

June 3, 2016

DONALD V. KEENAN*
Direct Dial: (506) 633-4272
Direct Fax: (506) 652-7844
E-Mail: dvk@brentonkean.com

VIA TELECOPIER #902-368-5476

Mr. Shawn Shea
Chief Executive Officer
PEI Labour Relations Board
Sherwood Business Centre
161 St. Peters Road, 2nd Floor
P.O. Box 2000
Charlottetown, PE C1A 7N8

Dear Mr. Shea:

- Re: Unfair Labour Practice Complaint – University of Prince Edward Island Faculty Association/University of Prince Edward Island Board of Governors
File No.: 16-002**
- Re: Unfair Labour Practice Complaint – Canadian Union of Public Employees, Local 1870 and Canadian Union of Public Employees, Local 501 (Security Police)/University of Prince Edward Island Board of Governors
File No.: 16-003**
- Re: Unfair Labour Practice Complaint – The University of Prince Edward Island Faculty Association (UPEIFA Units #1 & #2) and The International Brotherhood of Electrical Workers (IBEW Local 1928)/ The University of Prince Edward Island Board of Governors
File No.: 16-004**

On behalf of the Complainants (UPEI FA Units #1 & #2 and IBEW 1928) in the matter bearing File Nos. 16-002 and 16-004, the following are representations in response to Solicitor Murphy's correspondence dated May 25, 2016.

The Complainants have carefully reviewed and considered the contents of Solicitor Murphy's May 25 letter. However, the Complainants cannot agree to the Employer's proposal for the following reasons.

At the outset, the proposal identifies June 5 and/or 6 as dates suggested by the campus unions for the parties to meet and resume pension discussions. At no point in time have the Complainants, or the other campus unions, suggested or proposed those specific dates for that purpose. In passing, June 5 is a Sunday. The Complainants had advised that they would need until early June to prepare a response to the Employer's proposed pension changes, but no dates were agreed for the

Business Address: 75 Prince William Street, 4th floor, Saint John, N.B. Canada E2L 2B2

Mailing Address: P.O. Box 6907 Saint John N.B. Canada E2L 4S3

Telephone: (506) 633-2556

Facsimile: (506) 633-5902

resumption of negotiations. At this point, any dates that might now be set for negotiating pension would be contingent on the resolution of the complaints before the Board.

The Employer's proposal does not address the issues raised by both unfair labour practice complaints filed by all campus unions pertaining to the process of collective bargaining pension related issues. More specifically, the proposal does not address the Complainants' concern associated with the Employer's refusal to bargain pension at the joint-union table as it has been done in the past, as well as the Employer's unreasonably restrictive expectations regarding the time and effort required to prepare the unions' joint counter-proposal. Further, the proposal does not address the issues raised by the UPEIFA in File No. 16-002 (i.e. the non-pension related unfair labour practice complaint).

It is therefore the Complainants' position that both pension related complaints (i.e. File No. 16-003 and 16-004) must be addressed by the Board before any meaningful discussions may resume on the substantive issues associated with the pension plan. In accordance with this position, the joint-unions will provide their pension counter-proposal to the Employer at the joint-union table once pension negotiations recommence after the pension related complaints have been addressed.

Based on its proposal, it does not appear that the Employer has modified its position in any meaningful way with respect to the unfair labour practice complaints filed by the campus unions. This is illustrated by the following examples:

- The June 30 timeline imposed unilaterally by the Employer is arbitrary. The Complainants do not subscribe to the concept that all negotiations must be completed by June 30, and they have never taken such a position. There is no reasonable basis for the Employer to set this impractical timeline except, perhaps, to facilitate its ability to lock out employees as of July 1 following the expiry of the UPEIFA Unit # 1 collective agreement on June 30. At the risk of being repetitive, there is no merit to this timeline.
- The Employer "anticipates" that conciliator-assisted negotiations with the UPEIFA will proceed and that conciliation meetings "will be scheduled within the coming days". It is not appropriate to discuss conciliation meetings while there are outstanding unfair labour practice complaints related to unfair bargaining by the Employer. Further, only the UPEIFA has been advised that the Employer has requested conciliation. The other campus unions are not part of that process. Such a position, the Complainants submit, is therefore premature.
- The Employer insists that pension related issues be addressed as part of the conciliation process with the UPEIFA, even though pension changes are an issue for all campus unions. The campus unions have not yet provided their joint counter-proposal relating to pension. That said, how can it be argued that it is a proper matter to be dealt with at conciliation?
- The Employer continues to refuse to acknowledge the joint-union table as the appropriate and suitable framework to negotiate pension. The proposal states a willingness to "try and work with the unions at the side table" which is predicated on a requirement that the

process “does not impair negotiations in the normal course and the conciliation process”. This approach does not provide any comfort to the Complainants that the Employer has any good-faith intentions of dealing with pension at the joint-union table, as has been the practice.

- The proposal does not address the long-lasting procedural issues raised by the complaint. In other words, the parties could effectively find themselves debating the same issues in future rounds of collective bargaining.
- Further, the Employer’s proposal suggests that pension, which necessarily involves all campus unions, is to be addressed during the conciliation process with the UPEIFA despite the fact that no request for conciliation has been made in regard to any of the other campus unions. It is very unlikely that the other campus unions will agree to get involved in the UPEIFA conciliation process which cannot proceed until the unfair labour practice complaints have been determined by the Board.

It is the Complainants’ position that its unfair labour practice complaint must first be addressed by the Board prior to the resumption of any discussions on pension. Regrettably, the Employer’s proposal offers nothing to resolve this complaint. As outlined by the bullets above, the proposal actually reinforces the Complainants’ reasons for filing its complaint.

Unless the Employer proposes something that could potentially address the issues raised in the complaint, the Complainants will likely have no other choice but to require the Board to rule on the merits of the complaint. Having said this, however, the Complainants remain open and willing to consider a potential resolution of its complaint.

The Complainants do not agree, and have not advanced the notion, that “time is critical in these matters”. If the Board is led to believe that there are time constraints in this matter based on statements from the Employer, the Complainants do not share that view.

Thank you for your attention to the above, and please let the undersigned know if you require anything further.

Yours very truly,

BRENTON KEAN



Donald V. Keenan

DVK/klg

cc: W. Peters
N. Etkin
S. Myers

*Practicing through a Professional Corporation