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● URBAN UNIT ○ RURAL AND SUBURBAN UNIT ○ PRIVATE SECTOR UNITS

March 1, 2013

NATIONAL GRIEVANCES:

Multiple Bundles & Retroactivity

Urban Operations Collective Agreement

N00 07 00032 – MULTIPLE BUNDLES

On September 7, 2010, the Union filed a national grievance challenging the new work method being implemented by the employer under postal transformation. The grievance was referred to the grievance arbitrator designated under the provisions of Article 9 of the collective agreement.

Background

The national grievance is three-fold: it deals with (a) the health and safety aspect of the "multiple bundle «working method; (b) the notices and access to information under Article 47 of the collective agreement; and (c) the route assessment.

Since this grievance could not be dealt with quickly due to the three aspects involved, the Union asked the arbitrator to hear the first aspect on a priority basis, since we believed it had to be decided before the other two aspects.

The goal is to give priority to the health and safety issues, since many members are already experiencing discomfort and suffering injuries as a result of the new working method implemented by the employer. The employer did not want the arbitrator to render a decision on the first aspect of the grievance until all the evidence on the three aspects had been heard.

In an arbitration decision, the arbitrator rejected the employer's position, stating it was only being used to cause undue delays in deciding the health and safety issues.

The hearing dealt with the safety of the new work method imposed by the employer, in which the letter carrier is required to work with multiple bundles, i.e. holding two bundles, one in the hand and the other on the forearm, as well as carrying a third bundle in the satchel.

The Union canvassed hundreds of letter carriers in countless postal facilities across the country, and many letter carriers offered testimony on all the problems and pain caused by the new methods.

Arbitration Award

We are expecting the arbitrator to render a decision by next fall regarding the first part of the grievance. The next hearing dates in 2013 for the first part of the grievance are scheduled for February 28, March 1, April 8 and 16, May 17 and 27, June 7 and 19, and finally, August 13 and 22. If the national arbitrator rejects the Union's position, we will be able to raise the issue of the new work method before an interest arbitrator, i.e. Brian Keller, designated under Article 29 of the collective agreement. Unlike the grievance arbitrator, arbitrator Keller will not be restricted to ruling solely on the health and safety issue.

N00 10 00001 – RETROACTIVITY OF COLLECTIVE AGREEMENT

On July 21, 2011, the Union filed a grievance on the grounds that the Corporation had refused to comply with several provisions of the collective agreement between May 30th and June 27, 2011. In fact, although the *Act to provide for resumption and continuation of postal services* (Bill C-6) provides for the collective agreement to be retroactive to February 1st, 2011, the employer refuses to recognize the strike and lockout periods. Yet Bill C-6 does not provide for an excluded period in the retroactive application of collective agreement, contrary to the back-to-work legislation passed by the federal government in 1991 and 1997, which did exclude strike periods.

In fact, like the drastic legislation imposed in 2011, the 1987 *Postal Services Continuation Act* did not set out an excluded period in the retroactive application of the collective agreement. At that time, the Corporation challenged including in the retroactivity the period in which members had exercised their right to strike, and when the collective agreement had been replaced by the new working conditions imposed by the Corporation.

The Federal Court of Appeal reviewed our dispute with the employer regarding the period that the Corporation wanted excluded. On March 13, 1989, the Federal Court of Appeal rendered a ruling in favour of the Union, agreeing that the retroactive application of the collective agreement included the period of the labour dispute, provided the strike period did not become retroactively illegal:

> *"[…] The question of law addressed to the court should therefore be answered: yes, to the degree that the revived collective agreement respects the legality of the strike and does not give [rise] to retroactive illegality as discussed herein."*

Even though the matter had been ruled upon in 1989, the employer again challenged this aspect of retroactivity, despite the fact the *2011 Act* is identical in every respect to the *1987 Act*, when the Court had ruled in the Union's favour.

At a time when the Corporation is wailing about its deficit, it continues to burn money needlessly and fatten up its legal firms. The Corporation's CEO, Deepak Chopra, seems to be interested in only two things: making the middle class poorer, and making rich legal firms even richer.

Phase 1 of the grievance, which deals with the right to full retroactivity provided for under Bill C-6, is finally under consideration and a ruling is expected shortly. If, as we expect, the arbitrator rules in our favour, we will proceed to Phase 2 of the grievance, which will consist in reviewing the various contract provisions that have retroactive effect, such as sick leave, annual leave, etc.

The struggle continues.

Philippe Arbour
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2011-2015 / Bulletin no. 146
SC/jl sepb 225
cd cupe 1979