FTR Now

Proposed Class Action Dismissed: OLRB has Exclusive Jurisdiction

Date: May 13, 2013

On May 9, 2013, the Ontario Superior Court dismissed a proposed class action brought by unionized employees who alleged that they were constructively or wrongfully dismissed following a plant closure by their employer, Navistar. Collective agreements had expired two years prior to the plant closure. The Court held that the continuation of the collective bargaining relationship between the Union, the CAW, and Navistar was a bar to any assertion by the Plaintiffs that they had individual employment contracts upon which to base their claims.

Navistar closed its plant in July, 2011. Negotiations with the Union on a closure agreement followed, but a closure agreement was not entered into. In what the Court characterized as a “tactical decision by the Union to skirt around its obligation to continue negotiating as the certified bargaining agent of the Navistar employees,” the Plaintiffs’ proposed class proceeding was then brought. Navistar brought a Rule 21 motion in which it sought dismissal of the proposed class action, on the basis that the Court had no jurisdiction to hear the matter as the Plaintiffs and all members of the proposed class were represented by the CAW and thus exclusive jurisdiction rested with the Ontario Labour Relations Board (“OLRB”).

The Court agreed. It reviewed the jurisprudence of the Supreme Court of Canada advanced by Navistar in support of its argument that notwithstanding the expiration of a collective agreement and a subsequent plant closure, there remains a collective bargaining relationship, subject to the exclusive jurisdiction of the OLRB. The Court noted “the obligation to meet and negotiate is enshrined in the LRA and it is an ongoing and positive duty of both sides to do so.” The expiration of the collective agreements had no effect on this obligation. To allow the action to proceed would be to allow the employees and their Union to “circumvent the collective bargaining relationship that survives the expiry of the former collective agreement and the plant closure.” The Court held that a comprehensive statutory scheme was in place to adjudicate disputes such as these, and any interpretation giving the courts concurrent jurisdiction would undermine the legislature’s policy objectives.

The Court therefore struck out the claim and dismissed the proposed class action with costs to Navistar on a partial indemnity basis.

Baker and Lucier v. Navistar, 2013 ONSC 2778

Hicks Morley’s team was composed of John C. Field and Lauri A. Reesor. If you have any questions regarding this decision, please contact John C. Field at 416.864.7301, or Lauri A. Reesor at 416.864.7288.

The articles in this Client Update provide general information and should not be relied on as legal advice or opinion. This publication is copyrighted by Hicks Morley Hamilton Stewart Storie LLP and may not be photocopied or reproduced in any form, in whole or in part, without the express permission of Hicks Morley Hamilton Stewart Storie LLP. ©