

**September 13, 2016**

**To: Unifor Council 4000/Local 4001 CNTL Calgary Owner-Operators**

*- Please post on all Union Bulletin Boards -*

Dear members,

Further to my communication dated September 12, 2016, advising our members of CN's allegations of CNTL Calgary Owner-Operators defying Article 4.1 of the Unifor-CNTL Collective Agreement, and Sections 88.1 and 89 of the Canada Labour Code (the "Code"), all of which prohibit strikes during the term of a collective agreement.

Despite many members who showed themselves unavailable for work on September 11 and 12 making themselves available for work on September 12 (following our requests to do so), additional members booked off again on September 13<sup>th</sup>. Based on these actions, CN filed an application to the Canada Industrial Relations Board (CIRB) against Unifor for a '**Declaration of Illegal Strike**' and an '**Order to Cease and Desist**' pursuant to Sections 89 and 91 of the Code. You can read this application on our website; [www.unifor4000.com](http://www.unifor4000.com)

Following CN's application to the CIRB (the "Board"), the Board conducted a hearing by teleconference at 16:00 MDT on September 13 between the Union, legal counsel and senior management of CN and officers of the Board - the Regional Director and Chairperson of the CIRB. Representing the Union on this call was Unifor Lawyer and Director of Unifor's Legal Department Anthony Dale, National Representative Bob Fitzgerald and myself. Following our 21-minute call, the Board issued, in part, the following Order:

That all Owner-Operators of the CNTL Calgary facility who are represented by Unifor National Council 4000 **cease and desist** from participating in any activities that constitute a strike as defined in Section 3(1) of the Code, and that all Owner-Operators of the CNTL Calgary facility are to **immediately report** for work and resume or continue to perform their regular duties in the normal manner.

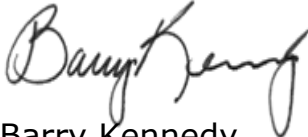
The Board also ordered us (the Union) to take immediate steps to communicate their Order to our CNTL Calgary membership affected by the Order, hence the reason for this letter.

Accordingly, the Union asks that any members who may still be showing as unavailable for work, **please make immediate arrangements to make yourself available for service**. Failing to do so, members will likely be deemed to be defying the Board's Order and thus participating in strike action as defined in Section 3(1) of the Canada Labour Code. Such members will face serious consequences, including disciplinary sanctions up to and including the termination of the member's standard contract with CNTL.

Please find the full Order from the Canada Industrial Relations Board attached with this letter. You may also access and download a copy from off our website, [unifor4000.com](http://unifor4000.com).

If members have any concerns or questions, or require any assistance concerning this matter, please contact my office, Unifor Council 4000 Regional Representative Wesley Gajda, or your Local Chairperson, Ricky Brar.

In Solidarity,



Barry Kennedy  
President  
Unifor National Council 4000

Cc: Anthony Dale – Associate Counsel/Director, Unifor Legal Department  
Bob Fitzgerald – National Representative, Unifor  
Brian Stevens – National Representative and Director of Rail, Unifor  
Wesley Gajda – Regional Representative, Unifor National Council 4000  
Ricky Brar – Unit Local Chairperson CNTL Calgary, Unifor Local 4001  
Dave Judge – President, Unifor Local 4001  
Danny Andru – Secretary Treasurer, Unifor National Council 4000

Canada Industrial Relations Board



Conseil canadien des relations industrielles

C.D. Howe Building, 240 Sparks Street, 4th Floor West, Ottawa, Ont. K1A 0X8  
 Édifice C.D. Howe, 240, rue Sparks, 4e étage Ouest, Ottawa (Ont.) K1A 0X8  
 Fax/Télécopieur: 613-995-9493

**Our File: 31783-C**

Document No.: 545916

September 13, 2016

**BY FAX**

Ms. Correna L. Jones, Partner  
 Norton Rose Fulbright Canada LLP  
 Suite 3700  
 400 3rd Avenue SW  
 Calgary, Alberta  
 T2P 4H2 **403-264-5973**

Mr. Anthony F. Dale  
 Unifor  
 205 Placer Court  
 Toronto, Ontario  
 M2H 3H9 **416-495-3786**

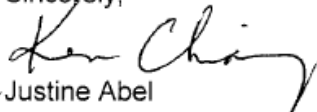
Dear Madam/Sir:

In the matter of the *Canada Labour Code (Part I—Industrial Relations)* and an application for a declaration of unlawful strike filed pursuant to section 91 of the *Code* by Canadian National Transportation, Limited, applicant; Unifor and Unifor National Council 4000, respondents. (31783-C)

Further to the hearing held today in the above-noted matter, the parties will find enclosed an order issued by Ms. Ginette Brazeau, Chairperson of the Canada Industrial Relations Board, sitting alone pursuant to section 14(3) of the *Canada Labour Code (Part I—Industrial Relations)*.

The Board's file in this matter is now closed.

Sincerely,

  
 For Justine Abel  
 Director, Case Management Services  
 (Registrar)

c.c.: Mr. Ken W. Chiang (CIRB—Vancouver)

Encl.

Canada Industrial Relations Board



Conseil canadien des relations industrielles

## Order No. 876-NB

## IN THE MATTER OF THE

*Canada Labour Code*

- and -

Canadian National Transportation Limited,

applicant,

- and -

Unifor National Council 4000,

respondent.

**WHEREAS** the Owner-Operators of Canadian National Transportation Limited (CNTL or the employer) are represented by Unifor National Council 4000 (Unifor 4000) and CNTL and Unifor 4000 are parties to a collective agreement which expires March 31, 2019;

**AND WHEREAS** the Canada Industrial Relations Board (the Board) has received an application from the employer pursuant to sections 89 and 91 of the *Canada Labour Code (Part I—Industrial Relations)* (the *Code*) alleging that members of the bargaining unit represented by the respondent trade union have engaged in an unlawful strike, in contravention of section 89 of the *Code*, and seeking specific orders in relation thereto;

**AND WHEREAS** section 3(1) of the *Code* provides that a strike includes a cessation of work or a refusal to work or to continue to work by employees, in combination, in concert or in accordance with a common understanding, and a slowdown of work or other concerted activity on the part of the employees in relation to their work that is designed to restrict or limit output;

**AND WHEREAS**, the Board heard oral submissions from the parties by teleconference with respect to the employer's application on September 13, 2016;

**AND WHEREAS**, the Board finds that certain members of the bargaining unit represented by the respondent and assigned to the employer's Calgary facility did engage in activity that constitutes an unlawful strike on September 11, 12 and 13, 2016 in contravention of section 89(2) of the *Code*;

**Order No. 876-NB**

**NOW THEREFORE**, it is hereby ordered by the Canada Industrial Relations Board, pursuant to section 91 of the *Canada Labour Code (Part I-Industrial Relations)*, that:

- (i) The Owner-Operators of the CNTL Calgary facility who are represented by the respondent trade union cease and desist from participating in any activities that constitute a strike as defined in section 3(1) of the *Code*; and
- (ii) The Owner-Operators of the CNTL Calgary facility are to immediately report for work and resume or continue to perform their regular duties in the normal manner; and
- (iii) The trade union and the employer shall take immediate steps to communicate the Board's Order to the Owner-Operators affected by the Order.

**THIS ORDER** is made pursuant to the provisions of section 91 of the *Code* and shall remain in effect until the requirements of section 89(1) of the *Code* have been met, unless it is modified or revoked pursuant to an application under Section 93 of the *Code*.

**ISSUED** at Ottawa, this 13th day of September, 2016, by the Canada Industrial Relations Board.



Ginette Brazeau  
Chairperson

**Reference No.: File No. 31783-C**

