

1973

c 1 The Elevator Constructor Unions Disputes Act, 1973

Ontario

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22-23 ELIZABETH II

CHAPTER 1

An Act respecting Labour Disputes between Armor Elevator Canada Limited, Dover Corporation (Canada) Limited, Montgomery Elevator Co. Limited, Otis Elevator Company Limited, and Westinghouse Canada Limited, Employers, and the International Union of Elevator Constructors, Locals 50, 90 and 96

*Assented to March 22nd, 1973
Session Prorogued March 5th, 1974*

WHEREAS Armor Elevator Canada Limited, Dover Corporation (Canada) Limited, Montgomery Elevator Co. Limited, Otis Elevator Company Limited and Westinghouse Canada Limited, employers, and the International Union of Elevator Constructors, Locals 50, 90 and 96, have been parties to collective agreements, the latest of which has expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under *The Labour Relations Act*; and whereas strikes by the unions against the employers have continued since about the 7th day of September, 1972, and they now threaten the public safety and welfare in the Province of Ontario; and whereas intensive conciliation efforts have reached an impasse and the parties are unable to achieve a settlement of the disputes; and whereas the public interest and welfare requires that means be provided to bring the strikes to an end and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties;

R.S.O. 1970,
c. 232

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) "board" means the board of arbitration established under this Act;
- (b) "employers" means Armor Elevator Canada Limited, Dover Corporation (Canada) Limited, Montgomery

Elevator Co. Limited, Otis Elevator Company Limited and Westinghouse Canada Limited, or any one of them;

(c) "Minister" means the Minister of Labour;

(d) "parties" means the employers and the unions;

(e) "unions" means the International Union of Elevator Constructors Locals numbers 50, 90 and 96, or any one of them.

Idem

R.S.O. 1970,
c. 232

(2) Unless a contrary intention appears, expressions used in this Act have the same meaning as in *The Labour Relations Act*.

Application
of Act

2.—(1) This Act applies to the parties and to the employees of the employers in the bargaining units defined in the collective agreements between the parties which were effective until and including the 30th day of April, 1972.

Application
of
R.S.O. 1970,
c. 232

(2) Except as modified by this Act, *The Labour Relations Act* applies to the parties and to the employees of the employers in the bargaining units defined in the collective agreements mentioned in subsection 1.

Appointment
of board of
arbitration

3.—(1) Within seven days after the day on which this Act comes into force, the employers collectively shall appoint to a board of arbitration a member who has indicated his willingness to act.

Idem

(2) Within seven days after the day on which this Act comes into force, the unions collectively shall appoint to a board of arbitration a member who has indicated his willingness to act.

Extension
of seven
day period

(3) The parties may by agreement in writing extend the period mentioned in subsection 1 or 2 for one further period of seven days.

Failure of
party to
appoint
member

(4) Where the employers or the unions fail to appoint a member of the board of arbitration within the period mentioned in subsection 1 or 2, the Minister shall appoint such member.

(5) As soon as the employers or the unions appoint a member to the board of arbitration, they shall notify the other of them and the Minister of the name and address of the member appointed. Notice of appointment

(6) Within ten days after the day on which the second of the members is appointed, the Minister shall appoint a third member, and such third member shall be the chairman. Minister to appoint third member

(7) If a person ceases to be a member of the board of arbitration by reason of his resignation, death or otherwise before it has completed its work, the Minister shall appoint a member in his place after consulting the employers or unions who appointed him or on whose behalf he was appointed. Vacancies

(8) If, in the opinion of the Minister, a member of the board of arbitration has failed to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Minister may appoint a member in his place after consulting the employers or unions who appointed him or on whose behalf he was appointed. Replacement of member

(9) If the chairman of the board of arbitration is unable to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Minister may appoint a person to act as chairman in his place. Replacement of chairman

(10) No person shall be appointed a member of the board of arbitration who has any pecuniary interest in the matters coming before it or who is acting or has, within the period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of the employers or the unions. Disqualification of persons as members

(11) Where, after the board of arbitration has been established, either the employers or the unions complain to the Minister that it has failed to render its decision within a reasonable time, the Minister may, after consulting the employers and the unions and the board, issue whatever order he considers necessary in the circumstances to ensure that the decision will be rendered without delay. Order to expedite proceedings

(12) The board of arbitration shall determine its own procedure, but shall give full opportunity to the employers and the unions to present their evidence and make their submissions. Procedure

Idem (13) If the members of the board of arbitration are unable to agree among themselves on matters or procedure or as to the admissibility of evidence, the decision of the chairman governs.

Idem (14) The decision of a majority of the members of the board of arbitration is the decision of the board, but if there is no majority, the decision of the chairman is the decision of the board.

Powers (15) The chairman and the other members of the board of arbitration have, respectively, all the powers of a chairman and the members of a board of arbitration under *The Labour Relations Act*.

R.S.O. 1970,
c. 232

Duty of board 4.—(1) The board of arbitration shall examine into and decide all matters that were in dispute between the parties on the 30th day of April, 1972, and any other matters that appear to the board to be necessary to be decided in order to conclude collective agreements between the parties.

Matters not to be decided by board (2) The board of arbitration shall not decide any matters that come within the jurisdiction of the Ontario Labour Relations Board.

Board to remain seized of matters in dispute (3) The board of arbitration shall remain seized of and may deal with all matters within its jurisdiction until collective agreements between the parties are in effect.

Agreement upon some matters (4) Where, before or during the proceedings before the board of arbitration, the parties have agreed upon some matters to be included in the collective agreements and they so notify the board in writing of the matters agreed upon, the decision of the board shall be confined to,

(a) the matters not agreed upon by the parties; and

(b) such other matters that appear to the board necessary to be decided in order to conclude collective agreements between the parties.

Decision of board (5) Where the parties have not notified the board of arbitration in writing that before or during the proceedings before the board of arbitration, they have agreed upon some matters to be included in the collective agreements, the board shall decide all matters in dispute and such other matters that appear to the board necessary to be decided to conclude collective agreements between the parties.

Execution of agreement (6) Within five days of the date of the decision of the board of arbitration or such longer period as may be agreed upon

in writing by the parties, the parties shall prepare and execute documents giving effect to the decision of the board and any agreement of the parties, and the documents thereupon constitute collective agreements.

(7) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the decision of the board and any agreement of the parties within the period mentioned in subsection 6, the parties or either of them shall notify the chairman of the board in writing forthwith, and the board shall prepare documents in the form of collective agreements giving effect to the decision of the board and any agreement of the parties and submit the documents to the parties for execution.

(8) If the parties or either of them fail to execute the documents prepared by the board within a period of five days from the day of their submission by the board to them, the documents shall come into effect as though they had been executed by the parties and the documents thereupon constitute collective agreements under *The Labour Relations Act*.

(9) The date the board of arbitration gives its decision is the effective date of the documents that constitute collective agreements between the parties.

(10) In making its decision upon matters in dispute between the parties, the board of arbitration may provide that any of the terms of the agreements shall be retroactive to such day or days as the board may fix, but not earlier than the 1st day of May, 1972.

5.—(1) *The Arbitrations Act* does not apply to the arbitration under this Act.

(2) Part I of *The Statutory Powers Procedure Act, 1971*, does not apply to the proceedings before the board of arbitration established under this Act.

6.—(1) Upon the coming into force of this Act, the strikes shall be terminated immediately by the unions and the employees mentioned in subsection 1 of section 2.

(2) Notwithstanding any provision of *The Labour Relations Act*, upon the coming into force of this Act,

(a) the employees mentioned in subsection 1 of section 2 shall return to work, and shall not go on strike;

(b) the employers shall not cause a lock-out;

terms of
employment
not to be
altered

- (c) the employers shall not, except with the consent of the unions, alter the rates of wages, or any other term or condition of employment, or any right, privilege or duty of the employers, the unions or the employees, that were in operation on the 30th day of April, 1972; and

idem

- (d) the unions shall not, except with the consent of the employers, alter any term or condition of employment or any right, privilege or duty of the employers, the unions or the employees, that were in operation on the 30th day of April, 1972.

Application
of R.S.O.
1970, c. 232

7. Sections 65 and 66, subsection 1 of section 67 and sections 68, 82, 83, 84, 85, 86, 87, 88 and 90 of *The Labour Relations Act* apply *mutatis mutandis* under this Act as if such sections were enacted in and form part of this Act.

Expenses of
chairman

8. The remuneration and expenses of the chairman of the board of arbitration incurred for the purposes of this Act shall be paid out of the Consolidated Revenue Fund.

Commence-
ment and
repeal

9. This Act comes into force on the day it receives Royal Assent and is repealed on the day on which the collective agreements made under this Act come into operation.

Short title

10. This Act may be cited as *The Elevator Constructor Unions Disputes Act, 1973*.