

**BEFORE THE CANADA INDUSTRIAL RELATIONS BOARD**

B E T W E E N:

**CANADIAN UNION OF POSTAL WORKERS**

(the "Complainant")

-and-

**CANADA POST CORPORATION**

(the "Respondent")

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**COMPLAINT**

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**PARTIES**

1. The full name and the address of the Complainant is:

Canadian Union of Postal Workers  
377 Bank Street  
Ottawa, ON K2P 1Y3

Telephone No.: (613) 236-7238  
Facsimile No.: (613) 563-7861  
Attention: Peter Denley

Copies of correspondence should also be directed to legal counsel for the Complainant:

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Barristers & Solicitors  
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Ottawa, ON K1P 5Z9

Tel: (613) 567-2901  
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2. The full name of the Respondent is:

Canada Post Corporation  
2701 Riverside Drive  
Ottawa, ON K1A 0B1

Tel: (613) 734-7296  
Fax: (613) 734-7128

### **CODE PROVISIONS**

3. The Complainant maintains that the Respondent, Canada Post Corporation ("Canada Post"), has acted, and is acting, contrary to subsection 50(a) and paragraph 94(1)(a) of the *Canada Labour Code* (the "Code") in its conduct towards both the Urban Postal Operations bargaining unit and the Rural and Suburban Mail Carriers bargaining unit.

4. The Respondent has communicated directly with bargaining unit members in a manner which attempts to discredit the Complainant and is coercive, intimidating, and unduly influencing. Further, the Respondent has acted in a manner that circumvents the Complainant's role as the exclusive representative for the bargaining units. This conduct undermines the Complainant in the eyes of its membership.

5. Moreover, the Respondent has failed to conduct itself in a manner so as to avoid a labour dispute. Instead, the Respondent has engaged in a course of conduct which it knew or ought to have known would contribute to the deterioration of labour relations between the parties and disrupt collective bargaining. Namely, the Respondent has:

- a) Failed to engage in any meaningful discussions or negotiations regarding the Rural and Suburban Mail Carriers bargaining unit;
- b) Tabled and insisted on proposals which were plainly unacceptable to the Complainant;
- c) Issued coercive and threatening communications directly to employees

and through the media regarding the Complainant's failure to accept the Respondent's proposals;

- d) Refused reasonable offers to extend the timelines on work stoppages or to engage in further discussions between the parties;
- e) Engaged in a media campaign intended to denigrate the Complainant in the eyes of its membership and the public, and;
- f) Withheld information regarding its costing of the Complainant's bargaining proposals, despite multiple requests.

6. Accordingly, the Respondent's conduct has interfered with the Complainant's representation of its members and is inconsistent with the obligation to bargain in good faith and make every reasonable effort to enter into a collective agreement.

7. Subsection 50(a) of the *Code* provides as follows:

Duty to bargain and not change terms and conditions

**50.** Where notice to bargain has been given under this Part,

(a) the bargaining agent and the employer, without delay, but in any case within twenty days after the notice was given unless the parties otherwise agree, shall

(i) meet and commence, or cause authorized representatives on their behalf to meet and commence, to bargain collectively in good faith, and

(ii) make every reasonable effort to enter into a collective agreement.

8. Paragraph 94(1)(a) of the *Code* provides as follows:

Employer interference in trade union

**94.** (1) No employer or person acting on behalf of an employer shall

(a) participate in or interfere with the formation or administration of a trade union or the representation of employees by a trade union.

9. This complaint is brought pursuant to paragraph 97(1)(a) of the *Code*.

## **PARTICULARS**

10. The Complainant, Canadian Union of Postal Workers ("CUPW"), is the certified bargaining agent for employees in the Urban Postal Operations ("UPO") unit and the Rural and Suburban Mail Carriers ("RSMC") unit.

### **Collective Bargaining Process**

11. The RSMC collective agreement between CUPW and Canada Post expired on December 31, 2015. The UPO collective agreement between the parties expired on January 31, 2016. CUPW served Notice to Bargain in relation to both units on November 20, 2015, pursuant to section 49 of the *Code*. Initial meetings were held in early December 2015, and the parties' initial proposals were exchanged on January 29, 2016.

12. Bargaining continued throughout the spring without success. Indeed, Canada Post failed to engage in any meaningful process of bargaining regarding the RSMC unit. Despite multiple requests for responses, Canada Post failed to respond to questions raised by CUPW negotiators or to provide its position in regards to a number of proposals put forward by CUPW, including those made on May 5, May 12, and June 9, 2016.

13. In April 2016, Canada Post requested the appointment of a conciliator. The conciliation process officially ended on June 10, 2016, commencing the 21-day "cooling off" period before any work stoppages could begin.

14. In May and June 2016, CUPW conducted strike votes. CUPW members voted in favour of authorizing strike activities, with the result that CUPW was in a legal strike position beginning on July 2, 2016.

15. On June 22, 2016, CUPW sent a letter to Canada Post, expressing its frustration with Canada Post's refusal to engage in any discussions regarding the RSMC unit. A copy of this letter is attached as **Appendix "A"**.

16. On Saturday, June 25, 2016, Canada Post tabled "Global Offers" to finalize

the terms for both the RSMC and UPO collective agreements. On Monday, June 27, 2016, prior to receiving any response from CUPW, Canada Post issued a statement to the media in which it attempted to raise fear among the public regarding a potential work stoppage. A copy of a media report quoting Canada Post's statement is attached as **Appendix "B"**.

17. After receipt of Canada Post's Global Offers, CUPW proposed a two-week extension to the cooling off period in order to continue the negotiations regarding Canada Post's new offers by pushing back the date for the commencement of work stoppages. A copy of CUPW's letter is attached as **Appendix "C"**.

18. On June 29, 2016, Canada Post rejected CUPW offer. Copies of the letters sent to CUPW are attached as **Appendix "D"**. In a letter circulated directly to bargaining unit members, Canada Post accused CUPW negotiators of delaying the negotiation process. A copy of this letter is attached as **Appendix "E"**. A copy of this letter was also attached to a news release, posted on June 28, 2016, which is attached as **Appendix "F"**.

### **Canada Post Communications with Members**

19. During the week following the tabling of Canada Post's Global Offers, bargaining unit members at Canada Post locations across the country were called into meetings with their supervisors and other management representatives. During these meetings, management representatives spoke to employees about the Global Offers and communicated that, if members engaged in strike activities, these offers would be rolled back and taken off the table. CUPW representatives were not given prior notice of these meetings nor offered an opportunity to be present.

20. In and around the same time as these meetings, management representatives further advised bargaining unit members to contact CUPW and to request that the Global Offers be put to a vote. These representatives told members that they did not believe that CUPW would permit members to have a say on the Global Offers if members did not contact CUPW at the national and regional levels to demand a vote.

## **Canada Post Issues Notice of Lock-Out**

21. On July 1, 2016, CUPW tabled its counter-proposals to Canada Post's Global Offers. On July 2, 2016, Canada Post issued a news release in which it expressed "disappointment" with CUPW's proposals and claimed that these proposals would cost "at least \$1 Billion in new costs." Canada Post provided no further information to support its claim that these proposals would cost \$1 billion. A copy of this website posting is attached as **Appendix "G"**.

22. On July 3, 2016, Canada Post issued a news release and letters to employees advising employees that their terms and conditions of employment could be altered if either Canada Post or CUPW issued notice of a work stoppage. Copies of this website posting and the letters to employees are attached as **Appendix "H"**. The letters to employees outlined which specific terms and conditions of employment would be continued and which would be ended following the expiry of a work stoppage notice. Particularly, Canada Post identified that it would not be approving new Short-Term Disability claims or paying out top-up disability, maternity or paternity benefits in the event of a work disruption.

23. On July 4, 2016, Canada Post issued a Notice of Lockout, pursuant to section 87.2 of the *Code*. Copies of these notices are attached as **Appendix "I"**.

24. On the same day, Canada Post indicated to CUPW negotiators that it was rejecting CUPW's counter-proposals from July 1. Instead, Canada Post stated that its Global Offers of June 25 now represented its final offers and that it would not engage in further negotiations related to these proposals. Furthermore, Canada Post indicated that it would withdraw these offers in their entirety if CUPW did not agree to accept them prior to the expiry of the 72-hour notice period. Copies of Canada Post's letters are attached as **Appendix "J"**. A copy of its news release is attached as **Appendix "K"**.

25. Finally, Canada Post issued a news release on July 4 which stated that the 72-hour notice did not "necessarily" mean that Canada Post would commence a

lock-out of bargaining unit members on July 8, 2016. Rather, Canada Post stated that it would be changing employee terms and conditions of employment on that date, particularly stating:

Under the new terms and conditions, employees will continue to receive their regular pay and some benefits such as applicable prescription drug coverage. Other items will be cancelled in line with the statutory minimum conditions established under the *Canada Labour Code*. The Corporation will also have the flexibility to adjust staffing according to the amount of work required.

A copy of this website posting is attached as **Appendix "L"**.

26. In its media releases since July 2, 2016, Canada Post has claimed that it rejected CUPW's counter-proposals on the basis that they would cost "more than \$1 billion." After receiving these releases, CUPW requested an explanation of this costing from Canada Post and offered to meet at the earliest opportunity to discuss. When no response was forthcoming, CUPW followed up with a second request. To date, Canada Post has failed to respond to these communications. Despite this failure to respond, Canada Post has continued to communicate its "\$1 billion" claim to the media. A copy of the correspondence from CUPW on this issue is attached as **Appendix "M"**. Copies of media reports, dated July 5, 2016, are attached as **Appendix "N"**.

27. On July 5, 2016, Canada Post issued its letter to employees in which it confirmed that its June 25 offers were considered final and that it would commence changing the terms and conditions of employment for CUPW members if these offers were not accepted by July 8, 2016. A copy of this letter is contained in Appendix "L".

28. On the same day, CUPW responded to Canada Post's letter of July 4, 2016. It identified its frustration that Canada Post had yet to engage in any meaningful discussions regarding the RSMC unit. It also outlined concerns regarding Canada Post's plans to halt approval of claims and payments under the Short-Term Disability plan in the event of work disruption. Finally, CUPW noted that it had concerns regarding Canada Post's genuine intention to engage in discussions, given

the expressed unwillingness to negotiate in relation to the Global Offers, but confirmed that it remained willing to engage in discussions in the hopes of reaching a negotiated settlement of both the UPO and RSMC collective agreements. Copies of CUPW's letters are attached as **Appendix "O"**.

### **Summary of Argument**

29. The Complainant submits that the Respondent's communications with bargaining unit members constitute bargaining in bad faith and interference with its representation of its members, contrary to subsection 50(a) and paragraph 94(1)(a) of the *Code*.

30. The Respondent has attempted to circumvent the Complainant's role as the exclusive representative of bargaining unit members by engaging in direct discussion with employees on matters that are the subject of collective bargaining with the union. The Respondent's conduct could only undermine the Complainant in the eyes of its members and have an adverse effect both on the administration of the trade union and its position as the exclusive bargaining agent of unionized employees.

31. Moreover, the Respondent has made statements directly to unionized employees which have maligned the Complainant, implied that a failure to accept Canada Post's Global Offers or the commencement of legal strike activities would result in the offers being withdrawn and essential terms and conditions of employment altered or ended, and counselled unionized employees to raise these issues with the Complainant. Such conduct goes beyond the permissible expression of personal views and constitutes actions which are coercive, intimidating, threatening or unduly influencing. As such, the Respondent has interfered with the Complainant's representation of the bargaining units.

32. The Complainant further submits that the Respondent has breached its obligations under subsection 50(a) of the *Code* by engaging in a course of conduct which it knew or ought to have known would contribute to the deterioration of labour relations between the parties and disrupt collective bargaining.



33. First, the Respondent has refused to engage in any meaningful negotiations regarding the RSMC bargaining unit. The Complainant received no responses to its positions and proposals tabled throughout May and June, despite repeated requests for a response. The Global Offers represented the first substantive response from the Respondent, yet the Respondent has explicitly refused to engage in any form of negotiation in relation to these offers. The Respondent has therefore plainly violated its obligations to bargain in good faith, pursuant to subsection 50(a), in relation to the RSMC unit.

34. Second, the Respondent has refused to negotiate regarding its Global Offers for either the RSMC or UPO unit, despite the fact that it knew or ought to have known that proposals contained in these offers would be unacceptable to the Complainant. The Complainant has attempted to engage in good faith discussions regarding the Respondent's Global Offers, including through its offer to extend the cooling off period and by tabling counter-proposals, but the Respondent has rejected these efforts. Instead, the Respondent has maintained its proposal to the point of impasse and issued threatening and coercive communications to union members, including directly and through the media, regarding the impact that a failure to accept this proposal will have on employees.

35. Third, the Respondent has also engaged in a media campaign which has attempted to manufacture a crisis, raise fear among bargaining unit members and the public regarding a work stoppage, and denigrate the Complainant. Particularly in its communications with the public, the Respondent has attempted to heighten concerns about strike activities in order to justify its refusal to negotiate at the bargaining table. Moreover, the Respondent has increasingly circumvented the bargaining process entirely by communicating with employees and the media, rather than with representatives of the Complainant. The Respondent has made bald claims to the media – such as its "\$1 billion" claim – and ignored communication from the Complainant which have sought to clarify these claims and propose further discussions.

36. Collectively and individually, these actions by the Respondent constitute a course of conduct which is directly contrary to and inconsistent with its obligation to bargain in good faith and make every reasonable effort to conclude a collective agreement.

## **REMEDY**

37. The Complainant hereby requests an expedited hearing into the issues raised by this complaint. Given the likelihood for contested facts and the need to assess credibility, the Complainant submits that a hearing will be necessary in this matter.

38. In addition, the Complainant requests orders of the Board as follows:

- a) A declaration that the Respondent employer has acted in violation of subsection 50(a) of the *Code*;
- b) A declaration that the Respondent employer has acted in violation of paragraph 94(1)(a) of the *Code*;
- c) An Order requiring the Respondent to cease and desist communications with employees in a manner that is contrary to subsection 50(a) and paragraph 94(1)(a) of the *Code*;
- d) An order that the Respondent return to the bargaining table and bargain in good faith and make every effort to conclude a collective agreement;
- e) An Order requiring the Respondent to post copies of the Board's decision in all of its premises where employees have access and on its websites, no later than five days following the receipt of the Order, and;

- f) Such further order or relief as counsel may request and that the Board may permit.

Dated at Ottawa, this 6<sup>th</sup> day of July, 2016.

**RAVEN, CAMERON, BALLANTYNE  
& YAZBECK LLP/s.r.l.**

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Per: \_\_\_\_\_  
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