

HASTINGS

LABOUR LAW OFFICE LLP

November 4, 2019

BY EMAIL

Labour Relations Board
Suite 600, Oceanic Plaza
1066 West Hastings Street
Vancouver, B.C.
V6E 3X1

Attention: Registrar

Dear Sirs/Mesdames:

Re: Mountain Equipment Cooperative (the “Employer” or “MEC”) -and- United Food and Commercial Workers, Local 1518 (the “Union”)
(Sections 6 & 9, *Labour Relations Code* (the “Code”))

We are counsel to the Union and have as such been instructed to file this application under Sections 14 and 133 for relief arising from the Employer’s violations of sections 6 and 9 of the *Code*.

Specifically, the Union submits that the Employer’s anti-union campaign breached sections 6 and 9 of the *Code*.

PARTIES

Applicant

United Food and Commercial Workers Union, Local 1518
350 Columbia Street,
New Westminster, BC V3L 1A6
Telephone: 604-526-1518
Facsimile: 604-540-1520

Attention: Patrick Johnson, Secretary-Treasurer

Applicant’s Counsel

Hastings Labour Law Office
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Telephone: 604-632-9644
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Attention: Chris Buchanan

Respondent

MEC Head Office
1077 Great Northern Way,
Vancouver, BC, V5T 1E1

Telephone: 604-707-3300
Facsimile: 604-731-6483

Attention: David Labistour, CEO

Respondent's Counsel

Fasken
550 Burrard Street, Suite 2900
Vancouver BC, V6C 0A3

Telephone: 604-631-3131
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Attention: David T. McDonald

FACTS

The Union relies on the following facts:

1. MEC is a retail co-op that specialises in selling outdoor clothing and equipment to its members. It also provides services, such as ski equipment and bike servicing, to its members.
2. MEC's headquarters is in Vancouver. It operates 23 stores nationwide.
3. The Employer operates one of its Flagstaff stores at 130 West Broadway, Vancouver, although this store is slated to move next year to Olympic Village (the "Vancouver Store"). The Employer also operates a store in Victoria, 1450 Government Street (the "Victoria Store").

MEC has self-identified as anti-union

4. In February 2019, the Union commenced an organizing drive at Vancouver Store.
5. Since the employees decided to join the Union, the Employer has repeatedly and freely stated that it is anti-union. That is, the Employer has stated it does not want the employees at its stores to unionize. Standing alone such statements are not unlawful, although they are surprising given MEC's statement of values. However, it is important to identify that MEC has elected not to remain neutral on the Union's certification

application. MEC, like many other employers in the retail such as Wal-Mart, has taken a position on whether the employees ought to exercise their *Charter* rights to bargain collectively: MEC is against the employees choosing to come together and bargaining a collective agreement.

6. Early this year, the Union commenced an organizing drive at the Victoria Store. MEC again asserted its anti-union view to the employees. MEC commenced an anti-union campaign that occurred at the worksite, on company time, and included numerous memos to employees.

Collective bargaining with MEC

7. After the Board was certified, the Union gave notice to MEC to commence collective bargaining.
8. Due to MEC's actions, or rather inaction, the Union filed a bad faith bargaining complaint against MEC.
9. With the assistance of the Board in resolving the dispute, the Union withdraw the complaint.
10. The parties have bargained collectively after the assistance of the Board.
11. Eventually, the Union believed that a mediator might assist the parties towards resolving the collective bargaining issues that the parties had not settled on their own. Consequently, the Union applied under section 74 for the appointment of a mediator.
12. The parties met with the Board appointed mediator and continued to bargain.
13. Eventually, the Union filed a section 55 application with the Board to resolve the first collective agreement between the parties.
14. On October 30, 2019, the parties met for the last time under section 55 with the Board appointed mediator. The understanding of the parties is that the mediator later this week will be issuing his recommendations.
15. The Union has not taken a strike vote of the employees in the bargaining unit. The Union has never announced that it was taking a strike vote.

Anti-union campaign at the Victoria store

16. Almost immediately of learning about the organizing campaign at the Victoria Store, the Employer conducted an aggressive campaign to oppose the employees supporting the Union.
17. The Employer conducts huddles of employees. These are mandatory meetings for employees: they do not have a choice on whether to attend. Thus, huddles are captive

audience meetings of the employees as they are required to attend and have the Employer's views forced upon them.

18. Also, the Employer produced frequent anti-union material that it distributed to employees. The Employer distributed this anti-union literature at the worksite as well as on its intranet called Mondo.
19. Over the past two weeks, employees from head office and officers of MEC have attended the Victoria. This includes visits by new CEO, Phillippe (Phil) Arrata, Judi Richardson, various human resources managers from Vancouver, and Vancouver's assistant store manager. These individuals engaged employees at the store attempting to persuade employees not to join the union and not to vote for the union.
20. On Tuesday, October 29, 2019, Mr. Arrata told employees in the Victoria store that if they voted to join the union, they would be on strike as Vancouver employees will be on strike. After this meeting with employees, employees discussed that they could not afford to go on strike.
21. Similar discussions took place at team huddles the week before the vote, such as the noon huddle on October 30, 2019.
22. Further, the Employer either instructed or allowed team leaders, on company time, to call employees to determine whether they would be supporting the Union and to try to persuade employees to vote against joining the Union. Team leads called while at work and asked employees to call them back while the team leads were working.
23. The Employer during the two weeks prior to the vote, communicated with employees about "Crunch Time". The Employer has implied that if the employees joined the Union, and voted to unionize, that that would threaten their jobs. The Employer's not so subtle question to employees is whether their decision "will save the Co-op". As an example, we included just one memo provided to employees, which was distributed to the employees on the day of the vote.
24. During huddles on October 31, and possibly earlier, the Employer told employees that employees could not discuss the Union or unionization at the store. Notwithstanding this ban from employees discussin the Union or unionization, even during their breaks, the Employer continued to its communication with the employees to try to persuade them from voting in favour of the Union.

CODE VIOLATIONS

The Union submits that:

1. The Employer violated Section 6(1), 6(3)(d) and 9 of the *Code* by its communication with employees which contained threats that the viability of the store would be impacted if the employees are unionized and contained threats that the employees would be on strike if they voted to unionize. The Employer's

communication also violated the Code by seeking to restrain employees from speaking about the Union during their breaks.

2. The Employer violated Section 6(1), 6(3)(d) and 9 of the *Code* by having its team leads during company time while at work canvass support for the Union and attempt to persuade employees not to vote for the Union.

REMEDY

The Union seeks the following remedies:

1. a declaration that the Employer breached the *Code* as described above;
2. an order that the Employer must cease and desist from further breaches of the *Code*;
3. an order that the Union has the right to install a bulletin board in the staff room and to put up any material it wishes on the bulletin board for a period of no less than 90 days from the date of the Board's decision at the Victoria Store; and
4. any other remedy that the Board considers appropriate.

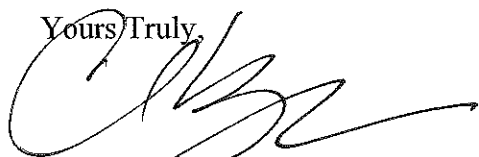
SERVICE

A copy of this application will be served on the Employer tomorrow. We are also delivering a copy of the complaint to MEC's usual labour counsel.

FEES

Please charge our pre-approved account for any fees associated with the filing of this application.

Yours Truly



Chris Buchanan
Encl

cc: Client
MEC (by Courier)
Fasken/David T. McDonald (by email)



MEC

To All Victoria MEC Staffers:

Today you get to vote on whether to be unionized or not.

As a reminder, the Union wants the Victoria store to be tied with the Vancouver store for collective bargaining purposes. That is what you have the opportunity to vote on today.

The Union also says that mediation for the Vancouver store "ended positively". MEC does not agree. A positive ending to mediation is agreement. We did not reach an agreement with the Union. The result of that failure to reach an agreement means a Labour Relations Board arbitrator will make recommendations on what comes next.

We were disappointed that the Union's handout was not accurate. It seemed to be more about getting your vote than it was about letting you know the facts.

It said that MEC is "anti-union". That is not true. MEC has had unionized employees for a number of years. As a Co-op, MEC operates in accordance with its core values at all times. That is how MEC has dealt with bargaining with the Vancouver store, and it is how MEC treats all its stores.

The next steps in the Vancouver bargaining process (which the Union wants to join you to) are:

1. a Labour Relations Board required arbitration process dictating the collective agreement for the bargaining unit;
2. another mediation process, which includes an arbitration with a binding outcome; or
3. there could be a strike or lockout.

We will know which option is chosen by the end of the week, but if the Victoria store votes to join the Vancouver store, and the Labour Relations Board agrees it is appropriate that they should be combined, the Victoria store will have to live with the outcome.

Over the last few weeks, MEC leadership has talked about Crunch Time. It applies to Victoria the same as every other location. Our Co-op cannot continue the trend of losing money every year. This leads to the Crunch Time question "Will this save the Co-op?" Every decision we make should answer this question. Please consider that question when voting today

Mountain Equipment Co-op