

Essential Services Designations

As we reported last week, following the application by the BC Teachers' Federation (BCTF) for essential services designations, the Labour Relations Board (LRB) was directed by the Minister of Labour to designate as essential those facilities, productions, and services that the LRB considers necessary to prevent serious and immediate danger to the health, safety, and welfare of residents of BC and to prevent immediate and serious disruption to the provision of K-12 education programs.

After the Minister's direction, the Chair of the LRB assigned Vice-Chair Richard Longpre to take conduct of the file. Vice-Chair Longpre invited BCPSEA and the BCTF to attend a case management meeting Tuesday morning (April 15) to determine the process for establishing designations. It soon became clear that the BCTF wanted to use it as an opportunity to seek an interim order. The BCTF admitted that the purpose of the interim order was to enable the union to serve strike notice this Thursday (April 17) and to begin "Stage 1" strike action next Tuesday.

Further, according to the BCTF, the interim order should be in the same form as the 2011-12 order — the order that resulted in "Phase 1" action that lasted almost seven months. BCPSEA opposed this proposal because such an order puts pressure only on employers, not on the union or its members. Indeed, the LRB has already indicated that such orders have been proven ineffective in exerting appropriate pressure to resolve a dispute. The Vice-Chair did not accede to the union's proposal for an interim order in any form.

At the conclusion of the meeting, the parties agreed to utilize the services of Mark Brown for up to two days in order to mediate the essential service issues. After the first day of mediation (April 16), the parties will report back to the LRB. If no significant progress is being made, the parties will appear at the LRB on Thursday to address the formal adjudication process. If some progress is made, the mediation effort may continue next Tuesday.

The maximum time frame for the LRB to issue its essential services designations is 45 days. Given that the LRB typically deals with these matters as expeditiously as possible, we anticipate the LRB will decide any outstanding issues well before that deadline.

It is important to note that until the designations are completed, the parties cannot engage in any strike or lockout activity. This means that the BCTF cannot begin Stage 1 strike action until the essential services process is complete.

Questions

BCPSEA will continue to provide updates and clarify information as events progress. Please contact your BCPSEA liaison if you have any questions.