

January 19, 2011

INFORMATION BULLETIN ROLE OF THE BOARD OFFICER

PURPOSE

This bulletin provides general information and guidance about the role of Labour Relations Board Officers (“Board Officers”) in carrying out their duties and responsibilities. It is for information purposes only.

INTRODUCTION

The [Labour Relations Act](#) (the “Act”) enables the Labour Relations Board (the “Board”) to investigate any matter filed with the Board. Section 8(3) of the *Act* provides for the employment of officers and employees of the Board to enable it to carry out its functions. The Board has three Board Officers who are involved in the processing of matters that come before the Board, which includes carrying out investigations on behalf of the Board.

Board Officers are impartial employees of the Board and must show themselves to be impartial. They do not advocate for employees, unions or employers. They make inquiries and gather information to assist the Board in making its decisions. They do not provide advice to the parties, but have considerable knowledge of Board practices and procedures. In preparing to meet with the parties, the Board Officers conduct research on previous similar applications and the decisions made by the Board in those cases to fully familiarize themselves with the issues.

Section 79(2) of the *Act* provides that, except with the consent of the Minister, Board Officers are not compellable witnesses before the Board or Court with regard to any information received in the course of carrying out his or her duties under the legislation.

PROCESSING OF APPLICATIONS

Under the [Labour Relations Board Rules of Procedure](#) (“*Rules of Procedure*”), the Chief Executive Officer (“CEO”) of the Board is responsible for reviewing all applications filed to ensure that they are complete. If an application is not complete, the CEO may formally or informally request further particulars from the party filing the application before processing the application.

In processing an application or complaint, the CEO usually appoints a Board Officer to investigate and/or try to effect a settlement of the application.

POWERS OF A BOARD OFFICER

The Board has broad procedural powers to perform its work. These procedural powers in relation to a proceeding before it, or to determine a matter under an application to it, are set out in Section 18 of the *Act* and include the power to:

- make those investigations, inquiries and examination of records that it considers necessary;
- enter the premises of an employer where work is being or has been done and inspect and view the work... and interrogate persons respecting a matter that is before the board;
- require an employer to post notices in appropriate places;
- enter upon an employer's premises for the purpose of conducting representation votes during working hours.

All Board Officers are empowered to perform the tasks listed above in relation to applications filed with the Board. They conduct investigations on behalf of the Board and during the conduct of these investigations, they encourage and assist the parties to narrow the issues in dispute by settling issues raised by the application.

The Board Officers also act as Returning Officers in the conduct of representation votes. Sections 50 and 51 of the *Rules of Procedure* set out the responsibilities of the chief executive officer of the Board in relation to the taking of a vote. These include appointing a Returning Officer to conduct these votes. Upon appointment, the Returning Officers have the authority set out in those sections of the Rules.

Section 123(1) of the *Act* deals with unfair labour practice complaints and provides for the appointment of an officer to inquire into the complaint and try to effect a settlement.

In dealing with applications for certification and revocation applications, a Board Officer must be provided with the names and classifications of employees working for the Employer on particular dates and, if the Employer performs work at multiple sites, the locations where the employees would have worked or are working.

The legislation requires that the Board conduct representation votes of the employees affected by these types of applications within five working days of the Board's receipt of the application. Given the time constraints which the Board Officer is working under in setting up these votes, the relevant information must be gathered quickly.

If necessary, the Board Officer may examine the employer's records for the purpose of attempting to verify the employee list supplied by the employer and to identify employees who worked on the date an application was filed.

Information may also be needed on other topics, such as whether the employees are full-time, part-time, casual, or employed in managerial or confidential labour relations positions. The officer may ask the employer to identify which employees worked on the date of application.

Section 21 of the *Rules of Procedure* requires the parties to an application to comply with every reasonable request made by an officer delegated by the CEO for information required by the Board in respect of its investigation of an application made to it.

Among other things, the Board Officer prepares a Notice of Vote and requires the Employer to post the Notice at the work site in a conspicuous place where it will come to the attention of the employees.

Investigative Role

Board Officers investigate the majority of applications and complaints made to the Board. This usually involves arranging meetings with all of the parties to discuss the positions they have taken in their filings on the issues raised by the application. During an investigation, the Officers assist the parties in settling any issues which can be resolved. Officers are responsible for gathering and examining records and documents determined by the Officer to be relevant and germane to the issues raised in the application.

When an investigation is complete, the Officer is required to file a detailed comprehensive report with the Board setting out the facts surrounding the application and the positions taken by the parties in relation to the issues arising in the application. This written report of the Officer is sent to the parties (or their representatives) for their review and response, if necessary. The parties may comment on some or all of the contents of the Officer's report. Any comments which the parties wish to make in relation to the report must be filed with the Board within **two (2) working days** of their receipt of the report (section 11(3) of the *Rules of Procedure*).

Upon consideration of the file, which includes the Board Officer's report and comments of the parties to the report, the board may decide the matter without further hearing from the parties.

Mediatory Role

One of the functions of Board Officers is to endeavour to effect the settlement of disputes submitted to the Board for resolution. This role is mandated by Section 123(1) of the *Act* in the case of unfair labour practice complaints. Board Officers are also routinely assigned to many other types of application, including certification applications, where they endeavour to achieve either a full settlement of contentious issues or, at least, a narrowing of the issues requiring adjudication by the Board.

To assist the parties in evaluating and assessing their positions in relation to matters in dispute, the Officers often find it useful to refer them to existing case law in relation to such issues.

Communications

The Board Officers are also responsible for communicating with the Board's clientele and the public on the Board's policies, procedures and practices as well as providing information and answering enquiries on the various types of applications which may be made to the Board.