

## It is up to employers to thwart strikes

Best way to do that is to continue to operate as usual

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Is there a secret deal between David Miller, Toronto Mayor, and the civic unions? Little else makes sense.

Let me delineate Labour Law 100. A union is permitted to strike when its collective agreement expires (Toronto's ended last December) and it has provided notice. Its job (and it cannot be blamed for this) is to cause as much inconvenience as possible, hoping the City will capitulate and accept its demands. But a strike is not, legally, a one-way street. Like any other employer, it is up to the City to thwart the union's efforts, minimize disruption and continue to provide services without interruption. If the employer succeeds in that, the union's bargaining power is crippled and its members, who are without income and having difficulty paying their bills, will quickly vote to accept the employer's offer and return to work. If the employer also treats its non-union employees properly during a strike, union members may even question the benefit of having a union.



*Tim Fraser For National Post Files*

*The Toronto CUPE strike is taking a toll on the city's residents, who are now picketing the picketers.*

The union exerts pressure by setting up picket lines and discouraging its members from working. If the employer wishes to force the union to accept its proposals, it must continue to operate as usual. This is done by encouraging employees to cross the picket lines and, to the extent they don't, hire replacement workers or contractors to perform the work. It also should apply quickly for an injunction to prevent picketers from blocking access to its facilities. Picketers legally can interrupt access for only the minute or two required to hand out information on the strike.

The Labour Relations Act does not provide unions with any right to restrict employers from carrying out their business if they can find employees or contractors willing to perform the struck work. In a decision several days ago between Wasteco, a waste collection and disposal company, and CUPE Local 416, Madame Justice Sanderson of the Ontario Superior Court provided an injunction against CUPE stopping any truck for more than five minutes, regardless of how many trucks arrived at the same time. The City must know of this decision.

Unions also cannot legally restrict public access or what people carry across the lines. Nor can it prevent the City from removing the trash that is piling up in temporary dumps. Since the Union is illegally stopping citizens for 15 minutes each, adding up potentially to several hours from the time of arrival, as well as restricting them to three bags of garbage (which discourages most from even making the trip), why has the Mayor of Toronto not moved for an injunction?

In my opinion, there are only three explanations:

He does not know the law. However, one can assume the City has been receiving legal advice. At the very least, the Mayor must have seen one of my columns;

As a union supporter, he wants to lose this strike and is counting on public pressure to end the strike and capitulate to the union's demands. Given that civic sentiment against the union's unaffordable demands continues to escalate, which is also highly unlikely;

He knows he will lose an injunction application because he already agreed to the 15-minute delay and three-bag limit a person and the City is legally bound by this negotiated protocol, not to mention such an agreement would have been done without the knowledge of City Council.

Finally, no board of directors of a private company would elect a socialist, without business experience, as its chief executive. Why then have Torontonians elected just such a person to be the City chief executive? The impact of this folly is now being felt.

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