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Refusal to Bargain Monetary Issues Constitutes Bargaining in Bad Faith

In *Insurance Corporation of British Columbia and Canadian Office and Professional Employees Union, Local 378*, BCLRB No. B143/2012, the Union applied under sections 11 and 47 of the Labour Relations Code that ICBC had failed to bargain in good faith and had failed to make every reasonable effort to conclude a collective agreement.

The collective agreement between the parties expired June 30, 2010. The parties agreed to commence negotiations in January 2011. One of the Employer's proposals, the Claims Hierarchy Proposal, related to a transformation program which could result in the closure of offices and the loss of jobs. At first ICBC said the proposal was monetary and then changed it to non-monetary.

In April 2012, ICBC informed the Union that it would not be able to obtain a monetary mandate from the provincial government until the government completed its core review process for crown corporations which was estimated to be completed in late August 2012. As a result, ICBC was not prepared to discuss any monetary issues with the Union until after it obtained its mandate from the government.

The Board found that ICBC's refusal to bargain monetary items until the government finished its core review process was a violation of its duty to bargain in good faith. It was not open to one party to refuse to bargain or to restrict the scope of bargaining until some third party meets a condition. The fact that the actions of third parties affected bargaining in substantial ways did not relieve ICBC from its obligation to make a reasonable effort to conclude a collective agreement. ICBC was ordered to withdraw its refusal to negotiate monetary items and to bargain towards an agreement on all issues.

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