

# WHAT'S NEW

## ISSUE 8 – October 2011

In an effort to keep the Labour Relations Community informed on an ongoing basis of happenings at the Labour Relations Board, the Board produces a monthly newsletter - "What's New." The following is Issue 8 for October 2011.

### NEWS AROUND THE BOARD

**She's Retiring!** - It is with mixed emotions that we announce the retirement of Michelle Parsons, a long-time employee of the Board whose experience, hard work and dry sense of humour will be greatly missed. Michelle started with the Public Service Employee Relations Board in 1989, moving to the Board when PSERB was rolled into the Board in 1994. During that time, Michelle earned her well deserved reputation as a well liked and capable person.

We are happy to see Michelle move forward with her plans to settle in small town Saskatchewan. She will be greatly missed and fondly remembered.

**Congratulations!** – Andy Sims is the 2011 recipient of the Bora Laskin Award for Outstanding Contributions to Canadian Labour Law. The award was established by the University of Toronto to honour those who have made an outstanding contribution to labour law in Canada. The award is named after the late Chief Justice Bora Laskin (1912–1984) who, before joining the Supreme Court of Canada, was a pre-eminent labour law scholar and arbitrator.

Previous recipients include Harry Arthurs, Pierre Verge, Paul Weiller, Roy Heenan, Mel Myers, Warren Winkler, Innis Christie and Justice Rosalie Abella.

The award will be presented at Bora Laskin Award Dinner on the evening of October 18, 2011. Details can be found at [www.lancasterhouse.com](http://www.lancasterhouse.com).

**Board Caucus** – A second Board caucus meeting has been scheduled for the 2011 calendar year. It will take place on November 8 and 9, 2011 in Calgary at the Sheraton Cavalier.

Of particular interest to the labour relations community is our keynote speaker, Andrew Sims who will be speaking on the evening of November 8, 2011. For further details, please see the invitation at [http://www.alrb.gov.ab.ca/Community\\_October\\_2011.pdf](http://www.alrb.gov.ab.ca/Community_October_2011.pdf).

## **OTHER HAPPENINGS**

Canadian Bar Association – 12<sup>th</sup> Annual National Administrative Law, Labour and Employment Law Conference – November 25 and 26. The Conference will be held in Ottawa. Topics will include:

- The Year in Review in Labour and Employment and Administrative Law
- Fireside Chat with Right Hon. Beverley McLachlin, Chief Justice of Canada
- Experts and Tribunal Expertise
- Workplace Investigations
- Real and Nominal Litigants
- Flavours and Layers of Privilege
- A View from the Bench, with justices from the B.C. Supreme Court, Quebec Court of Appeal, Federal Court of Canada and Supreme Court of Newfoundland and Labrador
- The Changing Supreme Court of Canada

Further information can be found at: [www.cba.org](http://www.cba.org)

Lancaster House – Canadian Labour Board Conference – October 18 and 19, 2011. Topics include a case law and legislative update, a discussion of the S.C.C. recent decision in *Fraser*, and a presentation on essential services. The Bora Laskin award being presented to Andy Sims is being awarded in conjunction with this conference. Further details can be found at: [www.lancasterhouse.com](http://www.lancasterhouse.com)

## **RECENT CASES**

### **Sobey's Capital Corporation *et al* v. UFCW Local No. 401**

The Board recently issued a decision addressing whether picketing on private property without permission of the property owner is lawful.

The Employer, Sobey's, operates a grocery store in southeast Calgary. Crombie is the owner of the land surrounding the store. There are other businesses located on the property.

In connection with a legal strike, the Union chose to picket the store in question. The picketing took place in the parking lot in front of the store. The Union chose this location because Sobey's had refused the Union access to the sidewalk immediately in front of the store and picketing the perimeter of the property did not, in the Union's opinion, make sense because the picketers would have little visibility; it would confuse customers including customers of other businesses; and would cause traffic problems on the busy road surrounding the area.

The Employer and Crombie applied to the Board seeking to have the Board ban all picketing in the parking lot on the basis it amounted to a trespass under the *Trespass to Premises Act*. The Union opposed the application on the basis section 84 of the *Code* authorizes the picketing in question.

Accepting the Union's argument, the Board concluded section 84 authorizes picketing at the striking employees place of employment so long as the picketing is without acts that are otherwise unlawful. As stated by the Board,

“The *Code* expressly allows employees to picket “at” their place of employment. The place of employment here is the Store. The parking lot directly in front of the store fits within the words “at the striking ... employees’ place of employment.” The picketers’ presence on the property, which would *otherwise* be unlawful trespass, is made lawful by the wording of the *Code*. Trespass legislation cannot trump the words in the *Code* allowing employees to picket at this spot. There is no trespass in the circumstances.

The decision is of particular interest as this would appear to be the first time this issue has been addressed in Alberta.