



BC FERRY & MARINE WORKERS' UNION

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SUMMARY OF LEGAL ACTION COMMENCED BY THE UNION IN RESPONSE TO THE EMPLOYER'S ACTIONS

On April 3, 2020, the Employer announced layoffs of up to a third of the Union's members.

Last week, the Union initiated three legal actions against the Employer:

- (1) A grievance which alleges, among other things, a failure to consult and provide 45 days' notice to the Union of a significant workforce adjustment.
- (2) An unfair labour practice complaint at the Labour Relations Board.
- (3) An application to the Board for an order that the Employer failed to provide notice required by s. 54 of the *Code* before making a change that affects the terms of employment of a significant number of employees.

On April 12, the Employer announced that it rescinded the layoffs of regular members and committed to pay "75% of base wages" to "impacted employees" with no maximum.

On April 13, following mediation between the parties, the Labour Relations Board issued a Consent Order. That Consent Order established a committee, by which the Employer is obligated to consult with the Union, provide information and give notice to the Union of any "significant managerial actions" that it may take to address issues arising from the Pandemic."

The Consent Order resolved the unfair labour practice complaint. It also placed an obligation on the parties to make "every effort for the Article 12 Grievance, together with the Union's allegation of a breach of s. 54 of the *Code*, to be heard and decided by a single arbitrator no later than August 31, 2020."

The Article 12 grievance applies to both the layoffs and the Employer's subsequent decision to pay some regular employees at 75% of their wages. Through the arbitration process, the Union will be seeking an order that all affected employees be made whole. This means the Union will be asking for an order that the Employer reimburse to each affected employee any lost wages, Collective Agreement benefits or other losses they suffered as a consequence of the Employer's failure to comply with the Collective Agreement and/or s.54 of the *Labour Relations Code*. The Union will also be seeking an order to correct any impact the Employer's decision may have had on employee seniority in violation of the Collective Agreement.

The next steps in the arbitration process are to appoint an arbitrator, set hearing dates and then gather evidence. The Union will be collecting information from members directly.

Again, we consider that the Union has a very good chance of success at arbitration and expect this to be decided no later than August 31, 2020.

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