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Our Files: 037779-C & 037830-C

Document No.: 0670839-D

August 15, 2024

BY WEB PORTAL

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In the matter of *the Canada Labour Code (Part I—Industrial Relations)* and a complaint of unfair labour practice filed pursuant to section 97(1) thereof by Unifor Local 1541, complainant, alleging violation of sections 50(a), 50(b), 94(1)(a), 94(2)(c) and 96 of the *Code* by Best Theratronics Ltd., respondent. (037779-C)

In the matter of the *Canada Labour Code (Part I—Industrial Relations)* and an application filed pursuant to section 19.1 thereof by Unifor Local 1541, applicant; Best Theratronics Ltd., respondent. (037830-C)

Further to the hearing held in the Canada Industrial Relations Board's (the Board) file no. 037830-C on August 7, 2024, before a panel composed of Ms. Annie G. Berthiaume, Vice-Chairperson, and Messrs. Thomas Brady and Daniel Thimineur, Members, the parties will find enclosed Board order no. 1561-NB.

After consideration of Unifor's submissions during the hearing held on August 7, 2024, that it will not be alleging a breach of section 110(3) of the *Canada Labour Code* (the *Code*) as set out in its complaint in Board file no. 037779-C, the style of cause has been amended in order to reflect the withdrawal of the allegation of a violation of section 110(3).

Furthermore, as per section 16(a.1) of the *Code*, a case management conference (CMC) has been scheduled with the parties concerned in the above-noted complaint (Board file no. 037779-C) **on October 3, 2024, at 3 p.m., by videoconference using the Zoom application.** To participate, the Board will provide the parties with a Zoom link via email on the business day before the CMC. Additional instructions with respect to the CMC by videoconference are attached to this letter.

The purpose of the CMC is to discuss the complaint as well as the scheduling of the hearing in Board file no. 037779-C.

Although it is a preliminary proceeding, the CMC is considered an integral part of the hearing process. Consequently, it gives latitude to the parties and their representatives to participate if they so wish. However, any Board decision or rulings stemming from the CMC are binding on all the parties.

Unless the Board is informed to the contrary, it expects the following persons to participate in the CMC on **October 3, 2024**:

- Ms. Farah Baloo and/or Mr. Anthony Dale and/or Ms. Erin Masters
- Ms. Marie Bordeleau and/or Ms. Kecia Podetz

As per section 47(2) of the *Canada Industrial Relations Board Regulations, 2012*, where a person who is notified of a CMC or a hearing does not appear, the Board may proceed and dispose of the matter in the absence of that person.

Please note that, if a party requires an adjournment, they must first consult with the other party, as described in the Board's Information Circular No. 4, which is available on the Board's website.

The CMC will be conducted in **English**. If you will be proceeding in the other official language, please advise the undersigned **upon receipt** of this notice, so that the appropriate arrangements can be made for interpretation services.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gabrielle Lacasse".

Gabrielle Lacasse
Manager of Dispute Resolution
Services and of Registry Services
Registrar

Encl.

c.c.: Ms. Lisa Rotatore



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IN THE MATTER OF THE

Canada Labour Code

- and -

Unifor Local 1541,

applicant,

- and -

Best Theratronics Ltd.,
Ottawa, Ontario,

respondent.

WHEREAS, on June 19, 2024, Unifor Local 1541 (Unifor or the union) filed with the Canada Industrial Relations Board (the Board) an unfair labour practice (ULP) complaint pursuant to section 97(1) of the *Canada Labour Code* (the *Code*) alleging that Best Theratronics Ltd. (the employer) had violated sections 50(a) and (b), 94(1)(a), 94(2)(c), 96 and 110(3) of the *Code* (Board file no. 037779-C);

AND WHEREAS, in its ULP complaint, the union alleges that the employer has violated the above-noted sections of the *Code* by failing to bargain in good faith, by altering terms and conditions of employment during the bargaining period, by refusing to disclose key operational decisions to the union and by directly communicating with bargaining unit employees in a manner prohibited by the *Code*;

AND WHEREAS the union further alleges that the employer's actions have directly interfered with its legitimate activities and have undermined its representation rights;

AND WHEREAS, on July 11, 2024, the union also filed an application pursuant to section 19.1 of the *Code* in Board file no. 037830-C (the application for interim relief), asking the Board to issue an interim order in connection with the allegations contained in the ULP complaint;

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AND WHEREAS, in its application for interim relief, the union alleges that since the filing of the ULP complaint, the employer has persisted in its deliberate interference with lawful union activity and in its refusal to bargain in good faith;

AND WHEREAS the employer contests the allegations raised in the ULP complaint and the application for interim relief;

AND WHEREAS the union and the employer are parties to a collective agreement that expired on March 31, 2023;

AND WHEREAS the employees in the bargaining unit have been engaged in a lawful strike since May 1, 2024;

AND WHEREAS the ULP complaint has not yet been heard or determined by the Board;

AND WHEREAS, on July 24, 2024, the Board held a case management conference with the parties in the application for interim relief and established the process it would follow for the expedited hearing it scheduled on July 29, 2024, to hear the application;

AND WHEREAS, on July 26, 2024, the Board granted the employer's request for an adjournment of the hearing and heard the parties on August 7, 2024, via the Zoom application;

AND WHEREAS the Board considered the parties' pleadings in the ULP complaint and in the application for interim relief and determined that it was appropriate to consolidate both files;

AND WHEREAS, at the August 7, 2024, hearing, Unifor amended its ULP complaint to remove the reference to the alleged violation of section 110 of the *Code* and updated its application for interim relief to seek the following interim orders:

- i. An order directing the employer, on an interim basis, to immediately cease and desist from using coercion, intimidation, threats, promises or undue influence with regard to employees' right to belong to a trade union, to engage in collective bargaining and to participate in a lawful strike;
- ii. An order directing the employer, on an interim basis, to immediately cease and desist from interfering with the union's representation of employees by attempting to circumvent the union and bargain directly with employees or otherwise;
- iii. An order directing the employer to provide meaningful disclosure of any plans or key operational decisions related to its statements to employees that manufacturing operations at the Ottawa facility will be reduced, relocated, eliminated or otherwise modified;
- iv. An order directing the employer to provide bargaining dates to the union, to ensure that any persons with decision-making authority for the employer are available and

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- able to attend on those dates and to bargain in good faith with the union to reach a collective agreement; and
- v. Such other interim orders as the union may request and the Board deems appropriate.

AND WHEREAS the Board was presented with evidence, in particular, of written communications from the employer to bargaining unit employees and communications designed to reach bargaining unit employees, authored by Mr. Krishnan Suthanthiran, the employer's owner, between April 1 and June 27, 2024, that implied possible changes or confirmed changes to the Ottawa manufacturing operations;

AND WHEREAS the Board accepts the affidavit and *viva voce* evidence of the employer's Human Resources Manager that when the above-noted communications were issued between April 1 and June 27, 2024, the employer never had any plans or intentions to shut down, transfer or relocate its Ottawa manufacturing operations as alleged or implied in its communications;

AND WHEREAS, in the Board's view, the communications could lead bargaining unit employees to reasonably fear that pursuing their interests or their association with Unifor or any activities with their union may jeopardize their job security;

AND WHEREAS, in the Board's view, these communications could have the effect of undermining the union in the eyes of bargaining unit employees;

AND WHEREAS the Board was presented with documentary evidence, in particular, of a written communication from the employer dated June 21, 2024, authored by Mr. Suthanthiran and designed to be seen and read by bargaining unit employees, in which the employer attempted to bargain directly with bargaining unit members on the picket line to negotiate their return to work;

AND WHEREAS, after considering all the evidence related to the application for interim relief and in light of the objectives of the *Code* and the violations alleged in the ULP complaint pertaining to sections 94(1)(a), 94(2)(c) and 96, the Board finds that it must intervene on an interim basis to ensure the fulfilment of the objectives of the *Code*;

AND WHEREAS the Board is of the view that its immediate intervention is necessary, particularly to restore the membership's confidence in the union and the balance in collective bargaining and to enable the union to effectively represent its members in that process, until the ULP complaint is heard on the merits;

AND WHEREAS, after hearing the parties' evidence and submissions, the Board was not persuaded that Unifor would suffer irreparable labour relations harm with respect to the alleged violation of section 50 of the *Code* if no interim relief is granted, which will be the subject of a hearing to determine the ULP complaint on the merits, as the material facts are in dispute;

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AND WHEREAS the Board has decided to grant the application for interim relief in part and hereby issues this interim remedial order.

NOW, THEREFORE, pursuant to section 19.1 of the *Canada Labour Code*, the Canada Industrial Relations Board hereby orders Best Theratronics Ltd.:

- i. to cease and desist from using, through verbal communications (including media interviews) or written communications (including any publication, text or email communication authored by Mr. Krishnan Suthanthiran), coercion, intimidation, threats, promises or undue influence with regard to employees' right to belong to a trade union, to engage in collective bargaining and to participate in a lawful strike;
- ii. to cease and desist from interfering with the union's representation of employees by attempting to enter into or by entering into specific agreements with employees;
- iii. to cease and desist from attempting, through verbal communications (including media interviews) or written communications (including any publication, text or email communication authored by Mr. Krishnan Suthanthiran), to discredit or undermine the union;
- iv. to distribute, without delay, a copy of this interim order by sending a copy electronically to all employees in the bargaining unit represented by the union to their personal email addresses, if known, and by regular mail; and
- v. to post, without delay and for a period of three months, a copy of this interim order where it is most likely to come to the attention of the bargaining unit employees, including on any intranet site, should the bargaining unit employees have access to an intranet site or should they be granted access to one during the posting period.

FURTHERMORE, this order will remain in force until the Board directs otherwise;

AND FURTHERMORE, the Board reserves jurisdiction to resolve any issues arising from the implementation of this order.

ISSUED at Ottawa, this 15th day of August, 2024, by the Canada Industrial Relations Board.



Annie G. Berthiaume
Vice-Chairperson

Reference: File No. 037830-C



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Instructions to the Parties for Case Management Conference by Videoconference

The Canada Industrial Relations Board (the Board) will conduct the case management conference (CMC) by videoconference, using the Zoom web-based platform. In order to ensure the effective conduct of the CMC by videoconference, the parties are asked to take the following steps:

Connecting to the CMC by videoconference

The Board will send the participants an email containing the link and the password to the videoconference the business day before the CMC. The link and password are not to be shared with any other person.

Prior to the CMC by videoconference, the participants can test their connection and setup with Zoom by doing a test meeting which is available at: <https://zoom.us/test>.

The system requirements for using the Zoom platform can be found on their website at <https://support.zoom.us/hc/en-us>.

The participants should use a laptop, a computer or a tablet equipped with a webcam and a microphone. It is preferable to be connected to a LAN line; if using Wi-Fi, participants should ensure proper broadband for video capacity. A secondary computer or screen might be helpful to take notes or to access documents. The participants are asked to test their webcam and microphone prior to the CMC by videoconference. Note that using headphones can improve the quality of sound.

Participating in the CMC by videoconference

We ask that the participants be in a quiet and private room, where background noise is minimal or non-existent, and where window shades are drawn in order to avoid glare. The background behind you should be professional and participants should be dressed in proper attire. Virtual backgrounds are not allowed.

The participants will need to have access to a telephone during the CMC by videoconference and should be prepared to proceed via teleconference should the videoconference option fail, disconnect or lag.

The participants should ensure that all notifications on the computer and all other peripheral devices are turned off (cell phone, landline, keyboard, etc.).

Participants will keep their microphones muted and wait for the invitation from the chair of the meeting before speaking; it is important to enunciate clearly in order to ensure all communications are understood by all parties.

The participants are not permitted to create an audio or video recording of any parties of the CMC by videoconference at any time. This includes, but is not limited to, taking screen shots, recording conversations, and/or using third-party software to record the proceeding.

Please note that Zoom is not recognized by the Government of Canada as a secure channel to discuss protected information. However, given that the Board's proceedings are generally open and accessible to the public, combined with the implementation of all security features offered by the platform, the risks associated with its use are minimal and no different than those that are present in any other form of hearing.