

# Pre-Conditions and Detours from a Legal Strike & Possible Consequences of an Illegal Strike

## PRE-CONDITIONS (ALL REQUIRED)

1. No Collective Bargaining Agreement (CBA) in place (except the bridged over CBA);
2. Strike vote held with majority support;
3. File vote results with Labour Relations Board (LRB);
4. Essential Services Agreement (ESA) in place and filed with LRB;
5. Notice of strike served within 120 days of vote to strike date ;
6. Strike begins on date in Notice after minimum 72 hours from time of Notice.

## POTENTIAL DETOURS BEFORE OR DURING A LEGAL STRIKE

- A. **Formal Mediation** (s. 65) requested by one or both parties OR initiated by Minister.
- B. **Disputes Inquiry Board** (Div. 17) appointed by Minister:
  - a. One can be appointed before a strike which delays strike until after recommendations or vote; and,
  - b. One can be appointed when strike is in progress, in which case strike continues.
- C. **Emergencies** (Div. 18) can be declared if:

“damage to health ... is being caused or is likely to be caused because ...health services have been reduced, have ceased or are likely to be reduced or to cease” or “unreasonable hardship is being caused or is likely to be caused to persons who are not parties to the dispute” (s. 112).

  - i. After order under this section, strike becomes illegal;
  - ii. Public Emergency Tribunal may be ordered (s. 113) and if parties do not settle then the tribunal makes a binding award of what is in the CBA.

## POSSIBLE CONSEQUENCES OF AN ILLEGAL STRIKE

By the **Employer** under the Code (before the LRB or arbitrator) or in Court:

- > Discipline or termination for individuals participating in illegal strike;
- > Grievances re illegal strike (penalties and damages);
- > Dues suspensions between 1 and 6 months (s. 114);
- > Injunction application (for a Court order to cease strike activities);
- > Civil contempt declaration if orders to cease and desist are ignored (fines); and
- > Criminal Contempt if disrespect or obstruction of court/justice system (criminal record and fines).

By the **Government** under the Code or in Court:

- > Injunction application (for a Court order to cease strike activities);
- > Civil contempt declaration if orders to cease and desist are ignored (fines); and
- > Criminal Contempt if disrespect or obstruction of court/justice processes (criminal record and fines).
- > Prosecution of employees/union officers under Div. 25 (fines, offences)
- > New legislation requiring return to work, revocation of certification, and new offences and penalties.

By **Patients** or other **Third Parties**:

- > Civil action against union for financial, physical, or mental harm.