

“WHAT’S NEW”

ISSUE 1

In an effort to keep the Labour Relations Community informed on an ongoing basis of happenings at the Labour Relations Board, the Board will be producing on a monthly basis “What’s New.” The following is Issue 1.

NEWS AROUND THE BOARD

Departing Board Members - The Board recently said farewell to a number of long serving Board members. A heartfelt thank-you to Reg Baskin, Jennifer Burns, Doug Cooper, Eslin Eling, Stephen Kushner, Larry Schell, and Roy Wotherspoon – you will be missed!

New Board Members – On a happier note, the Board is pleased to announce the appointment of four new members to the Board: Bruce Moffatt, Cal Ploof, Rod Schenk and Derek Schreiber. All are long term participants in labour relations in the Province and bring a wealth of experience to the Board. Congratulations and welcome to our newest members.

Executive Director – Tannis Brown, Executive Director commenced her maternity leave in late January followed shortly thereafter by the announcement of the birth of a healthy, baby boy. Congratulations to Tannis and family on their new addition. Nancy McDermid will be Acting Executive Director for the duration of Tannis’ leave.

Board Caucus – The Board’s annual caucus meeting is scheduled for April 11 and 12th in Edmonton. On the evening of April 11th, all members of the labour relations community are invited to an Open House including a keynote speech to be delivered by Pamela Chapman updating us on recent labour relations issues.

The Open House will be held at the Sutton Place Hotel – 10235 – 101 Street. The event will commence at 7:00 p.m. followed by the keynote speech at 8:00 p.m.

RECENT SIGNIFICANT CASES

Driver Iron Inc. v. International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers, Local Union No. 720, 2011 ABCA 55

On February 16, 2011, the Alberta Court of Appeal quashed a decision of the Board which had concluded employers who pick up some terms of a registration collective agreement are bound by the entire registration agreement. The Court concluded the Board erred by not addressing an argument advanced by *Driver Iron* that may have impacted on the Board’s findings. Subject to an appeal of the Court’s decision, the case will be reheard by the Board.

Firestone Energy Corporation et al. v. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local Union No. 488 et al. (February 15, 2011)

The Board in *Firestone* addressed the issue of whether an employer and union may terminate a collective agreement early and enter into a renewal collective agreement thereby having the effect of “closing” the “open period” (the period when employees may reject or replace their union). An Original Panel held the statute does not allow early closing of the open period. Recently, a Reconsideration Panel dismissed a reconsideration application without addressing the finding of the Original Panel on the issue of open periods. As a result and subject to a successful judicial review of one of these decisions, the law in Alberta appears to be open periods cannot be closed early.

The Taxi Driver Decisions

The Board recently issued four companion decisions finding taxi drivers, regardless of whether they are owner/operators or lease their vehicle, to be employees for the purposes of the Alberta *Labour Relations Code*. Taking a purposive approach to interpreting the definition of “employee,” the Board found the degree of control and supervision exercised by the taxi companies justified treating the drivers as employees thereby granting to them the rights and protections of the *Code*.