

Alberta Labour Relations Board bans scaffolders from refusing voluntary overtime, declares it an “illegal strike”

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AlumaSafway scaffolders at Suncor’s oilsands operations in northern Alberta refused to accept voluntary overtime beyond their 10-hour shifts in late August to protest low pay and miserable working conditions. Acting on behalf of the multibillion-dollar energy giant, which has a dreadful health and safety record, AlumaSafway responded by filing a case with the Alberta Labour Relations Board (ALRB). The board dutifully outlawed the workers protest as an “illegal strike.”

The action by the workers, members of the United Brotherhood of Carpenters and Joiners of America (UBC), was aimed at protesting horrendous working conditions that have been well known for years. Suncor’s operations are infamous for their very poor safety record. There have been 12 workplace deaths at Suncor sites since 2014, which is more than all of the company’s closest rivals combined. Among other energy companies in the region, Canadian Natural Resources Ltd. has recorded four workplace deaths in that period, while Cenovus Energy Inc. has recorded one.

The labour board ruling testifies not just to the ruthless profiteering of energy corporations but the function of state institutions ostensibly aimed at guaranteeing workplace protections and the trade unions who support them as tools of the corporate elite.

The company justified its decision to take the UBC Local 1325 to the regulatory board by citing an anonymous letter that urged workers to collectively refuse overtime. The ALRB found in favour of the employer, ruling that the “anonymous letter was circulated to the Employees suggesting that Employees collectively refuse to work overtime shifts for the purpose of compelling incentives from the Employer, including improvements in compensation or working conditions, starting on Monday, August 22, 2022.”

The ruling continued by stating that the “Board finds the anonymous letter, and the Employees’ concerted refusal to accept overtime shifts for the purpose of compelling the Employer to agree to terms and conditions of employment, constitutes an illegal threat of an illegal strike pursuant to section 71 [of the Labour Relations Code], and the Board declares that these Employees have threatened an illegal strike contrary to that provision.”

The directives of the ALRB were filed with the Alberta Court of Queen’s Bench, making them enforceable as an Order of the Court, violation of which could result in civil or criminal penalties.

The ruling starkly sums up the state of class relations in Canada. While big business is free to utilize all the instruments of the state apparatus and the courts to criminalize worker opposition to its relentless drive for profits, workers are prevented at every turn from responding collectively. The so-called “labour relations” system, including collective bargaining, would in fact better be termed labour enforcement by a collective dictatorship of businesses, trade unions and governments over the working class. There is no way for workers to defend even their most basic interests through these rigged institutions of bourgeois class rule.

Responding with unrestrained glee to the ruling, AlumaSafway issued a memo to employees in the tone of a schoolmaster lecturing a misbehaving child:

The Board ruled that refusing to work “voluntary” overtime is an unlawful strike and in violation of the Labour Relations Code when it is done, as here, by a group of employees acting together.

Consequences for employees who refuse to work overtime as a group in violation of this order include:

- Discipline or termination of employment for this conduct.

- AlumaSafway hiring ban for those who continue to engage in illegal activity.

- Legal action against striking employees for all damages caused by the illegal strike (by grievance or lawsuit). You could be personally liable for added production costs, penalties owing to Owner [Suncor] or, even the loss of the contract with our client.

- Contempt of court proceedings for violation of the order entered by the court (the possibility of fines and even potentially jail).

- We also expect that the Owner will be very upset with striking employees. It is possible that the Owner would consider a site ban for those involved.

The UBC merely posted a copy of the ALRB order on its website without comment. This is hardly surprising, given that the trade unions in Canada—as is the case around the world—are more

concerned with defending the privileged positions of union bureaucrats provided by the “collective bargaining” system and various forms of union-management and union-state corporatist partnerships, rather than the workers they claim to represent.

Derrick Schulte, executive secretary-treasurer of the Alberta Regional Council of Carpenters and Allied Workers, which serves four union locals, including UBC Local 1325, was quick to point out that workers are no longer refusing to work the overtime.

Schulte noted that the AlumaSafway workers felt they worked excessive hours, were not given enough time off and were not being compensated enough for the amount of time spent away from their families. He said he was previously unaware of those complaints but admitted that the practice had been going on for some time, with employees last receiving a miserable 47 cents per hour raise in November 2019. Schulte explained that under the collective bargaining agreement, workers should not refuse overtime without presenting a “valid reason,” such as being unable to find child care.

Comments from the Reddit page where the company memo appeared underscore that the Suncor plant where the scaffolders work operates with working conditions that are so brutal and with such disregard for worker safety that the oil giant struggles to fill necessary jobs.

One worker commented that his or her father works at the plant. Due to the difficulty attracting labor, the company allegedly offered an extra \$150 per day to its workers—but the scaffolders were excluded from this incentive. “It has been 90 [degrees] every day for the past couple of weeks and these guys are out there working hard with everyone else and not getting the same bonus,” the commenter wrote shortly after the overtime refusal. “[S]o they started only working the hours required under the contract. 40 hours a week.”

A worker wrote, “The thing that gets me is the refusal to work ‘voluntary’ overtime. So how is not accepting voluntary OT considered a strike, doesn’t seem very voluntary to me.”

Another commenter noted the complicity of the labour relations system in enforcing company dictates, writing, “Refusing overtime is an illegal strike?? What in the hell kind of labor board we got anyway? That’s absolutely ridiculous. I’m shocked.”

Another added, “Working to rule is not striking, it’s either voluntary or compulsory it cannot be both.”

Without reference to the labour contract provisions or even producing the alleged letter suggesting workers decline overtime, the ALRB arbitrarily declared that the scaffolders made “an illegal threat of an illegal strike.” But the memo issued by AlumaSafway specifically notes that workers refused to work “voluntary” overtime.

The ALRB and the company, with the acquiescence of the union, are making a deliberate attempt to change the definition of “voluntary” by claiming that the term applies only to the decisions of individuals.

The collective action of corporate management to suppress wages, limit the cost of benefits and enforce grueling working conditions is, of course, taken as entirely legitimate business operations by the ruling class. However, written communication between workers to behave in a collective approach regarding

voluntary activities is deemed a violation of their contractual obligations. Workers must ask if verbal communication about working conditions will be restricted next.

In general, the construction industry and scaffolding, in particular, are notoriously hazardous lines of work. According to the United States Bureau of Labor Statistics, scaffold-related accidents result in about 60 deaths and 4,500 injuries annually in that country. The most common injuries are serious, including traumatic brain injuries, spinal cord injuries, amputations, broken bones and lacerations.

In Canada, more than 40,000 workers get hurt each year because of fall accidents, and they represent a large percentage of “lost-time injuries” accepted by workers’ compensation boards across the country.

Rob Stewart, a Calgary-based workplace safety expert, told the Canadian Press that dangerous working conditions are “systemic” throughout the entire oilsands industry and are the result of a clash between the desire to improve safety performance and the need to maximize profit.

Stewart explained, “Companies are saying, ‘we value safety,’ but then they’re also saying, ‘hey, we have to have this level of production, we have to have shareholder value’.” He added that accidents happen when companies try to save money by skimping on equipment, staffing levels or other resources. “It becomes about cost and schedule, and that translates into what actually happens on the ground,” he said.

In addition to the generally miserable working conditions at work sites, the energy industry’s contempt for its workers has clearly been revealed in its disastrous response to the COVID-19 pandemic. With its crowded work camps, travelling workforce and close-quartered workplaces, Canada’s oil and gas sector was and still is a hotbed for coronavirus transmission.

In 2021, dozens of outbreaks at sites in and around Fort McMurray and across Alberta, fuelled by the more infectious and deadly B.1.1.7 and P.1 COVID-19 variants, helped make Alberta the province with the highest per capita number of active COVID-19 cases in Canada.



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