

July 12, 2013

CIRB Postal Outlet Case

On July 3, 2013, CUPW received the decision from the Canada Industrial Relations Board (CIRB) on the legal fight to organize Retail Postal Outlet workers, which was unfortunately not in our favour.

On February 26, 2010, the Metro-Montreal Region filed five applications for certification with the CIRB to represent 140 "postal clerk" employees working in 28 Canada Post franchises within Pharmaprix stores with Canada Post as a single employer.


In hearing dates held from December 2010 – May 2012, Canada Post and the owners of the outlets, with their 28 lawyers, challenged the applications. In its decision, the CIRB ruled that though franchises may form an integral part of the "postal service", the franchise operators are the actual employers of the retail workers. The board ruled that the work at postal counters represented a tiny portion of the franchises' activities as a pharmacy. Therefore, they decided the workers fell under provincial jurisdiction, not federal jurisdiction. This meant that the CIRB did not even consider the union's single employer application.

Below is an excerpt of the decision of the Board:

[86] The Board concludes that, while the activities performed at postal counters within the franchises may form an integral part of the "postal service" within the meaning of Section 91(5) of the *Constitution Act, 1867*, it does not have constitutional jurisdiction to rule on the union's application for certification in file No. 27977-C. In light of the evidence heard and the jurisprudence reviewed, the franchise operators are the actual employers of the employees working in the postal counters covered by the application for certification in this matter, and the drugstore is the active business in the instant case. Federal activities performed at postal counters located in franchises represent a minuscule portion of the normal and usual activities of these franchises, which are those of a drugstore under provincial jurisdiction. Furthermore, the franchises' federal activities are indivisible from their other activities, and the employees who perform these federal activities are not a separate undertaking from a constitutional standpoint. Therefore, the franchises' activities largely remain those of a drugstore and retail business, which by their essential operational nature, are under provincial jurisprudence within the meaning of the *Constitution Act, 1867*. Under the circumstances, the Board does not have the constitutional jurisdiction to grant the application for certification in file No. 27977-C and must therefore deny such application. [Translation by CUPW]

The National Executive Board is considering the next steps. CUPW will continue to try to improve the working lives of postal workers at these counters.

In solidarity,



Jan Simpson
National Union Representative – External Organizing