



Manners on the Picket Line: No Excuse for Abuse

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Labour disputes are often emotional. Picket lines, in particular, are highly charged environments, and tempers often flare. Flashpoints occur when management staff and other non-union employees try to cross the picket lines to get to work. Such employees receive the brunt of the anger of the picketers; and crossing a picket line can be a frightening experience.

In a recent case, however, the court confirmed its past practice by granting an injunction to protect employees from abuse and intimidation by picketers. In *Hertz Canada Ltd. v. Canadian Office and Professional Employees Union, Local 378*, 2010 BCSC 678, employees of the car rental company went on strike. The union set up two picket lines. The company sought an injunction to prevent the union's members and others from trespassing on the company's property, creating a nuisance, assault, obstructing or impeding entry and exit to the company's premises, and using obscene and threatening language and gestures.

The company provided evidence that:

- the parties had previously reached an agreement regarding conduct on the picket lines but the union had breached the agreement on multiple occasions
- the union used professional picketers and employed a strategy of having a particularly aggressive person inflame the picketing
- the picketers used personal, sexual and vulgar language and gestures towards those crossing the picket line, and in particular targeted female employees
- the union distributed a newsletter showing a female manager as beheaded with blood dripping from her neck
- the picketers routinely blocked vehicles
- RCMP had been called to the picket lines approximately 60 times over a three month period.

The court found that the union's behaviour constituted intimidation, harassment and obstruction, and was unlawful. In granting the injunction, the court stated the following:

I am cognizant that the purpose of a lawful strike is to achieve better working conditions for the union members. Tempers are inflamed on both sides and emotions run high. It is not the role of the courts to take sides or make orders that favour the bargaining position of either side. However, as Madam Justice Bennett noted in *Superior Poultry Processors v. United Food et al.*, 2000 BCSC 1482, at para. 32, the court's function is to protect the public interest and the public peace. The conduct complained of in this case is, quite simply, antithetical to a civilized society.

Both sides in a labour dispute should keep in mind this decision if meeting on the picket line. The court will not interfere with lawful, albeit emotional, conduct; however, the court will not tolerate harassment and intimidation.