if they complain about their working conditions.

UFCW Canada has gone to the Supreme Court of Canada twice in an attempt to get agricultural workers in Ontario the right to unionize, which was taken away from them by the Harris government.

UFCW Canada has also argued their case before the International Labour Organization, which sided with UFCW and requested that the Governments of Canada and Ontario restore unionization and bargaining rights to all agricultural workers in the Province.



Many of the problems faced by Temporary workers could be addressed through unionization. We recommend that all temporary and agricultural workers, migrant and resident, be given the right to unionize and that Ontario make greater use of the provincial nominee program as a way of enabling migrant workers, some of whom have been coming to Canada for more than 40 years, to remain in Canada.

### ***Privacy Issues relating to workers and Unions.***

While this issue many not have been in the scope of the Consultations terms of reference, we feel that it is an issue that needs to be addressed with the recent passing of *Bill C-377 An Act to Amend the Income Tax Act for Labour Organizations*.

It is well documented that this will infringe on an individual's privacy and will put onerous demands on unions by having to make unnecessary financial disclosure to the Canada Revenue Agency.

The publication of private, personal information on payments to an individual, such as their name and address from a pension plan, trust fund or health plan could make them vulnerable to confidence artists or other illegal schemes. This section will also require labour organizations to provide to the CRA details of payments to commercial suppliers. These details will be publicly posted.

A number of private companies filed submissions with the Commons Committee, considering the bill objecting to confidential information on their commercial dealings with labour organizations being made available to their competitors on the CRA website.<sup>4</sup>

Although this is federal legislation, we would recommend that the Ontario government investigate if there is a means through an amendment to the Ontario Labour Relations Act to prevent the requirements being forced upon Ontario workers and their unions by Bill C-377.

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<sup>4</sup> *Submission by the Canadian Labour Congress to the Senate Standing Committee on Legal and Constitutional Affairs Regarding Bill C-377, April 2015\*

Finally, I would like to commend the Ontario government for undertaking this review of Ontario workplaces and labour laws. This review is long overdue and we hope that the recommendations given by our Union and others will be given serious consideration. We hope this will lead to a more balanced labour relations model and a better life for Ontario workers and their families.

Thank you.

Presented On Behalf Of UFCW Local 175

Richard Wauhkonen  
Director of Organizing