EMOND HARNDEN
LABOUR & EMPLOYMENT LAW
DROIT DU TRAVAIL ET DE L'EMPLOI

Ambulance services bargaining legislation now in force

October 1, 2001

On June 29, 2001, Bill 58, the *Ambulance Services Collective Bargaining Act, 2001*, came into force. The new law has its origins in the transfer on January 1 of this year of the responsibility for ambulance services from the province to municipalities.

The downloading expanded the number of ambulance employees covered by the *Labour Relations Act, 1995*, who enjoy an unfettered right to strike. Previously, many of these employees were covered by the *Crown Employees Collective Bargaining Act, 1993* (*CECBA*), under which essential services agreements had to be in place before a strike or lockout.

ESSENTIAL SERVICES AGREEMENT

Bill 58 addresses this situation, stating that ambulance services maintained by municipalities and contractors must negotiate essential services agreements before a work stoppage. An essential services agreement must indicate the number of employees required to provide essential services, and state that the required number shall continue working during a work stoppage. Where the number of workers set out in the agreement is insufficient to cover periods of temporary emergencies, the employer is given the power to increase the number of workers required to work for a period of not more than 72 hours. Workers identified as having to provide essential ambulance services may also be required to perform their normal duties during a strike or lock out.

DECLARATION OF NO MEANINGFUL RIGHT TO STRIKE OR LOCK OUT

The Act states that a party may apply to the Ontario Labour Relations Board for a declaration that the essential services agreement deprives it of a meaningful right to strike or lock out. The Board, in making this determination, is to consider only the number of persons identified in the agreement whose services the employer has used to enable the employer to provide essential services. In any case, the Board may not issue a declaration if at least 75 per cent of the employees in the bargaining unit retain the right to strike despite the essential services agreement.

BINDING ARBITRATION

Among the orders the Board can make when dealing with an application for a declaration is that the matters in dispute that relate to ambulance workers be submitted for binding arbitration. When the order is issued, any strike or lock out of ambulance workers must cease. The parties are to endeavour to jointly appoint an arbitrator, failing which either party may apply to the Minister or his or her

delegate to appoint an arbitrator. In appointing an arbitrator, the Minister may appoint a person who is not recognized as mutually acceptable to both trade unions and employers.

The Act lists a number of factors to be considered by the arbitrator in settling the dispute, including the ability of the employer to pay, the extent to which services would have to be reduced in light of the decision, the economic situation of the province and municipality, and a comparison of the terms and conditions of employment of bargaining unit employees and those of comparable employees in the public and private sectors.

Bill 58 does not apply to ambulance services operated by 22 Ontario hospitals, whose employees are denied the right to strike under the *Hospital Labour Disputes Arbitration Act*. Ambulance dispatchers who work for the province and air ambulance paramedics will continue to be covered by the *CECBA*.