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Court to unions: Stop terrifying your members

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Another union has been caught trying to illegally extract money from its members. That won't come as a surprise to anyone who's ever run afoul of union leaders, but one more court judgment against the intimidation tactics used by organized labour suggests Canada's courts are coming to the same conclusion.

On Feb. 1, the provincial court of Alberta rejected a request by the Telecommunications Workers Union to collect union-imposed fines from three unionized Telus employees. In 2005, those workers exercised their legal right to work and crossed picket lines to perform their own jobs.

The judge ruled that the TWU wanted the court "to give the authority of law" to internal union discipline. The judgment says the TWU had, in effect, asked the Court "to rubberstamp the union trial board's imposition of a fine and call it a judgment."

The court's response was clear -- it wouldn't act as a pawn in the union intimidation playbook. This ruling confirms previous judgments on fines in Newfoundland, Manitoba, and Ontario. Canadian unions know where the courts stand on this issue, and their own legal opinions, paid for by unionized employee dues, have advised them they can't collect fines in court.

So why do unions continue this practice? Because it works.

Here's how: Unions threaten to fine and sue both union members and non-members if they cross picket lines.

Unionized employees who cross usually refuse to appear in what many describe as internal union "kangaroo courts."

When the union subsequently threatens court action, employees will voluntarily pay out of fear of going to court or because they lack the resources to defend themselves against union lawyers who are, ironically, funded by the defendants' own union dues.

Some argue that if a union strike vote shows majority support, union leaders should be able to ensure picket line solidarity. But this gives all the cards to union leaders.

Crossing a picket line is one of the few tools unionized employees have to challenge union leaders and, given the games unions employ, it shouldn't be sacrificed.

The stories of unionized employees make it clear that they cross picket lines to protest strike vote irregularities, and the self-serving agendas of union leaders and bargaining committees during negotiations.

Other countries don't even allow unions to conduct their own strike votes. The 2005 Telus strike is a classic example. The union didn't show workers any employer offer in almost five years of bargaining. Then unionized employees were ordered to walk out in July 2005 without a vote on an offer and no recent strike

vote. In the end, 3,100 (57 per cent) of unionized employees in Alberta exercised their legal right to cross the picket line. That shows a lot of discontent with their union.

In Ontario and Quebec the TWU failed to even mount a picket line as 1,200 unionized employees kept right on working. There is little surprise here as this workforce is dominated by employees of a non-union employer bought by Telus a few years earlier.

The TWU convinced the Federal labour board to sweep all of them into their western-based union without an organizing campaign and union card signing, let alone a secret ballot vote.

In B.C., where police are known for standing aside instead of enforcing the law against egregious picket line actions, management wouldn't even let willing unionized employees cross picket lines.

But at least courts recognize the union attempts to fine for what they are. Both the Ontario and the current Alberta ruling found the fines were imposed "in terrorem" -- a Latin expression that translates to "a warning; in order to terrify others."

The problem is most unionized workers simply don't know their rights and unions refuse to inform the workers they represent or respect those rights. During the strike, a TWU web page claimed that "unions have won the legal right to fine members found guilty of doing struck work" and pointed to four cases.

But not one of those cases had anything to do with court rulings about fines! This type of blatant misrepresentation is a sad, but all too common reality.

Union leaders usually can't be held accountable because of the power imbalance bestowed on them by legislation. Fortunately, in the Telus case, hundreds of unionized employees worked together with Calgary labour lawyers at Gowlings and successfully defended the three workers in this case.

But that's the exception and it points to a need for legislative reform: First, strike votes should no longer be run by unions; second, a percentage of union dues should go to a legal aid fund so that unionized employees (whether members or non-members) can challenge misinformation and intimidation tactics used against them by the very unions that have a legal duty to represent their interests. That's the only way unions can be forced to stop terrifying others, i.e., unionized employees.

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