

2011-16

December 13, 2011

By E-mail: One page plus attachment

Reconsideration Application Filed with Labour Relations Board

The BCPSEA Representative Council met on October 3, 2011, to hear about the effects of the BC Teachers' Federation (BCTF) strike in school districts. Trustees expressed their concern about the BCTF strike, its negative effect on students, parents, and administrative staff, and its potential to carry on indefinitely in its current form. Those concerns continue today.

An essential services strike is a "controlled strike." The *Labour Relations Code* does not preclude strikes in essential services but, rather, empowers the LRB to regulate or control the dispute in a way that will protect the public interest while, at the same time, replicating to the extent possible the economic pressure. In late October BCPSEA filed an application with the LRB to address the issue of BCTF carrying out its Phase 1 strike action without any financial consequences on the Union or its members. This results in an imbalance in the controlled strike environment.

On November 29, 2011 the LRB issued its decision on this matter in [B214/2011](#). The LRB denied the BCPSEA application to require the BCTF, on notice from BCPSEA, to reimburse school districts for an amount equivalent to the duties that teachers are not performing due to the strike. BCPSEA has today applied for reconsideration of that specific decision (attached).

The primary ground for our reconsideration is that the original decision did not properly interpret the LRB's role in an essential services dispute. The original decision stated that the LRB had no role in maintaining an appropriate collective bargaining dynamic between the parties. This conclusion resulted in a further determination that the parties could seek to achieve a balance only through the escalation of the dispute by either "expanding the strike or locking out teachers." In BCPSEA's view the LRB clearly has the jurisdiction — and must exercise it — to take steps to maintain an appropriate bargaining dynamic so that an escalation of the strike is unnecessary to bring a resolution to the dispute.

BCPSEA's application for reconsideration also includes a number of other concerns with the original decision, including its lack of acknowledgement of the [decision rendered by Mark Brown](#) in September of this year where he noted that: "As it stands now, bargaining unit members are receiving full pay while not performing the full range of duties. This does not result in a balance of pressure in a controlled strike environment because while students and the public are impacted, and the Employers are impacted, the bargaining unit members continue to receive full salary."

Reconsiderations of LRB decisions are generally heard by three-person panels of the LRB and do not include the original decision maker. We expect that a decision will be rendered on this matter in as expeditious a manner as possible.

Questions

If you have any questions regarding essential services, please contact:

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