

UFCW Canada Local 175

Further Submission To the Changing Workplace Review



October 12, 2016

Mr. Mitchell, Mr. Murray,

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

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 employee's 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.

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 two specific issues; card check certification and first contract arbitration.

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.¹

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 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."²

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 certified. We therefore recommend the re-instatement of card based certification.

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

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

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

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.³

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.

In closing, it was interesting to note that most of the submissions made from the employer side to the Changing Workplace Review were of the opinion that the only change needed was to better enforce the existing provisions in the legislation. While certainly greater enforcement would provide for an improvement, those submissions were largely silent on how such increased enforcement would be provided. In our view the solution for increased

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

enforcement where needed was addressed long ago by allowing for employees to join unions. This only became unbalanced when the legislation was amended in the 90's to greatly reduce the ability for workers to join a union and achieve a collective agreement.

Returning to card based certification and improving the first contract arbitration provisions would have the effect of allowing those employees being mistreated to get a union to enforce their rights. This model worked for a reason, it allowed for those individual workplace issues to be addressed and dealt with, funded by the employees themselves through their union dues. This would seem more in-step with the submissions made by the employer side than broadly applying new employment provisions for all businesses in the Province.

We 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 would also request the opportunity to appear before the Special Advisors again to further clarify our submissions in person.