

What is “Free Collective Bargaining” and why is it under threat?

Workers have rights, and different interests than their employers in the workplace. To protect those rights and advocate for their interests, workers created unions. Unions are a democratic group of workers who represent their members in the workplace. Unions bargain on behalf of workers and sign contracts with employers. These contracts are called collective agreements.

Collective bargaining is the process of negotiating these signed contracts. Collective bargaining is a legally protected right. The Supreme Court of Canada has ruled that collective bargaining falls under the Charter-protected right to freedom of association. This freedom is in section 2 d) of the Charter of Rights and Freedoms. This means that collective bargaining, and everything it produces (collective agreements, strikes, picket lines, etc.) is a constitutional right.

“Recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms the values of dignity, personal autonomy, equality and democracy that are inherent in the Charter.”

– Supreme Court of Canada

In a perfect world, unions advocate for what workers want, employers advocate for what they want, and both sides reach a compromise. That’s free collective bargaining – unions must have access to a meaningful conflict resolution process. However, governments of all stripes try to bypass workers’ rights when it becomes inconvenient for them. A government can attack free collective bargaining by:

- Imposing a collective agreement through legislation;
- Imposing a wage increase mandate through legislation;
- Ordering a group of striking workers back to work through legislation;
- Backtracking on a signed commitment by imposing new terms through legislation;
- The use of the “notwithstanding clause”

When governments attack free collective bargaining, they are met with the political and legal resistance of Canada’s unions.

Currently, Blaine Higgs’ conservative government is attacking free collective bargaining in New Brunswick. They have introduced new legislation that will break the signed collective agreements of three CUPE locals, CUPE 1253 (School District Unions – General Labour & Trades), CUPE 2745 (Educational Support Staff) and the New Brunswick Council of Nursing Home Unions. Now that decisions have been made or options put forward that are not in his favour, Blaine Higgs doesn’t think he will get his way so wants to force his outcome through legislation. He will use a smokescreen to do this – he will call it “interest arbitration” but it’s really a process that can only lead to the government’s preferred outcome. This is not a free or fair conflict resolution process.

The labour movement must unite in standing against attacks to free collective bargaining, in all its forms. An attack on one of us is an attack on all of us. Allowing the government to proceed with breaking collective agreements using legislation would set a dangerous practice for all signed agreements in the province. The government must be met with our collective resistance.



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