

L-140141

BRITISH COLUMBIA LABOUR RELATIONS BOARD

IN THE MATTER OF AN APPLICATION PURSUANT TO
THE *LABOUR RELATIONS CODE* R.S.B.C. 1996, c.244

BETWEEN:

THE CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 608
(the "Union")

AND:

THE NARAMATA CENTRE SOCIETY
(the "Employer")

BEFORE THE LABOUR)	
RELATIONS BOARD)	MONDAY THE 26 TH DAY
)	OF MAY, 2014
ELENA MILLER, VICE CHAIR)	

ORDER

WHEREAS the Collective Agreement between the Union and the Employer expired on March 31, 2014;

AND WHEREAS the Union served the Employer with Notice to Bargain on February 21, 2014;

AND WHEREAS the parties met on April 7 and May 2, 2014 in an attempt to bargain but were unable to reach a new collective agreement;

AND WHEREAS the Union served strike notice on May 5, 2014, commenced strike action on May 8th, 2014 with an overtime ban, and escalated the strike action to full withdrawal of all services commencing on May 15, 2014;

AND WHEREAS the Union is lawfully on strike against the Employer and has been maintaining a picket line at the Employer's premises since May 15, 2014;

AND WHEREAS the Employer continued its operations between May 15, 2014 and May 25, 2014 by using replacement workers in violation of the Code;

AND WHEREAS the Union applied to the Board on May 21, 2014 under ss. 6(3)(e) and 68 of the Code alleging that the Employer unlawfully used the services of replacement workers;

AND WHEREAS in its application the Union sought the following orders:

1. A declaration that the Employer has violated the Code;
2. An order that the Employer cease and desist using replacement workers;
3. An order appointing an Industrial Relations officer to determine what bargaining unit work was being done behind the picket line and how its getting done;
4. An order of damages compensating the Union in an amount equal to the wages and benefits a bargaining unit member would have earned had they performed the work of the replacement workers; and
5. Any other order deemed just and reasonable;

AND WHEREAS the Employer has acknowledged that it was using Ardith McKim, Launa Maundrell, Kerri Mesner and Ian Fraser as replacement workers during the dispute contrary to the Code;

AND WHEREAS a hearing of the Union's application was scheduled for May 26, 2014 in Penticton, BC;

AND WHEREAS for the duration of the work stoppage the Employer is cancelling events and bookings from May 25, 2014 onward.

NOW THEREFORE PURSUANT TO SECTIONS 6(3)(E), 14, 68 AND 139(Q) OF THE *LABOUR RELATIONS CODE*, THE LABOUR RELATIONS BOARD MAKES THE FOLLOWING DECLARATIONS AND ORDERS:


1. The Labour Relations Board declares that the Employer has breached ss. 6(3)(e) and 68 of the Code by using the services of Ardith McKim, Launa Maundrell, Kerri Mesner, and Ian Fraser to perform the work of employees in the bargaining unit that is on strike or locked out;
2. The Labour Relations Board orders that the Employer cease and desist using any individuals, paid or not, other than Janet McDonald, Jim Simpson, Barb McFadyen-Smuin, Lois Huey-Heck and Natalie Maxson to perform work of an employee in the bargaining unit that is on strike;

3. The Labour Relations Board orders that the Employer cease and desist using any individuals, paid or not, other than Janet McDonald, Jim Simpson, Barb McFadyen-Smuin, Lois Huey-Heck and Natalie Maxson to perform the work ordinarily done by a person who is performing the work of an employee in the bargaining unit that is on strike;
4. The Labour Relations Board orders that the Employer cease and desist using any contractors to perform work of an employee in the bargaining unit that is on strike;
5. The Labour Relations Board orders that, if the Employer proceeds with any scheduled events, or books any new events, the Employer shall provide the Union with 7 days written notice of the event, including the type of event, number of guests, services being rendered to the guests, how the services will be rendered and who will render the services for the guests;

The Union's application is adjourned generally and can be brought back before the Labour Relations Board on short notice, including the Union's application for an Industrial Relations Officer to be assigned to determine what bargaining unit work is being done behind the picket line and how it is getting done.

DATED AND EFFECTIVE at Penticton, British Columbia this 26th day of May 2014.

LABOUR RELATIONS BOARD



ELENA MILLER
VICE CHAIR

Certified to be a true copy of the Order
on file with the Labour Relations Board
on May 27, 2014.



ELENA MILLER
VICE-CHAIR