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# **STRIKE MANAGEMENT HANDBOOK**

**For Managers**

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**TP 2301  
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**Canada** 

**STRIKE MANAGEMENT  
HANDBOOK  
FOR MANAGERS**

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**STRIKE MANAGEMENT  
HANDBOOK  
FOR MANAGERS**

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## ***Terms You Should Know***

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**Bargaining Agent** - an employee organization that has been empowered by the Public Service Staff Relations Board (PSSRB) to enter into collective agreements with the employer on behalf of employees in a bargaining unit.

**Bargaining Unit** - a group of employees that the PSSRB has determined is an appropriate employee grouping for collective bargaining purposes.

**Collective Agreement** - a binding written agreement entered into by the Employer and the Bargaining Agent containing provisions respecting terms and conditions of employment and related matters.

**Designated Employee** - an employee whose Bargaining Agent has chosen the conciliation/strike option for dispute resolution, but who is not allowed to engage in a strike because his/her duties, in whole or in part, are necessary for the safety or security of the public.

**Dispute** - an impasse or deadlock between the Employer and the Bargaining Agent that may occur during the process of negotiating the terms of the collective agreement.

**Injunction** - a Court order directing persons or classes of persons to do or prevent from doing a particular act. Such proceedings may be used to stop a strike that is or would be unlawful or restrict unlawful picketing.

**Managerial or Confidential Exclusion** - an employee who is excluded from a bargaining unit in accordance with the Public Service Staff Relations Act because of the nature of the work he/she performs. This person does not pay union dues and is not a member of the bargaining unit.

**Off-Duty Status** - with respect to labour disputes, a 'no work - no pay' situation initiated by the Employer.

**Sick-out** - situation in which a group of employees suddenly 'took off' sick as a form of protest. The employees are normally not in a legal strike position.

**Staff Relations Division** - Corporate Staff Relations area at NHQ.

**Strike** - a concerted work stoppage, work slowdown, absence from work or other concerted action by employees to restrict or limit output. This may include study sessions, sick-outs, sit-ins, slowdowns, work-to-rule campaigns, rotational work stoppages and mass refusals to perform certain assigned duties.

**Legal Strike** - occurs:

- when the union has chosen non-binding conciliation rather than binding conciliation or arbitration to resolve a dispute; **and**
- there is no collective agreement in force for the bargaining unit; **and**
- either seven (7) days have elapsed from the receipt of a conciliation board report or the Chairperson of the Public Service Staff Relations Board (PSSRB) has notified the parties of his/her decision not to establish a conciliation board or appoint a Conciliation Commissioner.

**Unlawful Strike** - occurs in any of the following circumstances:

- when striking employees are:
  - members of a bargaining unit which has chosen binding arbitration;
  - not members of a bargaining unit (i.e., excluded or unrepresented); designated for the safety and security of the public;
- where the Bargaining Agent has chosen conciliation but has elected for the Alternate Dispute Resolution Process to resolve disputes, or has agreed to be bound by the recommendation of the conciliation board;
- where there is a collective agreement in force for the bargaining unit;
- when seven (7) days have not yet elapsed from the receipt of a conciliation board report or the Chairperson of the Public Service Staff Relations Board (PS SRB) has notified the parties of his/her decision not to establish a conciliation board or appoint a Conciliation Commissioner.

**Work Stoppage** - employees stop work and leave the premises or remain on the premises refusing to carry out tasks. It includes sit-ins, walk-outs, wildcat strikes, sympathy strikes, rotating strikes, hit and run strikes and study sessions.

**Work Slowdowns** - reduced rate of work or use of longest possible methods to accomplish tasks.

**Work-to-rule** - performance of only those duties outlined in the job descriptions or meticulous application of procedures.

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### ***Rights and Obligations***

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The *Public Service Staff Relations Act* acknowledges the right to strike as a legitimate option in the bargaining process and states the conditions under which participation in strike activity is unlawful.

Departments are obligated to continue constructive relations with the unions and the employees engaged in lawful strike activities both before, during and after a strike and to take whatever action is required to ensure that non-striking employees are able to report safely to work.

Departments are also responsible, while maintaining the maximum level of service that is possible according to their own strike plans, for ensuring that government employees, property and facilities are properly safeguarded.

### **Managers**

As excluded departmental representatives during a strike, managers have the obligation to:

- develop and implement contingency plans (see Contingency Planning);
- distribute work and assign tasks;
- transfer employees and fill positions in accordance with the usual procedures;
- assign overtime to employees who are not in a legal strike position;
- approve or deny leave;
- establish administrative measures to handle the strike situation;

- initiate legal proceedings and apply for injunctions in illegal strike situations;
- place employees on "off-duty status" where required;
- take disciplinary action.

**Managers** must:

- ensure the provision of essential services;
- inform employees of their rights and obligations;
- protect individuals;
- protect government property.

**Managers** may not "lock out" employees, nor are they permitted to interfere or attempt to influence employees in exercising their legal right to strike.

**Employees**

In a strike situation, all employees have the right to:

- report to work;
- participate in lawful demonstrations outside normal working hours and during noon hour even if not in a legal strike position;
- grieve management's actions taken during the strike.

Employees in a **legal strike position**:

- **may** participate in strike activity, including withdrawing their services and picketing in front of Transport Canada premises in a peaceful manner; employees will not be paid if they withdraw their services;
- **may** refuse overtime work without fear of reprisals;
- **may** choose to report to work and be paid for their services;
- **cannot** use force or threats of force to block access to premises or interfere with designated or other employees who wish to work.

**Designated employees:**

- **cannot** participate in any form of strike activity during normal working hours, notwithstanding that the bargaining unit is in a legal strike position, but can participate when off-duty;
- **must** report to work and perform all of their duties.

**Excluded and Unrepresented** employees:

- *cannot* participate in any form of strike activity during normal working hours and have a responsibility to represent management's interests;
- *must* report to work and *must* perform additional duties if asked.

Employees in **other bargaining units**:

- *must* report to work and perform their normal duties but *may* participate in strike activity when off-duty;
- if asked by the manager to perform tasks which are normally performed by striking employees, in view of special circumstances, employees *must* perform the tasks, but *may* submit a grievance if aggrieved by the manager's action.

Employees who are not represented such as **casual employees, students and terms under three months** *must* report to work.

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### ***How to Handle strike Situations; Step-by-Step***

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#### ***Before a Strike***

#### **Contingency Planning**

Contingency planning should be done by managers well in advance of a strike to ensure that the level of service does not deteriorate unnecessarily during a strike. In developing a plan, the following steps should be taken:

- Consult the Transport Canada checklist.
- Well in advance, identify services and functions that are necessary for the safety and security of the public and those which may be curtailed in the event of a strike. Determine which positions should be proposed for designation, in conjunction with the Regional Staff Relations Advisor. The contingency plan should ensure the continuation of essential services as a minimum.
- Establish workload priorities and determine which services must continue, and which can be more effectively organized, cut back, delayed or eliminated.
- Consider the potential impact of a withdrawal of services over various time periods.
- Acquire an updated listing of managerial and confidential exclusions and prepare lists of employees who are designated, unrepresented, represented, casual, part-time and who are in a legal strike position.
- Review the skills of non-striking employees to determine to what extent these employees could perform essential services. The following rules must be observed:
  - a) excluded, unrepresented, casual and part-time (working 1/3 or less of normal hours) employees may be compelled to perform additional duties not normally associated with their duties;

b) designated employees continue to perform the full range of their duties and must not be compelled to perform duties that are not part of the duties of their position;

c) employees from non-striking bargaining units continue to perform their regular duties and should only be compelled to perform the duties of striking employees in pressing or emergency situations.

d) In a prolonged strike, consideration should be given to placing employees on off-duty status where necessitated by operational circumstances following consultation with the Staff Relations Division.

e) employees in a legal strike position should be permitted to come to work and perform their regular duties if they can be gainfully employed, but must not be compelled to perform the duties of other striking employees who have withdrawn their services.

- Attention should be given to necessary changes in hours of work; make arrangements for an excluded management representative to be present when shift changes occur to ensure that those employees who should report to work do so.
- Train employees, such as those who are excluded, to perform any additional tasks which may be required during the strike. Also, train staff who may be dealing with striking employees.
- Review safety requirements for a reduced workforce and establish advance security and communications arrangements (see next two sections).
- Ensure that both potentially striking and non-striking employees have been informed of their rights and obligations; designated employees should be reminded of their status and that they are expected to perform their full range of duties.
- On the notification of Staff Relations, make preparations to advise employees in writing concerning their rights and obligations, and put into place any special administrative procedures required to provide letters to designated employees from the PSSRB of their status and obligations. A list of the names, addresses and phone numbers of designated employees must be retained for contact on short notice.
- Review the situation of employees who would be on pre-authorized leave extending into the strike period, those who are on travel status, who telework and who are disabled, regardless of whether or not they are members of the striking bargaining unit (see Employee Benefits; Terms and Condition of Employment). Alternative work arrangements may have to be considered.
- The senior on-site manager should consult with the union prior to possible strike activity to discuss:
  - purpose of picketing;
  - possible picketing boundaries and picket liaison committees;
  - security of employer's premises, facilities and equipment;
  - mechanism to allow for consultation during strike to resolve problems that could arise; the rights and obligations of designated employees, those in a legal strike position and those not having the right to strike.
- Clients, maintenance workers and suppliers should be given advance notice of a possible strike as should



the landlord of a building where Transport Canada is the major tenant.

- where operations are co-located with another department, establish contact with that department in conjunction with the Regional Director, Human Resources to coordinate strike planning and picket monitoring.
- Familiarize yourself with actions requiring special approval from the National Strike Committee.

### **Communications and Strike Centre**

In preparing for a strike, it is important that a strong communications network be established between local sites, regional offices and national headquarters.

### **Staff Relations Division**

- communicates information related to strikes to the Minister, Deputy Minister, Group Heads, Regional Directors General and the Treasury Board Secretariat as well as the National Offices of Transport Canada unions;
- is responsible for communications between regions and headquarters in co-ordination with the line organizations affected by the strike activity;
- establishes and operates the National Strike Centre, including identifying the individuals who will work in the Centre and ensuring that they are adequately trained. The Centre must be staffed with excluded line managers and human resources officers.
- Consults with members of the National Strike Committee for those actions requiring special approval.

### **Regional Directors, Human Resources**

- establish Regional Strike Centres and identify the individuals who will work in the Centre, ensuring that they are adequately trained. The Centre must be staffed with excluded line managers and human resources officers;
- co-ordinate communications between local managers at the regional office and the National Strike Centre in headquarters;
- advise Regional Directors General on strike matters;
- liaise with other departments which are co-located with Transport Canada to coordinate strike planning in conjunction with local line management.

### **Director General, Communications**

- manages overall activities of the Communications Group to ensure consistency of communications messaging across the Department;
- on national issues, provides communications advice and operational support to senior departmental management in order to respond to media/public interest and communicates with specialized publics such as industry and associations;

- keeps track of national media reporting, does media analysis, briefs senior headquarters management on the nature of the reporting and recommends action, if necessary;
- keeps Minister's and Deputy Minister's offices apprised of significant communication issues;
- communicates regularly with employees;
- liaises with regional Communications staff to keep apprised of significant regional issues.

### **Regional Directors, Communications**

- provide communications advice and operational support to regional management for dealing with media interest and for communicating with employees as well as other specialized publics such as industry and associations;
- keep track of regional media reporting, do media analysis, brief regional management on the nature of the reporting and recommend action, if necessary;
- keep HQ Communications, senior departmental management in the regions, in HQ, the Minister's and Deputy Minister's offices informed of significant regional issues.

### **STRIKE CENTRE**

The purpose of the National Strike Centre is to maintain constant communication with the Treasury Board Secretariat and the regional offices of Transport Canada and to co-ordinate and consolidate the flow of information from Regional Strike Centres. The National Strike Centre is responsible for:

- advising Regional Strike Centres and senior managers in matters relating to labour disputes; establishing departmental strategies on such issues as discipline, pay, leave and notices to employees;
- co-ordinating applications for injunctions with regional management and the Treasury Board Secretariat as required;
- obtaining strike-related information from Regional Strike Centres on a daily basis and compiling status reports for the Treasury Board, Minister, Deputy Minister and senior management as required.

Under the direction of the Regional Directors, Human Resources, the Regional Strike Centres are established in each region affected by strike activity. The Regional Strike Centres are tasked with the following responsibilities:

- ensuring that all managers and employees are aware of their rights and responsibilities and relaying to managers all instructions from headquarters;
- maintaining a daily record of strike activities in a Strike Log and reporting to the National Strike Centre on the status of such issues as picketing action, unlawful strikes and the need for injunctions;
- gathering evidence for legal and disciplinary actions if necessary.

The **Director General, Security and Emergency Preparedness** provides the facility, personnel and technical support to establish and maintain a National Strike Centre in the Situation Centre located in Place de Ville, Tower C, Ottawa. This includes the equipment and software required to gather and report strike-related information by electronic means to the appropriate authorities. The Situation Center Staff is responsible for training the Human Resources staff who have been identified to work in the Centre.

The **Regional Directors General** have the same responsibility for the Regional Strike Centre which will be located in their respective Regional Situation Centre.

## **Security**

The Department is required to ensure that government employees, property and facilities are properly safeguarded during a strike. Security preparations should be made prior to a strike.

Good security planning includes reviewing the critical security areas and emergency equipment at the work-site, determining what protection is needed and available from fire, police and other security forces and arranging for security patrols. This is necessary to ensure access to buildings, the safety of employees and the security of the employer's premises and assets.

The following aspects of security should be considered in advance of a strike:

- personal - Will employees be able to safely report to work? Staff may need to be advised of the requirement for increased security measures;
- physical - Are critical operational facilities, areas and equipment protected? Managers may withdraw keys, key-cards and combination codes, change locks, obtain special security passes if appropriate, and inform supervisors that all equipment and supplies used by striking employees must remain secured on the employer's premises. Combinations and back-up keys should be available to managers in the event of strike action;
- information - Classified and Protected C information must not be left on the network or hard drives. Such information must be stored on diskettes and stored in approved security containers. Protected A and B information may be stored on hard drive or network as long as it is encrypted.

## **During a Strike**

### **Critical Steps**

During a strike, managers are responsible for taking the following steps:

- Notify the appropriate Strike Centre immediately of strike activity and follow all instructions.
- Establish regular contact and liaison in the communications network; this may include participating in the Regional Strike Centre.
- Assess impact on operations and document all relevant facts, actions, discussions; keep a daily record of information required by the Strike Centre (see Reporting).
- Investigate and identify problems, report them to the Strike Centre and follow instructions issued.

- Should police presence be required for the protection of individuals or the employer's property in an illegal or legal strike situation, the senior site manager should advise the Regional Director of Human Resources accordingly. A decision will be taken by the Regional Director General, in consultation with Regional Human Resources and Regional Security, to call in the police or RCMP. In headquarters, the Staff Relations Division will notify the Director General, Security and Emergency Preparedness to initiate a request for police presence.

## **Reporting**

During a strike, staff in the Regional Strike Centres must consolidate information from all locations in the region and telephone it into the National Strike Centre every day at designated hours. Therefore, managers should remain current with respect to the following information:

- the number of striking employees who are absent from work;
- the number of designated employees scheduled for work who are at work and performing their normal duties and the number of those who are not;
- the number of employees in the striking bargaining unit who have reported for work;
- extent, duration, effect and nature of picketing;
- the impact of the strike on the work unit's operations and the measures planned or taken to react to the withdrawal of services;
- any other unusual events occurring in relation to the strike, including media reports, requests for police assistance, third-party contact, incidents of misconduct and the need for injunctions or other legal proceedings. Incidents should be videotaped and statements obtained promptly from witnesses for potential legal initiatives where feasible.

A record of inquiries from the **media** should be maintained and any significant issues forwarded to the Staff Relations Division as soon as possible.

### ***If asked by a reporter to comment on how the strike is affecting the operations of the Department:***

- whether you are at headquarters or a regional office, it is recommended that you politely refer the reporter to a contact in the Communications Group and say you have no comment on the situation.

## **Legal Strike and Picketing**

In a legal strike situation, picketing by employees is permitted by law for the purpose of communicating or obtaining information. Management will take action to ensure that non-striking employees can enter the workplace safely.

A lawful strike can also take the form of a slow-down, work-to-rule campaign or refusal to work while remaining on the work site, although absence from work and picketing at departmental entrances is the most common form. The Staff Relations Division may issue special instructions as the situation dictates.

### **Peaceful and lawful picketing:**

- is generally permitted where government business or operations are carried on in locations traditionally considered "public places";
- may not be permitted in government premises that are not normally used for purposes of public expression and where the form of expression is incompatible with the purpose of the workplace;
- where a department occupies commercial premises as a lessee, protection from picketing cannot be assumed. Picketing at the exterior of the building should be closely monitored by the departments concerned so that a request for an injunction to limit picketing can quickly be made if necessary. Extra security measures may be required inside the building to prevent the incursion of picketers into departmental areas.

In all cases, advice should be sought from headquarters through the Regional Strike Centre with regard to the legal permissibility of picketing at various locations and the viability of seeking an injunction to limit picketing.

Senior site managers are advised to establish peaceful co-operation with the picketers, ensure that provocation is avoided and take the following steps:

- Identify a picket liaison officer and picket monitors who are excluded; establish a picket liaison committee.
- Seek advice from Staff Relations concerning any agreement with the union to permit picketing on the employer's property.
- Advise non-striking employees not to provoke picketers.
- Determine whether or not it is too dangerous for employees to cross the picket line. Every effort must be made by non-striking employees to report to work unless the manager is convinced that employees are being barred from entry or threatened with violence from a member of the picket line. Jeers and profane language may not in themselves be regarded as a threat to an individual's safety.
- where a threat to the safety of employees has been determined, employees should be advised accordingly and arrangements made to escort them through the picket line. Alternate entrances and facilities should be considered.
- Take steps to obtain a picketing injunction if necessary, in co-operation with the Staff Relations Division (see Legal Proceedings).

**Other picket activities** may be restrained where there is:

- an obstruction of normal passage into and out of the employer's premises, including mass picketing to prevent access;
- the use of force, violence, threats or threatening gestures to prevent entry to the employer's premises;
- trespassing on the employer's premises, interference with employees at work or damaging the property of the employer or non-striking employees;

- the carrying signs containing libelous or defamatory statements.

Any of the above activities must be reported immediately to the Regional Staff Relations Advisor who will relay them to the National Strike Centre and the Staff Relations Division, where advice will be provided on how to deal with the situation. The names of the picketers involved and any witnesses must be reported to the extent possible.

### **Unlawful Strikes**

In most cases, there is little advance notice to prepare for an unlawful strike. In addition to taking the necessary security precautions mentioned previously, managers are required to:

- establish proof of such a strike (i.e. that employees who are not in a legal strike position acted in concert to restrict output or that they were absent without authorized leave);
- notify the Regional Staff Relations Advisor or Regional Strike Centre and begin gathering accurate evidence as soon as possible;
- advise employees in front of an excluded witness that they are not lawfully on strike and must report to work, that their collective agreement is still in effect and that they may be subject to disciplinary action as well as financial penalties under the Public Service Staff Relations Act. Employees may also be advised through posted notices, registered letters and telephone calls;
- establish contact with local union representatives to determine causes of strike activity;
- record all strike-related activity in case a back-to-work injunction is required.

In a "**sick-out**", employees should be advised, in the presence of a reliable excluded witness (followed by written confirmation) that:

- their actions may constitute an unlawful strike and if so, they could be subject to fines and/or disciplinary action.
- In accordance with collective agreements, management has the right to be satisfied of an employee's illness at such time and in such fashion as management may decide. Therefore, employees must provide a signed medical certificate upon returning to work. However, employees should be advised that, although producing such a certificate is necessary, each request for leave will be individually assessed. Additional information may be required such as, but not limited to, confirmation from the physician of his/her awareness of the labour situation and validation that objective tests were conducted during the examination of an employee.

Information concerning the number of employees who should be at work and the number who actually report to work must be reported by managers to the Strike Centre or Regional Staff Relations Advisor. If possible, two individuals should verify all absences.

**Union meetings** at work or during working hours are not permitted.

**Signs, Posters, Buttons**, etc. worn by employees with certain slogans or statements could be inappropriate in the workplace. It is best to consult with the Staff Relations Division about what to do in such circumstances.

All situations mentioned above, as well as other such occurrences, should be reported immediately to the Regional Strike Centre or Regional Staff Relations Advisor for communication to the Staff Relations Division who will in turn advise regional officials on the appropriate course of action. Managers should not hesitate to seek advice from Staff Relations.

### **Sanctions and Discipline**

The following are possible sanctions that the Employer can apply:

- **applications to the PSSRB** to impose fines for illegal strike activity or to obtain a declaration that a strike is illegal;
- **applications for injunctions** such as back-to-work or picketing injunctions;
- **disciplinary action** for such actions as engaging in an illegal strike and unauthorized absences; this may include the imposition of financial penalties. The nature of sanctions must be determined given the circumstances of each case.
- **cessation of pay** while employees are on strike;
- **legal proceedings** for Criminal Code offenses.

During a strike, departmental discipline policy and procedures are still applicable and should be applied consistently. In addition,

- no disciplinary action should be taken against employees who participate in an unlawful strike without prior approval. On these issues, please consult the Staff Relations Division;
- imposition of financial penalties in lieu of suspensions may be justified due to economic and operational considerations;
- pay must be stopped immediately for employees involved in illegal work stoppages for the period they are not at work.

### **Legal Proceedings**

An injunction is a court order directing persons or classes of persons to do or not to do a particular act. In the context of labour disputes, injunctions may be used to accomplish the following:

- restrain an unlawful strike;
- restrict or limit unlawful picketing.

Decisions to seek legal measures such as prosecutions, back-to-work injunctions and actions for damage are the responsibility of the **Treasury Board Secretariat**, in consultation with the Department.

Decisions to seek injunctions limiting picketing are the responsibility of the **Minister of Transport Canada**, coordinated by the **Staff Relations Division**, in consultation with the Treasury Board Secretariat. To facilitate timely application for legal remedies, the Minister may authorize the Deputy Minister and senior officials in the regions to

ask the Deputy Minister of justice Canada to seek injunctions.

- An injunction may be sought from the Federal Court to restrain or prevent an unlawful strike which is in contravention of the PSSRA.
- Provincial superior courts may issue injunctions to restrict or limit unlawful picketing in their province.
- The Minister and the President of the Treasury Board must formally request the Department of Justice to seek a back-to-work injunction in the case of an illegal work stoppage.

To obtain an injunction, the Department must demonstrate to the court that:

- there is a serious issue to be tried;
- the Department would suffer irreparable harm if the injunction were not granted;
- the hardship done to the Department would exceed the harm to the defendant of prohibiting the strike and/or picketing activity;
- the situation is of an urgent nature for which there is no other appropriate redress;
- in some provinces, there are additional requirements, such as police assistance has not been successful.

#### **Procedures:**

Labour injunctions are normally interlocutory in nature, where the order is sought for a temporary period prior to the trial of the action. Evidence is presented by affidavit. In anticipation of seeking such an injunction, it is crucial that the managers who have knowledge of the necessary facts be identified in advance and that the Staff Relations Division be consulted.

Evidence must be gathered upon which to take legal action. Excluded managers who are identified as witnesses to events are advised to keep the following for testimony:

- personal notes, signed and dated, of events and conversations surrounding the strike and picketing activities of which the witness has first-hand knowledge. Only original notes are admissible.

#### **Notes should contain:**

- a) identity of individuals involved;
  - b) time and date of significant events or conversations;
  - c) location of events.
- Photographs, videos and other documents such as signs, posters and newsletters may also be admitted as evidence if they are relevant to the issue and, in the case of photographs, free from distortion.
  - Oral testimony should accurately reflect the events witnessed and relate the facts without opinion or inference. Notes may be consulted only as a memory refresher.



- Other information relating to the premises and the nature of the operations at the facility.

Normally, the defendants are served notice of the application for injunction a day or two before a hearing. Managers must be able to specifically identify employees, or most of the employees, participating in the acts to be enjoined and provide their addresses. Managers may also be required to assist in serving documents to the defendants.

If the injunction is granted, the court issues an order and managers are requested to distribute copies of the order to the employees concerned as well as post other forms of notice.

Where striking employees fail to respect the terms of a court order, the police must be called and the appropriate charges laid.

### **Employee Benefits; Terms and Conditions of Employment**

The Treasury Board Secretariat may, at its own discretion, issue special instructions with respect to pay administration and terms and conditions of employment during and after a strike. The following guidelines would normally apply:

- Employees are not paid while on strike.
- Time absent from work without pay for the purposes of a strike is not considered as pensionable service.
- In a lawful strike, the Employer is no longer legally bound by the expired collective agreement of that bargaining unit. The Treasury Board, under the authority of the *Financial Administration Act*, will determine what terms and conditions will apply; in most cases it would be those of the expired collective agreement, except for the payment of union dues.
- Employees who can lawfully strike but who continue to work are entitled to be paid and to receive benefits under the *Public Service Terms and Conditions of Employment Regulations* or any special regulation that Treasury Board may prescribe.
- The terms and conditions of the expired collective agreement continue to apply to designated employees, including union dues check-off.

### **Leave**

Leave is not to be approved if such approval would permit employees to avoid the consequences of engaging in strike action. If it is anticipated that a strike may occur, leave should only be granted on a conditional basis and employees (particularly designated employees) must provide a means whereby they can be contacted on short notice to report to work.

**Leave Other Than Sick Leave** for employees in a striking bargaining unit should be handled in accordance with the following guidelines:

- **on approved leave:** continue leave, subject to operational requirements, but no extension of leave unless there are extenuating circumstances;
- **pre-authorized leave:** should only be approved in exceptional circumstances;

- **new requests:** should only be approved in exceptional circumstances;
- **leave for union business:** must not be approved;

**Requests from employees in other bargaining units:** approve leave conditionally, operational requirements permitting.

**Sick Leave** for employees in a striking bargaining unit should be handled in accordance with the following guidelines:

- **employees who are already on approved leave or injury-on-duty leave before commencement of strike:** continue leave subject to proof of continuing illness;
- **new leave requests submitted by designated employees and employees in the striking bargaining unit who choose to come to work:** may be approved at the discretion of the manager, provided the conditions for leave are met. At the time when an employee calls in sick, the manager can request a medical certificate.
- **employees on strike and picketing** should not be granted sick leave.

Employees who participate in a strike:

- while on **travel status** may either be requested by the manager to return to their headquarters area or be permitted to remain on travel status but not paid salary for time not worked;
- in a **telework arrangement** may continue subject to approval by the manager, provided that the provisions of the telework policy are observed and the employer's security standards are respected.

Extra consideration should be given to the possibility of providing alternative work arrangements for disabled employees who are required to cross picket lines and report to work during a strike.

### *After a Strike*

#### **Management Obligations**

Management's ultimate objective is to ensure that disruption in the workplace is minimized and the return to work of striking employees is as smooth as possible. Once a settlement is reached between the employer and the bargaining agent, managers should ensure the orderly resumption of their operations by taking the following measures:

- Employees who have not returned to work should be advised by registered letter that termination for cause proceedings will be initiated if they do not return by a specific date.
- Backlog of work should be done during the ordinary day and not on authorized overtime, unless there is serious inconvenience to the public.
- Avoid cancelling vacation leave which had been authorized prior to the strike unless absolutely necessary. Employees on scheduled days of rest should only be called in where assistance in resuming operations is required.

Finally, **welcome back** returning employees and rebuild good relations with them - it makes for a healthy and

productive workplace!

## **References**

*Public Service Staff Relations Act*

Relevant collective agreements

Treasury Board Manual - Staff Relations,  
Chpt. 9, "Strikes"  
May 1, 1995