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**CLARKE'S CANADA INDUSTRIAL RELATIONS BOARD**

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**What's New in this Update:**

This release includes new case citations to Parts I to III of the *Canada Labour Code*.

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## Highlights

- Bill C-58, an *Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012*, comes into force on June 20, 2025. It will bring two main changes to the *Canada Labour Code*:
  1. It introduces a ban on the use of replacement workers.
  2. It will require parties to have a maintenance of activities agreement in place before they can exercise their right to strike or lockout. If the parties are unable to reach an agreement, the Board will have to decide maintenance of activities applications in 82 days.
- To deal with these matters expeditiously, the Board has indicated that it will not lightly grant intervenor requests in maintenance of activities applications or referrals. An intervenor request must show compelling reasons why the intervention would assist the Board, and such reasons must be clearly linked to the issue of the level of activity necessary to prevent an immediate and serious danger to the safety or health of the public (see *Canadian Pacific Railway Company (now known as Canadian Pacific Kansas City Railway)*, 2024 CIRB 1144 (C.I.R.B.)).
- In *International Longshore and Warehouse Union Canada v. British Columbia Maritime Employers' Association*, 2024 FCA 142 (F.C.A.), the Federal Court of Appeal upheld the Board's finding that the ILWU was engaged in an illegal strike at the Port of Vancouver. The Board did not breach the union's procedural fairness rights when it held an expedited hearing on short notice in the illegal strike application. The central question in the strike application was whether the union was obliged to issue a new 72-hour strike notice after it had ended a previous strike to allow members to vote on a tentative agreement. The Board's finding that a new 72-hour notice was required in the circumstances of this case, was reasonable.
- In *Seaspan ULC*, 2023 CIRB 1094 (C.I.R.B.), the Board confirmed the longstanding principle in the federal private sector that a refusal to cross lawful picket lines during the term of a collective agreement is illegal. However, the situation was unusual because the union members could not perform their regular duties in light of the lawful strike in another bargaining unit at the same employer. The Board took into consideration the appropriate balancing of Charter values with the statutory objectives of the prohibition against mid-contract strikes. It declined to issue an order beyond a mere declaration of unlawful strike. The employer had other options to allow the employees to perform the work without placing them in a situation where they had to choose between crossing a picket line or participating in an unlawful strike.