



Moving on After Acrimonious Disputes

Liz Foster

Long, acrimonious disputes are a challenge and the road forward is not easy even after a conflict has been resolved. The obstacles facing both employers and unions following a labour dispute are examined in this article, with expertise from union leadership, dispute resolution practitioners and lawyers.

LONG, ACRIMONIOUS disputes are a challenge, no doubt, but the road forward is not easy even after a conflict has been resolved.

That's the situation facing United Steelworkers (USW) and Crown Holdings with the end of a lengthy 22-month strike. The 130 affected employees — represented by USW Local 9176 — work at the company's beer can manufacturing plant in Weston, Ont.

Union members went on strike in September 2013 after Crown called for a two-tier wage schedule. According to the union, the plan would have permanently cut young and new workers' wages by as much as 42 per cent.

In the end, the collective agreement was reached with the assistance of the Ontario Labour Relations Board (OLRB) following nearly two years of tense labour action. During the dispute, USW filed a complaint of bad faith bargaining and unfair labour practices with the OLRB against the company.

The new six-year collective agreement guarantees the rights of all striking employees to return to their jobs, said USW. It also includes enhanced retirement and severance provisions for employees who decide not to return to the plant.

"These men and women can return to work with their heads held high. They are going back shouldertoshoulder, with their union and their principles intact," said Marty Warren, USW Ontario director, in a release.

"These workers fought for nearly two years against a foreign multinational's attempt to eliminate their union and their unionized jobs." The return to work process is set to begin Aug. 10, said the union, but a Facebook page for USW 9176 is filled with angry comments from workers.

Moving forward

So, where do they go from here? Anne Grant, president of AEG Dispute Resolution Services and former president of the ADR Institute of Ontario, said employers and unions face a specific set of obstacles following a particularly long or acrimonious labour dispute.

"Post-dispute, you're coming out of that conflict scenario and having to return to the day-to-day relationship, which doesn't feel that easy," she said.

"A fundamental step has to be getting back to negotiating in a broader sense and not just in the collective bargaining sense. The trick is to get those two bodies back into a collaborative, day-to-day, problemsolving mode."

Returning to regular operations can be difficult following a dispute because trust is often fractured or completely broken during labour action, said Grant.

“Relationships are built on trust, but we don’t always have the benefit or the luxury of personal trust in a working relationship.”

It is important, therefore, to establish processes in which both parties can establish trust following a dispute. Something as simple as establishing regular labour-management meetings, she said, can make a significant difference.

For maximum impact, however, Grant recommended implementing these processes preventatively.

“Rather than wait to see if there are bad feelings following a labour dispute, I think they need to be headed off at the pass,” she said. “A proactive and preventative approach has to happen first.”

Grant recommended giving managers the guidance, skills and support they need to create strategies for employees’ return to work. Working with the union on these processes and showing employees a united front, she said, will go a long way.

Katha Fortier, Ontario regional director for Unifor, agreed that collaboration and consistent communications between parties is crucial during and after a dispute.

“During a dispute,” she said, “it is important that there be continued dialogue between not only the parties, but any other stakeholders. We also do our best to negotiate full-time, or at least part-time, workplace representatives that can offer regular membership support and deal with issues early and effectively.” More serious disputes, Fortier said, should be addressed with the support of arbitrators and mediators.

Seeking proper professional services and legal advice should be one of the employer’s and the union’s first steps when addressing a labour dispute, according to Allen Craig, a partner at Gowling Lafleur Henderson in Toronto, who said bad behaviour during a dispute has consequences that reach far beyond bad feelings.

Mistrust can reach customers

The tenor of the next round of bargaining is often heavily informed by labour disputes, he said, as mistrust often develops between the parties, which can extend to a company’s customers.

“You have to immediately rebuild customer relations,” Craig said. “When there’s a strike, there’s uncertainty in the customer’s mind.”

This potential for a loss of business is often exacerbated by a lack of productivity among employees returning to work.

“Quite often, I find there’s somewhat of a lethargy or lack of productivity upon return,” he said. “People are more interested in talking about what happened and sometimes it takes awhile to get operations back.”

Ultimately, the best way to move forward is through collaboration, said Crag, who also recommended employers collaborate with unions to implement training or programs so they can collectively move forward.

“Both parties have a vested interest in developing the business, maintaining the business, growing the business and keeping jobs,” Craig said. “Both employers and unions know the long-term business effects of having a short-term skirmish. Both parties, in most instances, are committed to doing any and everything possible to avoid labour disruption.”



Following a long dispute, Grant said both the employer and the union need to be realistic about any damage done. Even with communication and collaboration, issues may linger in the aftermath of such a protracted dispute.

“Relationships really do need time and space to rebuild,” she said.

Liz Foster is a news editor for the Canadian Labour Reporter. She is the author of other articles and resources relating to labour relations which may be found at <http://www.labour-reporter.com/>