



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **1642-19-U**

Nemak of Canada Corporation, Applicant v Unifor Canada, Jerry Dias, Unifor Local 200, John D'Agnolo, Mike Jobin and Tim Little, Responding Parties

BEFORE: Matthew R. Wilson, Alternate Chair

APPEARANCES: Michael A. Wills, David M. Amyot, Kurt Krzewinski, Brad Boutros and Louise Gaudette appearing for the applicant; Anthony Dale appearing for the responding party

DECISION OF THE BOARD: September 4, 2019

1. This is an application under section 100 of the *Labour Relations Act, 1995*, S.O. 1995, c.1 as amended ("the Act") alleging that the responding parties have authorized, encouraged or counselled or done acts, the reasonable and probable consequence of which is that other persons will engage in an unlawful strike, and in particular, the employees of Nemak of Canada Corporation at the Windsor manufacturing plant ("Nemak").

2. The application was filed in the afternoon of September 3, 2019. As it dealt with an ongoing protest at the plant, which continues as this decision is being prepared, the Board scheduled a hearing on an urgent basis to be held on September 4, 2019.

3. At the commencement of the hearing, there was no dispute that, for the purpose of this hearing only, the Board could treat the statements in the material filed as being true in the absence of any contrary evidence. There was also no dispute that the protest (as described by the union) or the blockade (as described by the company) was ongoing and that no workers had returned to work. There is also

nothing to suggest that the union leadership has urged the workers to return to work.

4. After hearing the submissions of the parties, I have determined to exercise my discretion in making the following declarations and directions. Should any party seek reasons for this decision, they must make such a request by September 11, 2019. Due to the urgency of this application, the Board issues these declarations and directions at approximately 3:15 p.m. on September 4, 2019:

DECLARATIONS:

1. The Board *declares* that employees of Nematik engaged in an unlawful strike contrary to the Act;
2. The Board declares that the individual responding parties, Jerry Dias ("Dias"), John D'Agnolo ("D'Agnolo"), Mike Jobin ("Jobin"), and Tim Little ("Little"), being union officials, and Unifor Local 200, supported or encouraged that unlawful strike contrary to section 81 of the Act;
3. The Board *declares* that the named responding parties, Unifor Local 200, Dias, D'Agnolo, Jobin and Little have done acts which they know or ought to have known would, as a probable and a reasonable consequence, prompt other persons to be engaged in an unlawful strike contrary to section 83 of the Act; and
4. The Board declares that the responding parties, Unifor Local 200, Dias, D'Agnolo, Jobin and Little have authorized an unlawful strike contrary to section 100 of the Act.

DIRECTIONS:

1. The Board directs that Unifor Local 200, its officers, servants, agents and representatives, and any person acting on its behalf, cease and desist from calling, authorizing, or threatening to call or authorize an unlawful strike;
2. The Board directs that employees of Nematik, and any other employee who may have notice of this order, cease and desist from engaging in an unlawful strike;

3. The Board directs that Dias, D'Agnolo, Jobin and Little and any other union official who may have notice of this order, forthwith cease and desist from supporting or encouraging an unlawful strike, or doing acts which they know or ought to know will prompt others to engage in an unlawful strike;

4. The Board directs that Unifor Local 200, Dias, D'Agnolo, Jobin and Little refrain from any act which they know or ought to know will prompt other persons from engaging in an unlawful strike;

5. The Board directs that Unifor Local 200 and its officials forthwith provide a copy of these declarations and directions to all of the Nematik employees in the bargaining unit;

6. The Board directs that the responding party Unifor Local 200 post copies of the Board's Declarations and Directions (this decision) in prominent places where they will come to the attention of its members; and without restricting the generality of the foregoing, on its website, its Facebook page, its Twitter account, in the union's offices, and on any employee bulletin board to which Unifor Local 200 has access at Nematik.

"Matthew R. Wilson"
for the Board