Railway Labour Dispute Resolved: Arbitration Forces Parties To Get Back On Track



Bottom Line

On August 24, 2024, the Canada Industrial Relations Board (the "Board") imposed binding arbitration on Canadian National Railway ("CN"), Canadian Pacific Kansas City ("CPKC"), and the Teamsters Canada Rail Conference (the "Union"). This decision aimed to address severe disruptions caused by labour stoppages that had significantly impacted freight shipments, commuter services, and overall transportation efficiency.

The Board Intervenes with Binding Arbitration

Negotiations between CN, CPKC, and the Union over labour contracts and working conditions prolonged over ten months without reaching a resolution. On August 22, 2024, CN and CPKC imposed a lockout, while CPKC's 3,500 workers went on strike. CN lifted its lockout later the same day, awaiting a formal order from the Board. The following day, the Union issued a 72-hour strike notice to CN, planning to strike on August 26, 2024.

As outlined in the Board's decision, on August 22, 2024, Labour Minister Steven MacKinnon directed the Board to impose binding arbitration and to order both employers to resume operations and employees to return to work, pursuant to section 107 of the *Canada Labour Code* (the "*Code*"). This section authorizes the Minister to take necessary measures to ensure industrial peace and facilitate the resolution of disputes. The Minister also directed the Board to expedite its implementations of these directions.
In response to this ministerial direction, the Board held a hearing on August 23, 2024 to address two questions:

1. Does the Board have the authority to review the Minister's exercise of discretion under section 107 of the *Code*?
2. Does the Board have any discretion in the implementation of the direction?

The Board concluded that it lacked the authority to review the Minister's direction or to assess its validity. Additionally, the Board found that it had no power to

refuse to implement, in whole or in part, the Minister's direction or to modify its terms. Accordingly, on August 24, 2024, the Board mandated binding interest arbitration to resolve the outstanding terms of the collective agreement and ordered both employers to resume operations and employees to return to work until the arbitration process is completed.

Application for Judicial Review of the Board's Decision

On August 29, 2024, the Union filed two applications for judicial review with the Federal Court of Appeal, challenging both the ministerial direction and the Board's decision. The application filed by the Union seeks to quash the Board's orders and argues, among other things, that the imposed arbitration process infringes on workers' freedom of association as protected by the *Canadian Charter of Rights and Freedoms*.

Takeaway

Although these parties are back on track at the present time, the labour dispute certainly disrupted supply chains and passenger trains, which may continue to impact both the delivery of goods and the labour law landscape in Canada. Experienced counsel play a crucial role in proactively managing complex labour disputes and legal challenges. By leveraging their expertise, employers can construct strong arguments, address potential issues proactively, and enhance employers' ability to achieve favorable outcomes in intricate labour matters.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Author: Misbah Anis

Filion Wakely Thorup Angeletti LLP