

26 November 2018

The Honourable Harry Bains
Minister of Labour
Legislative Buildings
Victoria, BC V8V 1X4
LRCReview@gov.bc.ca

Re: Submission of British Columbia Regional Council of Carpenters (BCRCC)

This is the BCRCC's submission in response to the Labour Relations Code Review Panel's report and recommendations for Code amendments dated August 31, 2018 ("Report").

Introduction

The BCRCC commends the Review Panel for providing a comprehensive and worthy Report. Apart from Recommendations 5 and 10, the BCRCC supports the Panel's recommendations and submits that they ought to be incorporated in an amended Code.

The following comments address Recommendations 5 and 10 as well as the discussion in the Report concerning carpentry craft sharing.

Recommendation 5 (Card check certification system)

The Panel is divided regarding the question of whether certification should be determined by card check or secret ballot vote. The majority favour the retention of the secret ballot vote provided that there are sufficient measures to ensure and protect the exercise of employee choice, while dissenting member Sandra Banister, strongly supports the return to a card check system. Her position is that "... card check certification remains the single most effective mechanism to avoid unlawful employer interference and to ensure employee choice."

The BCRCC agrees entirely with Banister and submits that a card check certification system ought to be substituted for the existing mandatory vote regime under the Code. While mechanisms should be introduced to expedite the certification process and better protect employee choice by expanding the Board's remedial authority in relation to unfair labour practices, those mechanisms should not be regarded as negating the need for a card check certification system.

Recommendation 10 (Change in Union Representation)

The BCRCC concurs with the Review Panel's proposal that the Code contain a standardized time frame for raiding instead of tying the open period to a specific point in time during the term of particular collective agreements. However, linking the raiding period to the duration of a collective agreement (i.e. the last year of an agreement for 3 years or less or the 3rd year of a collective agreement with a term of 3 years or more) could prevent employees from exercising the right to change union representation if employers and unions agreed to negotiate a renewal agreement prior to July and August of the 3rd or last year of the agreement's term. That manoeuvre could preclude raids for up to 3 years.

The 1998 Kelleher Lanyon Construction Industry Review Panel Report included a recommendation that the raiding period for employees in the construction industry be July and August of **each** year. That recommendation was based on the Panel's recognition that, to avoid raids, certain parties to collective agreements have structured them so that the time frame and duration of the agreement cannot easily be discerned.

The Review Panel's recommendation may alleviate problems associated with identifying the anniversary date of collective agreements. It also addresses concerns that the current open period in the construction industry is November and December when there are shutdowns throughout the industry and weather conditions often limit the amount of construction work that can be performed in those months. However, the Review Panel's recommendation does not address the problems identified by the Kelleher Lanyon Panel. Therefore, the BCRCC submits that the Code ought to be amended to provide that the open period, at least in the construction industry, be established as July and August of each year.

Construction Industry (carpentry craft sharing)

Part 10 of the Report refers to a concern raised by the Construction Labour Relations Association of BC ("CLR") regarding the sharing of the craft of carpentry between two unions. The BCRCC is one of those unions. As noted by the Review Panel, issues related to the sharing of the carpentry craft were addressed in the Board's 2012 report and CLR's concerns can and should be dealt with by the Board's continuing oversight. Craft sharing issues have been further addressed in BCLRB No. B135/2015 and subsequent decisions including, *Columbia Hydro Constructors Ltd.*, BCLRB No. B129/2018. The BCRCC agrees with and supports the existing approach whereby concerns regarding craft sharing are dealt with by the Board.

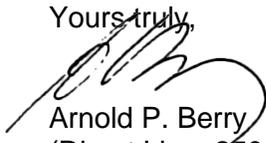
Summary

In summary, the BCRCC submits that changes are required to modernize the Code to ensure that it meets the needs of modern times and reflects the fundamental intent of labour legislation to foster and protect employee freedom of association and the collective bargaining process. The Review Panel's recommendations for Code amendments, modified as proposed above, are fundamental to that modernization process. However, Code amendments alone cannot enable the Board to properly administer the Code. As stated by the Review Panel in Recommendation 29, adequate

funding of the Board is critical to enable the Board to carry out its mandate. It follows that a substantial funding increase must be the first order of business.

All of which is respectfully submitted

Yours truly,

A handwritten signature in black ink, appearing to read 'A. Berry', written over the typed name.

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