

1970

c 91 The Judicature Amendment Act, 1970 (No. 2)

Ontario

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CHAPTER 91

An Act to amend The Judicature Act

Assented to November 13th, 1970
Session Prorogued November 13th, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The Judicature Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 197, s. 17,
re-enacted

- 17.—(1) In this section, "labour dispute" means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. Interpre-
tation
- (2) Subject to subsection 7, no injunction to restrain a person from any act in connection with a labour dispute shall be granted *ex parte*. No *ex parte*
applications
for
injunctions
- (3) In every application for an injunction to restrain a person from any act in connection with a labour dispute, the court must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry upon or exit from the premises in question, or breach of the peace have been unsuccessful. Steps before
application
for
injunction
- (4) Subject to subsection 7, evidence in support of an application for an injunction to restrain a person from any act in connection with a labour dispute shall be provided by way of affidavits confined to statements of facts within the knowledge of the deponent, but any party may by notice to the party Evidence

filing such affidavit, together with the proper conduct money, require the attendance of the deponent to be cross-examined at the hearing of the motion.

Notice of application for interim injunction

- (5) An interim injunction to restrain a person from any act in connection with a labour dispute may be granted for a period of not longer than four days and, subject to subsection 7, only after two days notice of the application therefor has been given to the person or persons named in the application.

Idem

- (6) At least two days notice of an application for an interim injunction to restrain a person from any act in connection with a labour dispute shall be given to the persons affected thereby and not named in the application,

(a) where such persons are members of a labour organization, by personal service upon an officer or agent of the labour organization; and

(b) where such persons are not members of a labour organization, by posting the notice in a conspicuous place at the location of the activity sought to be restrained where it can be read by any persons affected,

and service and posting under this subsection shall be deemed to be sufficient notice to all such persons.

Idem

- (7) Where notice as required by subsections 5 and 6 is not given, the court may grant an interim injunction where,

(a) the case is otherwise a proper one for the granting of an interim injunction; and

(b) notice as required by subsections 5 and 6 could not be given because the delay necessary to do so would result in irreparable damage or injury, a breach of the peace or an interruption in an essential public service; and

(c) reasonable notification, by telephone or otherwise, has been given to the persons to be affected or, where any of such persons are members of a labour organization, to an officer of that labour organization or to the person authorized under section 63a of *The Labour*

Relations Act, to accept service of process under that Act on behalf of that labour organization or trade union, or where it is shown that such notice could not have been given; and

(d) proof of all material facts for the purposes of clauses *a*, *b* and *c* is established by *viva voce* evidence.

(8) The misrepresentation of any fact or the withholding of any qualifying relevant matter, directly or indirectly provided by or on behalf of the applicant for an injunction under this section, constitutes a contempt of court. ^{Misrepresentation as contempt of court}

(9) Any judgment or order in an application under this section may be appealed to the Court of Appeal. ^{Appeal}

2. This Act does not apply in respect of actions for an injunction commenced before this Act comes into force. ^{Application}

3. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

4. This Act may be cited as *The Judicature Amendment Act, 1970 (No. 2)*. ^{Short title}

