



## **Collective Bargaining Update for Government Ships' Officers (GSO's)**

- The Government Ships' Officers Collective Agreement for over 1000 Guild Members employed by Coast Guard and DND expired at the end of March 2014.
- While collective bargaining has been underway in earnest for quite some time, there isn't significant progress to report and we'll explain why that is not a bad thing. In the meantime, there is a freeze on GSO "terms and conditions of employment" until the parties either enter into a new collective agreement or reach an impasse in bargaining - which has not occurred.
- Maintaining the freeze protects the current wages and benefits for our members during a period when the employer is seeking concessions while appearing to offer only meagre "half of one-percent" wage increases if the concessions are agreed to.
- The Guild bargaining committee from across Canada met with the federal Treasury Board in May in Ottawa for another round of contract talks. Some encouraging discussions did take place and some common ground was reached on a few minor items, however there remains a great deal of work to be done.
- The Guild is fully committed to securing an improved collective agreement. Bulletins updating GSO's on Negotiations have been posted on the Guild website whenever there are developments to report.
- It is not unusual that the employer-side is seeking concessions, while the Guild is seeking improvements. What is unusual is the legislative strategy that was put in place by the employer prior to the federal election, to attempt to gain the upper hand. The Guild and our affiliated unions took a number of steps that prevented the employer from having any success whatsoever with this strategy.

### **Reasons for lack of progress in GSO Negotiations**

- Bill C-4 (that was passed in December of 2013) significantly changed the federal bargaining process which applies to the Guild and our GSO's. The changes made by this bill undermined union effectiveness by removing binding arbitration as an option for this current round of bargaining to resolve a dispute in the event that an impasse were to be reached in contract negotiations.

- That would leave us with no alternative but to go on strike - whereas in the past our disputes have often been resolved by binding arbitration and not by a work stoppage, due to the safety & security implications of the work performed by Guild Members.
- So the arbitration avenue was removed, and then, to ensure that the strike avenue was also effectively removed too, Bill C-4 allowed the employer to unilaterally designate which employees in each union are essential and are required to continue working throughout a strike. Bill C-4 also amended legislation to require these designated employees to work overtime to perform any other duties required during a strike.
- "Essential Services" - In our case 96% of the Guild's GSO members have been designated as essential by the Federal Government. This means that 96% of the bargaining unit would not be permitted to engage in a strike in the event that the contract negotiations had ever reached an impasse.
- The new legislation also removed all recourse for the Guild and our Members if there is dissatisfaction regarding the number of employees who are designated as essential.
- The employer's goal in this round of bargaining was to attempt to have the unions agree to eliminate sick leave from the collective agreement. All unions are concerned that this would introduce a risk that Members who are absent due to illness could be placed either on "leave without pay" for a number of days or would have their pay reduced. None of the 18 federal unions have agreed to the employer's demands.
- On the other hand, the objective of the Guild is to make every effort to preserve the hard-won rights of our Members and negotiate an improved contract that will make the public service a healthy and productive place to work.
- The Guild's position regarding sick leave is that any new plan that will financially penalize employees who are absent due to illness will encourage sick employees to report for work sick - which does not contribute to a healthy workplace, impedes recovery and puts co-workers at risk – which undermines the ability of our Members to deliver vital services to Canadians.
- Sick leave provisions are a benefit we have negotiated and that are included in the GSO contract. Removing these provisions and depending on the benevolence of the employer and the goodwill of a third-party insurance company is a problem. What that means is that once sick leave is outside the contract, grievances cannot be filed if someday there is non-compliance with the new plan.

- In order for the Guild to have a keen interest in a new sick leave system, our preference would be that it needs to acknowledge existing banks of sick leave, it would need to remain in the collective agreement so that we can bargain it and enforce it, it would need to provide full income replacement during illness, and it would need to be administered by the current managers and not by an outside contractor being paid by taxpayers.
- The new government was elected last fall on a commitment to make “evidence-based decisions”. The proposed changes to sick leave are arbitrary and not evidence-based, and appear to still be part of the bargaining mandate for the Treasury Board.
- An evidence-based approach would have started by telling us what is wrong with the status-quo and would have shown us meaningful data and statistics for us to have an opportunity to analyze, and would have had a costing model for the proposed solution. Then we could attempt to negotiate ways to fix issues that were identified and we could work to improve the system.
- So far, it appears that the Treasury Board does not have a revised “mandate” from the new government on a monetary offer, or on sick leave but the Guild remains optimistic and is committed to continuing to engage in meaningful negotiations.
- At our bargaining session in May, the employer did present a slightly improved version of their sick leave plan with movement in a number of areas, however the proposal still has very significant gaps and problems compared to the current coverage afforded to our GSO Members.
- This provides some insight into why the negotiation process is moving even more slowly than the usual slow pace. Both parties have positions that are complete opposites, and this time around, if we had reached an impasse, the employer had already introduced changes so that we couldn’t go to arbitration and only 4% could go on strike, so the employer held all the cards. Although it may sound outrageous, on the positive side, this did in fact put unions in a good position to clearly demonstrate that the legislation was obviously unreasonable and abusive and needed to be revisited before we reached a possible impasse.
- Last year, the Supreme Court of Canada issued a ruling that legislation similar to Bill C-4, that had been introduced in the Province of Saskatchewan is in fact illegal. The Court determined that it is a violation of the Charter of Rights to attempt to prevent effective collective bargaining by not providing for an impartial dispute resolution mechanism to solve an impasse in negotiations. Does this sound familiar?

- While this Supreme Court decision is very encouraging and is precedent-setting, so far it only officially applies to the Saskatchewan case.
- The Guild and our affiliated unions would be required to prepare comprehensive legal arguments that would need to be made in order to have the decision apply more broadly in the event that the federal legislation is not amended or repealed.

### Bill C-59

- In May of 2015, yet another omnibus bill (Bill C-59) was tabled. This bill further attacked the collective bargaining rights of unionized workers by overriding important provisions of the Labour Relations Act, which governs bargaining.
- The bill gave the Treasury Board the power to ignore the GSO negotiations that are underway and just go ahead and override existing terms and conditions and impose unilateral changes to sick leave provisions in the collective agreement.
- The provisions contained in Bill C-59 seriously altered the future of collective bargaining by giving the employer full authority to determine the wording of a contract.
- Bill C-59 was an attack on the labour movement in this country by authorizing an employer to modify collective agreements. Clearly, this bill interfered with a unionized employee's constitutional right to collectively bargain. The bill not only circumvented the Labour Relations Act, but also undermined the current negotiations that are supposedly underway.
- The federal government has not made a case for how eliminating the existing sick leave banks will make the public service a healthier place to work. The Guild is concerned that if the employer's proposal could force a worker suffering from an illness, to choose between getting paid and going to work sick, then this is unacceptable.
- A number of federal politicians successfully utilized the subject of sick leave in the media last year, to paint a misleading picture of their employees and to attempt to turn public opinion against their own federal workforce.

- The 900-million-dollar windfall in savings identified in last year's federal budget due to "eliminating sick leave" turned out to be a myth. To make matters worse, there has been no proper analysis done to determine the true costs associated with the proposed new plan to be administered by an outside contractor, or to address the risk that the new scheme may actually end up costing a lot more than the current sick leave provisions.
- The hypothetical 900 million dollars was then applied last year in order to present a so-called "balanced budget", even though sick leave can never be cashed in (even at retirement) and even though sick leave still remains in the collective agreement to this day.
- Bill C-4 and Bill C-59 were attempts by the federal government as an employer to impose their will on employees and to take away the ability for unions to be able to bargain for Members. This set a very poor example for employers in the private sector watching from the sidelines. These steps would undermine unions by legislating us into ineffectiveness. In many other developed nations, the central government is expected to lead the way with a progressive agenda including good corporate citizenship, mature employment relationships and respect for the collective bargaining process. That is why, together with our affiliated unions, the Guild took every available opportunity to aggressively oppose these measures - based in part on the Supreme Court decision regarding Saskatchewan, described above.
- Prior to last fall's federal election, we also filed a complaint to the International Labour Organization (ILO) in Geneva regarding Bills C-4 and C-59. Our position is that these measures are contrary to international conventions that have been ratified by Canada. A tremendous amount of work went into filing this complaint and a copy of the ILO complaint is posted on the Guild website.
- Most democratic nations attach significance to living up to international commitments and to engage in tri-partite consultations when considering amendments to labour laws.
- Working with our affiliated National Joint Council (NJC) unions, the challenges launched against Bill C-4 and C-59 were filed in time to meet all deadlines.
- Legal battles are important - otherwise, if union members see their union continually unable to prevent these attacks on employees, then it creates an atmosphere where the necessary support for organized labour in the country decreases, both in the commercial sector and in the public sector.

- The heads of all 18 federal unions (including the Guild) worked tirelessly on various strategies to counter the employer's efforts to undermine union effectiveness and to prevent the employer from being successful with their efforts to accomplish by legislation what they could not accomplish by negotiation. So far, that has worked and we are seeing signs of very positive developments.
- Based on commitments made by the Liberal Party prior to the federal election, to reconsider anti-labour legislation if they formed the new government, we also successfully filed for an injunction to prevent the provisions of Bill C-59 from coming into effect.
- A few weeks after the election, the new government tabled legislation proposing to amend portions of Bill C-59. We will wait for the changes to become final before we withdraw our challenge to Bill C-59. However, the provisions that came into force as a result of Bill C-4 (described above) are an even bigger concern for GSO members.
- The Guild National President met with Minister Scott Brison, the new President of the Treasury Board who stated that he intends to respect the collective bargaining process. The National President described to the Minister the frustration by the Guild and all the federal unions in dealing with a government that had upset the balance in the dual role of being both the legislator "and" the employer. He explained that the current lack of trust was a result of the previous government attempting to obtain by legislation that which was not obtainable as an "employer" by collective bargaining - especially given the nature of the work that is being performed by our GSO Members.
- Correspondence between the heads of bargaining agents and the Minister resulted in a written reply from the Minister offering a transition measure that would permit the Guild and the Treasury Board to use binding arbitration in the event that an impasse were to be reached in collective bargaining for the GSO's.
- The Guild's legal counsel recommended that the Guild accept this offer in lieu of the current arrangement which required an impasse to be settled by going on strike - especially since the previous government had already unilaterally and outrageously designated only 4% of the entire bargaining unit able to proceed on a legal strike.
- The National Board of the Guild met in Ottawa and considered the matter carefully and passed a motion to agree to accept the offer from Minister Brison to use binding arbitration if the parties reach an impasse at the negotiation table.

- Within the past few days, the Treasury Board has recently acknowledged this agreement and has moved the GSO bargaining unit off the "strike route" and confirmed that binding arbitration will be used in the event that an impasse is reached in collective bargaining.
- The Guild negotiating committee members from across Canada are arriving in Ottawa again on November 22<sup>nd</sup> to 24<sup>th</sup> for another bargaining session with the Treasury Board.
- Members will be kept updated on progress and developments