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## A Government's Directive is No Excuse: Labour Rights Prevail

**O**n January 29, 2018, the Manitoba Labour Board issued its ruling in favour of the University of Manitoba Faculty Association (UMFA) in the unfair labour practice (ULP) filed against the University of Manitoba (UM) in connection with a round of collective bargaining that included a three-week strike.

In 2016 the UM administration's negotiating team took its salary offer off the bargaining table just days before a strike deadline, setting the stage for the strike. Saying that the Pallister government had pressed them to do so, they claimed they had done everything they could to persuade the government to change course. Refusing to accept that there was no alternative, and knowing how important wages were to their members, UMFA decided to make the best of a bad situation and put the question of salary to the Manitoba Labour Board while simultaneously attempting to make other gains at the bargaining table. Those attempts failed, and UMFA members walked the picket lines for 21 days, appreciating the solidarity of many sisters and brothers of the labour movement and faculty associations from around the country who joined us.

It was a divisive, harmful, costly and unnecessary strike. It caused distress for students, parents, and employees, who did not know how long the strike would last. UMFA members lost three weeks of wages, and their right to collectively bargain a long overdue wage increase. After the strike, those members made up for the lost weeks of teaching, even giving extra exams to accommodate students, all without compensation.

This week, the Labour Board found that the UM administration acted in bad faith by failing to tell UMFA about salary discussions with

government. They have ordered that the administration apologize and pay up to \$2.4 million dollars in fines for violating the rights of its workers. These fines are to be paid directly to UMFA Members. UMFA will push for the maximum fine allowed by law, \$2,000 per member.

While this is good news, there are several disturbing things that were made clear during the Labour Board hearings and in the final decision.

First, the government's concern was less about spending at the University, and more about how UMFA's negotiations would affect the rest of the public sector. If UMFA made gains, others would also expect to see gains, causing problems for a government claiming it was facing a financial crisis that required spending cuts. Further, according to the testimony of the University's Assistant VP of Human Resources, the Provincial government appeared to actually invite a strike.

Second, the University was more concerned with its relationships with donors to the University than it was with following the law and resisting the government's intervention in collective bargaining. While the UM administration repeatedly said they had done everything to dissuade the government from demanding a 0% wage increase, the Labour Board concluded the administration did no such thing. Instead, in its communications with government the administration demonstrated its primary concern was protecting the University's legal position and its reputation in the community – otherwise put, it was more concerned with public relations than resisting the government's

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**“And voters must question the integrity of a government that passes unconstitutional legislation and undermines the law by pressuring an employer to commit an unfair labour practice.”**

intervention.

Third, the government demanded that their directive be kept secret, and the University complied until the last moment. This was central to the Labour Board’s decision: the University knew of the government’s mandate and had a duty to tell UMFA about it. The Board went so far as to say that waiting over 20 days before informing UMFA was an act of misrepresentation and a violation of the duty to bargain in good faith. This is the basis for the fines and the apology. “The direction from government officials not to share the information with the Faculty Association does not constitute a viable defense”, the Board wrote.

The ruling sends a message to other universities facing pressure from their provincial governments: they still have a legal and moral duty to bargain in good faith, protect their employees, and be transparent with those employees in bargaining. Hopefully it also sends a specific message to the U of M administration, who has now had three unfair labour practice rulings against them in the last ten years: treat workers fairly. Unfortunately, their press release notes that the university “respectfully disagrees” with the Labour Board finding, believes it bargained in good faith, and is considering its options. It may be impossible, or at least will take a very long time, to arrive at a point where the memory of the administration’s actions do not affect UMFA’s relationship with the employer, with associated monetary and non-monetary implications.

It is important to keep in mind that the conservative government’s actions were a prelude to Bill 28, the “Public Services Sustainability Act”, which threatens claw-backs to any wage increases in the public sector that go above 0%, 0%, 0.75%, and 1% in a four-year period. Contrary to claims they wanted to consult

with labour about how to deal with the province’s fiscal situation, the government’s actions in October 2016 suggest that they had already decided what they would do: make gains on the backs of workers. A coalition representing more than 100,000 public service workers in Manitoba therefore holds that Bill 28 is unconstitutional. UMFA is one of the more than 25 labour bodies in the Partnership to Defend Public Services, which has launched a legal challenge that seeks to turn back the legislation.

The Labour movement is strong, cohesive, and increasingly mobilized in Manitoba. The support from other unions, faculty associations, and the Canadian Association of University Teachers provided incredibly important moral and financial support to UMFA’s fight. While the constitutional challenge may take years, a more formidable and timely force against the austerity-obsessed Pallister government will be voters at the polls. Manitobans should question whether all of these budget cuts and wage freezes are necessary, and whether it works when workers’ paycheques shrink or disappear altogether, when money is diverted to legal challenges, and the incalculable costs incurred by impaired employee-employer relationships. And voters must question the integrity of a government that passes unconstitutional legislation and undermines the law by pressuring an employer to commit an unfair labour practice.

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