

**Excerpts From:  
Strike Handbook For Managers  
Transport Canada**

**TP2301  
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**Rights and Obligations**

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 lawful.

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

**Managers**

As 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 activities 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:**

Review the skills of non-striking employees to determine to what extent these employees could perform essential services. **The following rules must be observed:** [emphasis added]

- (a) excluded, unrepresented, casual and part-time (working 1/3 or less of normal hours) employees may be compelled to perform duties other than their normal ones;
- (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. In a prolonged strike, consideration should be given to placing employees on off-duty status where necessitated by operational circumstances. The office of the Director, Staff Relations and Compensation Policy will advise accordingly;

(d) employees in 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.