



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **2524-19-U**

Council of Trustees' Associations, Applicant v Canadian Union of Public Employees and, Laura Walton, and Marc Xuereb, Responding Parties and The Crown in Right of Ontario, as Represented by Ministry of Education Intervenor

BEFORE: Matthew R. Wilson, Alternate Chair

APPEARANCES: J.P Alexandrowicz, Julia Nanos for the applicants; Mona Staples, Gavin Leeb for the responding parties; Ferina Murji, Flynn Paquin for the Intervenor

DECISION OF THE BOARD: December 3, 2019

1. This is an application under section 100 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act") that was filed with the Board on December 2, 2019. The Board received the application on December 1, 2019, but pursuant to the Board's Rules of Procedure, the application date is December 2, 2019. The Crown in Right of Ontario as represented by the Ministry of Education ("the Crown") sought to intervene in the matter. The Board grants the Crown's request to intervene and the title of proceedings is amended accordingly.

2. The Council of Trustees' Associations ("CTA") asserts that the Canadian Union of Public Employees ("CUPE"), and its officials, Laura Walton and Marc Xuereb, have called for its members to refuse to cross a lawful picket line that has been announced by the Ontario Secondary School Teachers' Federation ("OSSTF") to be in place on December 4, 2019. While that picket line may be lawful with respect to members of the OSSTF, it does not appear that CUPE and its members are currently in a lawful strike position. CUPE members' refusal to cross the OSSTF picket line may constitute an unlawful strike. It is further alleged that

those officials have taken steps to counsel, procure, support or encourage the unlawful strike. CTA points to a public statement by Ms. Walton, as well as messages issued by CUPE and Mr. Xuereb on Twitter.

3. Having heard and reviewed the submissions of the parties, the Board directs the following:

- (a) CUPE OSBCU shall communicate publicly using its Twitter account (using #CUPE) within one hour of the issuance of this decision, a PDF and/or photo of the attached Notice to Employees containing the following message:

CUPE members at all school boards scheduled for work on December 4, 2019 are expected to report to work in the usual manner regardless of any picket lines. If you don't report to work, you may be participating in an illegal strike contrary to the Labour Relations Act and may be subject to discipline, fines, penalties and prosecution.

- (b) CUPE shall, within one hour of the issuance of this decision, email a copy of this decision and the Notice to Employees to each of its school board locals for their distribution to their members.
- (c) The applicants and their member school boards shall post and distribute a copy of this decision where it is most likely to come to the attention of individuals in the bargaining unit. Such posting shall remain for a period of 60 days from the date of this decision.
- (d) The Board directs that the responding parties, its officers, servants, agents and representatives, any person acting on their behalf, cease and desist from calling, authorizing, or threatening to call or authorize an unlawful strike.

4. The effect of this decision is to direct members of CUPE to attend work in the usual manner regardless of any picket lines erected by the OSSTF. Such direction applies to the entire 2019 round of collective bargaining.

5. These applications are adjourned *sine die* for a period of not more than one year, to be brought back on for hearing on short notice if further disruption takes place. If no party requests that the Board proceed with this application within that time, the application will be deemed terminated without any further notice to the parties.

6. I am not seized.

"Matthew R. Wilson"
for the Board

Labour Relations Act, 1995

NOTICE TO EMPLOYEES
Posted by order of the
Ontario Labour Relations Board

The applicant, Council of Trustees' Associations, has applied to the Ontario Labour Relations Board ("the Board") for declarations that Canadian Union of Public Employees and, Laura Walton, and Marc Xuereb called for or authorized an unlawful strike contrary to the Labour Relations Act, 1995.

The Board makes the following directions:

CUPE members at all school boards scheduled for work on December 4, 2019 are expected to report to work in the usual manner regardless of any picket lines. If you don't report to work, you may be participating in an illegal strike contrary to the Labour Relations Act and may be subject to discipline, fines, penalties and prosecution.

This is an official notice of the Board and must not be removed or defaced.

**This notice must remain posted for 60 consecutive days.
DATED this 3rd day of December, 2019.**

Annexe

Loi de 1995 sur les relations de travail

AVIS AUX EMPLOYÉ(E)S

Affiché sous l'ordre de la Commission des relations de travail de l'Ontario

Le requérant, le Conseil des Associations d'employeurs, a déposé une requête à la Commission des relations de travail de l'Ontario (la « Commission ») pour obtenir des déclarations que le Syndicat canadien de la fonction publique (SCFP) et Laura Walton et Marc Xuereb ont décrété ou autorisé une grève illicite contrairement à la Loi de 1995 sur les relations du travail de l'Ontario.

Il est entendu que les membres du SCFP, dans tous les conseils scolaires, qui sont prévus être au travail le 4 décembre 2019 doivent être au travail de la manière habituelle, sans égard aux lignes de piquetage. Si vous ne vous présentez pas au travail, vous pourriez être en train de participer à une grève illégale qui va à l'encontre de la Loi sur les relations de travail, et pourriez faire l'objet de discipline, d'amendes, de sanctions et de poursuites.

Ceci est un avis officiel de la Commission et ne doit pas être retiré ou altéré.

Cet avis doit demeurer affiché pendant 60 jours consécutifs.

En date de ce 3 décembre 2019