



## TEAMSTERS CANADA RAIL CONFERENCE

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### CONFÉRENCE FERROVIAIRE DE TEAMSTERS CANADA

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July 25, 2025

To all TCRC Officers

#### Section 107 Challenges – Update

Dear Sisters and Brothers,

On August 22, 2024, then Labour Minister Steven MacKinnon for Canada held a press conference to announce that he was instructing the Canadian Industrial Relations Board (CIRB), under Section 107 of the *Canadian Labour Code* (CLC), to intervene in labour disputes involving Canadian National Railways (CN) and Canadian Pacific Kansas City (CPKC). These disputes involved three TCRC bargaining units and multiple collective agreements at CN and CPKC.

The conflict arose when both railways simultaneously locked out approximately 9,300 members of the Teamsters Canada Rail Conference (TCRC) at 12:01 AM on August 22, 2024. While TCRC members at CPKC had declared their intention to strike at the same time due to unilateral changes in working conditions by CPKC, their counterparts at CN had not given strike notice.

The TCRC has vowed to fight the unconstitutional government directives and CIRB orders. The following is an update to our fight thus far and anticipated next steps.

We have filed 6 applications for judicial review with the Federal Court system:

1. One for the CN – 107 direction and two for the CPKC – s. 107 directions with the Federal Court to challenge the Minister's use of s. 107 and its constitutionality.
2. Judicial Reviews of the Board's decisions regarding the Minister's directions to the CIRB involving our CN and CPKC bargaining units.

CN subsequently filed an application for stay with the Federal Court of Appeal (FCA) requesting the judicial review be held until such time the Federal Court has ruled on the s. 107 challenges. The FCA granted the stay applications for all of our CN and CPKC challenges pending decisions by the Federal Court.

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We filed our Notices of Constitutional Question with the Courts in March 2025. This could only be done once the Courts accepted our applications. These challenges will now also proceed.

From day one of the Minister's directions to end the work stoppage, we have been, and continue to be, in communication with various union leaders and labour organizations requesting their support and for them to request intervenor status. All federally regulated labour unions and movements are on board with us as they know the importance of these Charter challenges and our judicial review applications. As we all know, since our situation, the Minister's Office has used and/or threatened to use s. 107 to force binding arbitration 5 other times:

1. Air Canada - Pilots – who obtained a tentative agreement prior to a direction
2. ILWU – Foremen - West Coast Ports
3. CUPE – Port of Montreal
4. CUPE – Port of Quebec
5. CUPW – Canada Post

Companies are now using their rights to lock out employees, as a tool to put pressure on the federal government to interfere with free collective bargaining and force binding arbitration via s. 107. If we do not fight this improper use of s. 107, the right for workers to enjoy effectively free collective bargaining will disappear for eternity, as companies will not bargain in good faith. Instead, they will go through the motions, lock out employees and hope for government intervention through s. 107. In addition, our fundamental rights to strike will be gone.

#### Legal Steps:

Our legal counsel obtained an expert opinion from Professor Eric Tucker (a renowned labour rights and history scholar) who is an Emeritus Professor at Osgoode Hall Law School, York University. The expert opinion was in the form of a report which was written based on the following:

1. Documents reviewed outlining the legislative history of section 107 of the *Canada Labour Code* including previous CLC's, and the Government of Canada's past use(s) of such provisions in labour disputes.
2. Academic scholarship reviewed concerning the Government of Canada's previous intervention in labour disputes.
3. After reviewing the above documents, the report was written outlining the answers to the following questions:
  - a. What is the legislative history of section 107 of the *Canada Labour Code* and its predecessor(s)?

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- b. How has the Government of Canada previously used section 107 and its predecessor(s) to resolve labour disputes?
  - i. Prior to its invocation in the instant matter, was the use of section 107 to terminate a lawful strike unprecedented?
  - ii. If the answer to the former question is “yes”, what is the typical form of government intervention in labour disputes?

On May 16, 2025, Affidavits for both Professor Tucker and TCRC President, Paul Boucher, were submitted to the Federal Court.

The Respondent, Attorney General of Canada, objected to our expert report. The Court requested and received written argument from all the main parties as to the admissibility of our expert report. We are currently awaiting the Court’s decision on such.

In the meantime, the agreed upon schedule for the progression of our challenges is in a state of uncertainty. We will keep you informed on the progress of these proceedings.

In Solidarity,



Paul Boucher  
President  
Teamsters Canada Rail Conference