

MINISTRY OF LABOUR

MEETING NOTE

Cliff #: 57406

Date: April 8, 2019

PREPARED FOR: Honourable Harry Bains, Minister of Labour

DATE AND TIME OF MEETING: Wednesday, April 10, 2019, 5 PM

ATTENDEES: Stephen Portman, Advocacy Lead, Together Against Poverty Society (TAPS).

ISSUE(S): Wage collection enforcement by the Employment Standards Branch and the British Columbia Law Institute's "Report on the *Employment Standards Act*".

BACKGROUND:

Established in 1989, TAPS is a non-profit society that advocates for residents of Greater Victoria in the areas of income assistance, federal/provincial disability benefits, employment standards, and tenancy. TAPS also works in cooperation with other community groups and social service providers to advance poverty issues.

Stephen Portman received a BA in Political Science from the University of Victoria and holds a Fellowship in Global Journalism from the Munk School of Global Affairs and Public Policy (U of Toronto). He has been the Legal Advocate for TAPS since 2009.

DISCUSSION:

Wage Recovery

In a letter dated January 31, 2019, TAPS relates the experiences of two of its clients, both of whom made wage-related complaints to the Employment Standards Branch (ESB). s.13

In 2017, a wage-related Determination was made against the first client's employer; the Determination was eventually filed in BC Supreme Court, but the wages remain outstanding. More recently, the second client's employer defaulted on payment of wages owing after reaching a settlement agreement; an order has now been filed in the BC Supreme Court for enforcement of the agreement.

TAPS asserts that the experiences of these two clients are representative of a widespread systemic failure with regard to the enforcement of the ESA.

s.13

With regard to ESB funding, in February, as part of Budget 2019, government announced an additional \$14 million over three years to the Ministry's budget. This increase will help fund a modernization of the ESA that will deliver on the mandate priority of the Minister to update employment standards to ensure they are applied evenly and enforced.

Suggested Response:

- *While I, as Minister, cannot intervene in statutory processes or comment on the specifics of individual cases, I thank TAPS for bringing its clients' experiences to my attention.*
- *I am aware of how devastating it can be for a worker not to receive wages that are owed, and that's why I am considering improvements to the Employment Standards Act in several areas, including more effective collection of wages and the strengthening of proactive enforcement.*
- *As part of Budget 2019, government recently announced an additional \$14 million over three years to the Ministry's budget. This increase will be used, in part, to improve services at the ESB to ensure that British Columbia's employment standards legislation is applied evenly and enforced.*

British Columbia Law Institute Report

In 2014, the British Columbia Law Institute (BCLI), a not-for-profit law reform agency, began an independent review of the ESA, culminating in the December 2018 release of its "Report on the *Employment Standards Act*". The review, conducted by a project committee with representation balanced between employee and employer interests, included a public consultation process.

Funding for the review was provided, in part, by the Province and included the Ministry of Labour as a silent observer.

While TAPS states in its January 31 letter that it wishes to discuss the final

recommendations in the Report, it does not identify if there are any in particular with which it has concerns. TAPS also expresses its dissatisfaction with the process for consultation undertaken by the BCLI. Although it does not set out its precise concerns -- other than stating that workers and worker advocates were not adequately consulted -- TAPS is an active member of the BC Employment Standards Coalition, which indicated in a letter to the Minister on September 4, 2018, that its issues with the BCLI review process include a lack of public hearings, no independent research, and the absence of plain language in the consultation paper.

In addition to the consultation undertaken by the BCLI, government recently completed a one-month on-line public consultation on how to modernize the ESA. Almost 1,200 responses have been received.

Suggested Response:

- *I appreciate TAPS sharing its concerns with the consultation process undertaken by the BCLI during its recent review of the Employment Standards Act.*
- *While partial funding for the BCLI Project was provided by the Province, the review was independent and government did not impose any conditions on how the BCLI chose to consult.*
- *Government recently completed its own public consultation process on how to modernize the Employment Standards Act in six priority areas, with almost 1,200 responses received.*
- *I am now considering the BCLI's recommendations, the results of the public consultation process, as well as submissions from other stakeholders, including the BC Employment Standards Coalition, the BC Federation of Labour, and TAPS.*
- *We expect to act on the recommendations as early as in the Spring 2019 legislative session.*
- *We also expect that the review of employment standards will be an ongoing process and will engage affected stakeholders and the public as other issues and potential changes are considered.*

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