

September 17, 2004

TO: National Board of Directors
Public Service Alliance of Canada

FROM: Nycole Turmel

RE: Fines

I am aware that a number of Locals/members are taking a hard line in communications with regard to the imposition of fines under Section 25, Sub-Section (3) of the PSAC Constitution, which reads as follows:

Any disciplinary action taken under the provisions of Sub-Sections (1) and (2) of this Section for a cause listed in Sub-Section (5) (n) of this Section shall include the imposition of a fine that equals the amount of daily remuneration earned by the member, multiplied by the number of days that the member crossed the picket line, performed work for the employer or voluntarily performed struck work.

Specifically, they are threatening members who cross a picket line that we will be taking legal action, including the filing of a claim in a small claims court.

While this action is in keeping with the Constitution as worded and interpreted, it has the potential to undermine the credibility of the Locals/ members making the threat.

The PSAC has a legal opinion that clearly and without ambiguity concludes that we have no legal ability to enforce the collection of fines, and would lose any legal action at more senior levels of the justice system.

I referred this legal opinion to the NBoD Discipline Committee for its review, and am now in receipt of a recommendation from the Committee that I exercise my authority as National President and write Section 25, Sub-Section (3) out of the Constitution since it is unenforceable, and will ultimately be written out by the Courts if we do not act in our own regard.

While I support the Committee's recommendation, I had hoped to have a discussion at the October NBoD meeting before taking any action. That is still my intention. That said, I think that it is imprudent and detrimental to the interests of the membership for the Union at the National, Component, Local and Branch levels to threaten fines, when we now know that they are effectively unenforceable.

While the Section remains in the Constitution and in force at this time, I would urge you to advise your Locals that they should not raise the issue of fines in membership communications pending an October 2004 NBoD discussion on the issue.

In Solidarity,

Nycole Turmel
National President

c.c. Branch Directors