

MEMBER COMMUNICATION 61

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Supreme Court Update: Motion for Extension of Time in *Mounted Police Association of Ontario et al. v. Attorney General of Canada*

On January 15, 2016, the Supreme Court of Canada granted the federal government four months of additional time to define an independent labour relations regime that guarantees RCMP members' rights to collective bargaining, as ordered the Court's 2015 ruling in *Mounted Police Association of Ontario et al. v. Attorney General of Canada*.

On December 8, 2015, the Attorney General of Canada (AGC) filed a motion requesting an extension of six months to pass legislation, in light of the change of government.

In response, the Mounted Police Professional Association of Canada (MPPAC) filed submissions requesting that, if the Court were to grant the extension, it also impose conditions to protect the rights of organizations seeking to represent members. These conditions included allowing access to members for communication purposes (which had previously been ordered by the Ontario Court of Appeal), unfair labour practice protection, and restrictions on the RCMP's ability to establish any new employer-led labour relations programs.

Conditions were needed because MPPAC representatives recently experienced employer interference and intimidation in their attempts to speak with RCMP members about their rights. MPPAC is concerned that this employer interference will increase leading up to the introduction of a new labour relations regime.

MPPAC also opposed any order continuing the unconstitutional Staff Relations Representative Program (SRRP).

As part of response submissions, the Mounted Police Association of Ontario (MPAO) filed an affidavit from Peter Merrifield, an advisor to MPAO, who is also an SRRP Representative and a Director of the Mounted Police Members Legal Fund (MPMLF), and thus has multiple, potentially conflicting roles in the current situation. In his affidavit, Merrifield argued that the SRRP should continue, despite the fact that it is unconstitutional and controlled by management.

Although not direct parties in the case, several interveners filed responses to the AGC's motion. These included the MPMLF, which argued in favour of continuing the SRRP, and the Association des Membres de la Police Montée du Québec (AMPMQ), which asked that the extension request be denied.

In reply, the AGC opposed any conditions on the extension. It argued that communication access and unfair labour protection was unnecessary since managers had been directed to remain neutral in the process. The AGC also opposed all of the responses filed by interveners on the basis that they were not parties in the case and did not have the right to respond.

Following the AGC's reply, AMPMQ and MPAO filed highly unusual motions for permission to file sur-reply evidence. The MPAO sur-reply motion contained an additional affidavit from Peter Merrifield and reiterated arguments about why the SRRP should be continued. The MPMLF also wrote the Court in support of the MPAO's sur-reply.

Given its concerns about the unconstitutional SRRP, MPPAC opposed MPAO's request to file a sur-reply and filed a brief response to the MPAO motion, arguing that the Merrifield affidavit was not proper sur-reply and noting the potentially conflicting roles fulfilled by Merrifield. In the January 15, 2016 communication, the Court refused all the sur-reply motions.

MPPAC remains focused on its goal of becoming the independent police association chosen by RCMP members to represent them. The new legislation, once introduced, will provide the roadmap for making this goal a reality.

All SCC submission documents are online at <http://mppac.ca/scc-submissions/>.

LET US BE YOUR ADVOCATE

The Mounted Police Professional Association of Canada (MPPAC) aims to become the independent labour representative for all non-commissioned RCMP members. MPPAC was established in 2010 to fight for the right to engage in collective bargaining through an independent association on behalf of RCMP regular and civilian members across Canada. We strive for excellence in our conduct and obligations. We provide leadership to all of our membership, on justice issues which affect the quality of life of all Canadians. The Association does not seek or support the right to strike. To learn more, visit www.mppac.ca.

Become a member today and let's put forward a collective voice on work issues that concern us all. Please forward this message to your RCMP colleagues who are not yet members of MPPAC.

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