

# ESSENTIAL SERVICES NEGOTIATIONS

NBCNHU  
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# WHAT SERVICES ARE ESSENTIAL?

## ○ Section 5 (1):

- In relation to a bargaining unit an employer may, by notice in writing, advise the Board and the bargaining agent for the relevant bargaining unit that the employer considers in whole or in part the services provided by the bargaining unit to be essential in the interest of the health, safety and security of the residents of the nursing home.

# TIME LIMIT FOR AGREEMENT?

## Section 6

Within 7 days after the receipt by the Board of the notice referred to in section 5 the Board shall, in consultation with the employer and the bargaining agent, establish time limits within which the employer and the bargaining agent shall endeavor to reach agreement Identifying

- (a) the services provided by the bargaining unit that at any particular time are or will be necessary in the interest of the health, safety or security of the residents of the nursing home,*
- (b) the level of service to be maintained by the bargaining unit for the purpose of ensuring delivery of the services referred to in paragraph (a), and*
- (c) the positions in the bargaining unit to be designated positions for the purpose of ensuring the delivery of the services referred to in paragraph (a).).*

# WHERE DO WE START?

- ⦿ Develop the process (who does what).
- ⦿ Set your maximum % number of the membership to be essential.
- ⦿ What is the employer required to provide for information?
- ⦿ Education and utilization of the membership.
- ⦿ Actions from Employer (membership to be aware of).

# DEVELOPING THE PROCESS

- Define who does what
  - Need a coordinator
    - It is essential to have a liaison between the employer and the local.
  - Reporting method
    - Information gathered by the local.
    - Information provided by the membership.
  - Record keeping (keep everything)
    - Develop a list of members per department.
    - Make sure you are aware of each employees FTE.
    - What are the hours of operation for the department? Are the hours the same on weekends and statutory holidays?
    - Are all shifts replaced for sick, vacation, etc.?
    - What is the nature of the work performed in this department?
    - Request the employer to provide you an updated contact list of members names and phone numbers.
    - Request the employer to provide you an updated list of FTE's per department.
  - Role of the members
    - Common link to information specific to the department.
    - Find union friendly members that will assist you in providing you the scheduling information you require for ongoing review and comparison.

# HOW TO DETERMINE YOUR PERCENTAGES

- ⦿ What is essential?
- ⦿ What level of service is needed?
- ⦿ Which positions are required?
- ⦿ Which employees are in the position?
- ⦿ Would certain employees just need to be on-call?
- ⦿ Should local executive be designated or non-designated?

## WHAT IS THE EMPLOYER REQUIRED TO PROVIDE?

- ⦿ Department Schedules.
- ⦿ FTE's per department.
- ⦿ Contact list of all employees, phone numbers, addresses.

## UTILIZATION AND EDUCATION OF THE MEMBERSHIP

- ⦿ Members can tell you best, the nature of their work.
- ⦿ Members can provide day-to-day changes re: staffing, working short, positions not replaced etc.
- ⦿ Members need to be educated on the process of designations and strike.
- ⦿ Ensure members know of correspondence they will receive from labour boards etc. so they do not panic.
- ⦿ Have a list done for comparison to ensure that all designated employees have received their letter.



# BE PREPARED...

- ⦿ Resistance or delays of the employer in providing you information you are requesting.
- ⦿ Members who will want to be designated as essential.
- ⦿ Many departments would work short but will want 100% essential.
- ⦿ Changes in workplace prior to reaching an agreement.
- ⦿ To review a 6 month period of department schedules (i.e. March-Sept).

# LABOUR BOARD

- ⦿ Time consuming.
- ⦿ Preparation time is very important.
- ⦿ Need witnesses to support our decision.
- ⦿ Each job would need to be argued.
- ⦿ Employer friendly labour board.

# STRIKE

- ⦿ Notice to employees (usually a problem).
- ⦿ Employer would need a new schedule for a strike:
  - When employer provides their “wishlist” for essential FTE’s, a strike schedule should also be given to the local.
- ⦿ Who works if essential employee is absent?
  - Develop a procedure of who and how you replace designated employees.
  - Union replacing from strike headquarters is more acceptable to the membership and also ensures accountability from the employer when an on-call member is required to report to work for an “emergency”.

## NEXT TIME

- ⦿ Process never ends.
- ⦿ Changes in system impact the essential services agreement.
- ⦿ Have members monitor the workplace.

# PRESENTING TO THE EMPLOYER

- ⦿ Know your department needs and practices.
- ⦿ Have a defined procedure on who will be replacing staff, during a legal strike.
- ⦿ Identify areas that are staffing continuously with no posted positions.

# PRESENTING TO THE MEMBERSHIP

- ⦿ Ensure you have educated your membership on the procedures during designations for replacement of sick calls etc.
- ⦿ Inform membership of their role as designated or non designated employees.
- ⦿ Inform membership of procedure during negotiations, (i.e. Steps during up to and including strike vote).
- ⦿ Inform and educate membership on strike pay from division, if affiliated, and National.
- ⦿ Inform on call employees during designations of how they are paid and review on call contractual language versus strike pay when on call during a legal strike.
- ⦿ Continue to communicate with the membership during the process, (i.e. Special membership meetings).

## WHAT HAPPENS WHEN A CONTRACT HAS BEEN RATIFIED?

- ⦿ The process continues.
- ⦿ Continue to update your information.
- ⦿ Assign members/executive to continue to update:
  - Postings and who is in the position.
  - Additional positions/reductions of services.
  - Contact list of employees.
  - Patterns of staffing etc.
  - Temporary postings (i.e. Pilots or projects).

# DECISIONS

- General Teamsters, Local 362 vs Monarch Transport Inc. and Dempsey Freight Systems Ltd
  - [2003] CIRB No. 249 (M.A. Pineau)- Right for the bargaining agent to have access to names, phone numbers and addresses of employees.
- NB Labour Board
  - PS-024-02- (October 2003)- Finance, accounts receivable and payable are not essential services.
  - PS-001-08- (June 2008)- Amendment requested by Employer to previously signed off designations.



# QUESTIONS