

Bill 148 and Bargaining

An update for members of CUPE School Board Locals

October 16, 2017

We know many of you are asking about this current round of bargaining and have concerns about the amount of time it is taking to secure a new Collective Agreement. This update will hopefully answer some of those questions.

There are some factors beyond CUPE's control that have led to the delays – the most significant being the Liberal government's Bill 148.

About Bill 148

On August 22, 2017, the Liberal government proclaimed the *Public Services Sustainability Act*, known as Bill 148, which imposes a wage package and freezes a negotiated benefit known as the retirement allowance or service award.

Bill 148 impacts every government-funded Collective Agreement including those in the school board sector. The Bill imposes the following terms in Collective Agreements:

- A four-year term;
- Wage restraints of 0% increase in year one, 0% in the second year, 1.5% in the third year, 1% in the fourth year and a 0.5% increase on the last day of the Collective Agreement;
- It also removes from every Collective Agreement (that has one) any type of severance or service award. This includes pay out of sick time benefits that may be banked and eligible as a severance, long-service awards and retirement incentives. For those who currently have severance allowances, they will be frozen to April of 2015 (so any time worked after that date will not be counted toward the severance) and for any new hires since April of 2015 this article in your Collective Agreements will not apply (setting up a Two-Tiered benefit, those who have it and those who work alongside you in the same jobs who will have to do without!)

The retirement allowance, a freely negotiated benefit, is being unfairly taken without being offset, and in effect takes wages from members who have been deferred until retirement.

For those who currently have severance allowances, they will be frozen as of April 2015. Any time worked after that date will not be counted toward severance.

For new hires since April 2015, this article in your Collective Agreements will not apply. There will now be a two-tiered benefit system. Depending on when a member was hired, therefore creating the situation where two workers doing the same job will not, based solely on date of hire, receive the same benefits.

The Liberal government was sneaky about how they implemented Bill 148!

The Liberals introduced this Bill in 2015, but they did not proclaim it until September 2017. That means this anti-worker piece of legislation was ready to go, but was not made into law. The Liberals left it hanging over the heads of everyone at bargaining tables for two years.

This has caused delays in bargaining for all Unions, in every sector. As we now know, the teachers' Union (NSTU) fought against the terms of Bill 148 and ended up with a Collective Agreement imposed on them.

All Unions have been cautious during bargaining, as they did not want to be the one to “trigger” the legislation or have a contract imposed on them. Recently, NSGEU came to an impasse in bargaining with their civil servants group and the Liberals took that very first opportunity to proclaim Bill 148 on us all.

Legal challenges are underway

Is Bill 148 a violation of the Canadian Charter of Rights and Freedoms?

CUPE and all the other Unions in Nova Scotia say yes! These attacks on public sector workers are unfair and likely unconstitutional. They'll also do serious damage to the economy.

CUPE will pursue Bill 148 all the way to the Supreme Court of Canada where we strongly feel the Bill will be found to be unconstitutional. Unfortunately, this challenge will take years to be heard and decided.

On August 22, the government referred [only] the wage portion of Bill 148 to the Nova Scotia Court of Appeal for review, namely the wage package. However, the Unions continued to press for the entire Bill to be reviewed and tested for its constitutionality.

On September 8, CUPE and other Unions filed a request to be added as parties at the Nova Scotia Court of Appeal. This enables the Unions to give evidence regarding the potential impact that this Bill will have on bargaining freely. Also, hundreds of Union members from across the province descended on opening day of the Nova Scotia Legislature on September 21. Union members drowned out the Throne Speech being given inside at the same time. They sent a message to the McNeil Liberal Government that we will defend collective bargaining rights.

The Liberals must be feeling the pressure, because since then, the government has amended the reference to the Court of Appeal to include sections 20 to 23, which are the retirement allowance and sick leave payout portions.

CUPE and the other Unions in Nova Scotia will continue the fight and appeal the decisions to the highest courts should rulings not be in our favour.

So, what do we do know?

We will do what CUPE has always done best – we will bargain!

Now that Bill 148 has been proclaimed, there is nothing to lose by moving forward. CUPE will always take the position that no government or third party should have an impact, or be able to influence our rights to bargain a fair Collective Agreement with our employers.

We will continue to fight any concessions or two-tiered benefits that may be brought to our bargaining tables.

CUPE will do all that is required to defend your rights to bargain a free and fair Collective Agreement.

The one positive we face in the school board sector (unlike the locals in health care, home care, long term care and community services) is we do not have the essential service legislation to contend with.

This allows us more freedom to push back on issues than the other sectors currently have. We will use that room to strategically put ourselves in the best position possible to fight these attacks by the Liberal government and/or our employers.

How can you as CUPE members support Bargaining?

Well, you have already started by showing the great patience in understanding through this period that you have already shown! So, thank you and well done!

It will continue to be a difficult round of bargaining, as employers see the Liberal government's attack on Unions as a sign of encouragement and attempt to demand further concessions.

We will stand strong against these demands and we will need the support of all our members to push back against these attacks.

We ask that you trust and support your bargaining committees or strike preparation committees in the actions they may recommend.

The committees may suggest any number of ways to support our bargaining efforts, including asking members to:

- Wear the same colour on days our bargaining teams are at the table;
- Contact MLA's or elected school board officials (speaking notes and material will be provided);
- Participate in an information picket and hand out leaflets (material will be provided);
- Recommendations on important votes. Your Bargaining Committee may bring back positions and information to you during the bargaining process and ask for you to vote on those positions, we strongly encourage you to listen to the recommendations of those committees and follow their recommendations to allow us as CUPE to be put in the best bargaining positions possible.

Thank you and keep your eyes peeled for more CUPE communications!

