

Volunteer Firefighter Leave Hosed Down in Alberta

Thursday, November 1, 2018

Across Canada, 83 per cent of firefighters are volunteers.¹ In many small and rural communities, volunteer firefighters may be the only firefighters available. In fact, the Standing Committee on Alberta's Economic Future (the Committee) mentioned that many municipalities in Alberta would not be economically viable without volunteer firefighters.² However, many volunteer firefighters also have full-time commitments to their employers aside from firefighting, and many of these occupations may not offer the flexibility required for a volunteer firefighter to respond immediately to calls. In some instances, volunteer firefighters may even face termination of employment for leaving work to attend to calls as seen in the British Columbia Arbitration decision, *Mainroad Group and BCGEU, Local 10-01 (Buckley)*, Re. The employee's employment was ultimately reinstated.³

Opinions over the balance between the needs of the community and the needs of the employer have recently surfaced with the introduction of Bill 201 *Employment Standards (Firefighter Leave) Amendment Act, 2018* (the Bill).⁴

The Bill

Firefighter Leave

Unpaid leave for part-time firefighters

53.9841(1) In this section,

(a) "fire services" means services related to the suppression or prevention of fires, rescue and emergency services and other activities of a firefighter;

(b) "part-time firefighter" means a casual, volunteer or part-time member of a fire protection service of a municipality or Metis settlement.

(2) An employee who has been employed by the same employer for at least 90 days and is a part-time firefighter is entitled to occasional unpaid leave to assist in fire services.

(3) No employer shall, without good cause, prevent a person from acting as a part-time firefighter if that person has informed the employer of the person's obligations as a part-time firefighter and advised the employer that to act in that capacity, the person must be absent from work.

(4) No employer may, without good cause, refuse to employ a person because that person is a part-time firefighter.

The proposed leave is often compared to the current Reservist Leave. However, the proposed leave has significant differences. The employee is eligible for the proposed leave after 90 days of employment as opposed to the Reservist Leave, which requires 26 consecutive weeks of employment. Employees departing on Reservist Leave must provide proof if requested by the employer, and provide at least 4 weeks' written notice. The Bill on the proposed leave is silent on these requirements. The reason for the lack of notice requirement for the proposed leave is because volunteer firefighters do not generally know when they will have to respond to a call.⁵ However, without notice, an employer may face a sudden disruption to its business if an employee is allowed to respond to the call. After community consultation, legislation may not be the solution to this potential conflict.

Stakeholder Comments

One would imagine that the enhanced protections for volunteer firefighters would be firmly supported by the firefighting community. However, the community has publicly opposed the legislation. The opposition is based on a couple of reasons that are summarized by the Alberta Fire Chiefs Association's Board of Directors (the AFCA). First, employers have been accommodating volunteer firefighters, and have not posed the same issue as discussed in *Mainroad*. In fact, the AFCA stated, "In many cases, employers stood beside their employees by releasing them to deploy while carrying their salaries and hiring substitute workers".⁶ The submission from the Deputy Chief of the St. Paul Fire Department echoed the above sentiment that employers and the volunteer fire service have an excellent relationship. He confirmed that employers are generally supportive of the work that the volunteer fire service does, and the fire service periodically holds an employer appreciation event to recognize the employers' role in supporting the service.⁷

The AFCA's view is that mutual decisions reached through discussions between stakeholders would be in the best interest of the parties rather than by statute. By statutorily requiring employers to let volunteer firefighters leave the workplace to respond to a call in all instances alienates employers, especially those who were often already accommodating to their employees who serve as volunteer firefighters. The AFCA believes the changes will undermine community support for the volunteer fire service. Ultimately, this may negatively affect recruitment or retention of volunteer firefighters.

Status of the Bill

With these submissions in mind, the Committee, on October 11, 2018, recommended that the Bill should not proceed. However, the Committee and the stakeholders did mention that the focus should be on reforms to current fire service legislation.⁸ So, although the push for this proposed leave has likely come to an end, it will be interesting to see whether changes to legislation may be introduced that may again affect the relationship between employers and the fire service in the future.

¹ Fire Fighting in Canada, "[NFPA releases stats on Canadian departments.](#)" May 8, 2018.

² Standing Committee on Alberta's Economic Future, "[Bill 201, Employment Standards \(Firefighter Leave\) Amendment Act, 2018.](#)" October 11, 2018.

³ *Mainroad Group and BCGEU, Local 10-01 (Buckley), Re*, 2014 CanLII 83904.

⁴ Bill 201, *Employment Standards (Firefighter Leave) Amendment Act, 2018*, 4th session, 29th Leg, Alberta, 2018.

⁵ Olivia Bako, "[Job protection legislation for volunteer firefighters draws mixed reaction.](#)" *The Westlock News*, December 12, 2017.

⁶ Peter Krich, "[Official Statement of the Alberta Fire Chiefs Association Board of Directors.](#)" May 31, 2018.

⁷ Henry Thomson, "[Review of Bill 201.](#)" June 2, 2018.

⁸ Standing Committee on Alberta's Economic Future, "[Bill 201, Employment Standards \(Firefighter Leave\) Amendment Act, 2018.](#)" October 11, 2018.

AUTHOR

Tommy Leung
T 403.232.9512

ToLeung@blg.com

BLG OFFICES

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T +1.403.232.9500
F +1.403.266.1395

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T +1.514.954.2555
F +1.514.879.9015

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T +1.613.237.5160
F +1.613.230.8842

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2018 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.