

BY EMAIL

Email: [wclements@koskieglavin.com](mailto:wclements@koskieglavin.com)

February 9, 2018

**BC LABOUR RELATIONS BOARD**

Suite 600 – Oceanic Plaza  
1066 West Hastings Street  
Vancouver, British Columbia  
V6E 3X1

**Attn: Registrar**

Dear Sirs/Mesdames:

**Re: Sobeys West Inc. (the “Employer”) -and- United Food and Commercial Workers Union, Local No. 1518 (“Local 1518”)  
(Part V – Case No. 71567/18)**

**I. Introduction**

We are counsel for the United Food and Commercial Workers’ Union, Local 247 (the “Union”), and have been instructed to file this submission concerning the application of UFCW, Local 1518. Local 1518 has alleged that the Employer has commenced an unlawful lockout contrary to Section 59(2) of the *Code*.

The Union is in a substantially similar position to Local 1518 and the Union supports and joins the application. Like Local 1518, the Union has a current Collective Agreement with the Employer that does not expire until 2023. Like Local 1518, the Union’s Collective Agreement includes a Letter of Understanding (LOU #29) that permits either party to notify the other party “within 6 months immediately preceding March 31, 2018,” that they would like to reopen the Collective Agreement and negotiate changes to it. Also like Local 1518, the Union received notice from the Employer on October 6, 2017, stating that the Employer wanted to commence negotiations under the Letter of Understanding. Negotiations with the Union are pending.

At the same time, the Employer has also served the Union with the same notice of the closure of ten stores as was issued to Local 1518. The Union received this notice on January 23, 2018. Like the notice served upon Local 1518, the notice issued to the Union stated explicitly that the closure of at least five of the stores was conditional. The stores would be renovated and reopened by the Employer “depending on the outcome of negotiations for new collective agreements.”

These actions squarely meet the definition of “lockout” in Section 1 of the *Code* and occurred when a lockout is not permitted by the *Code*.



## II. Facts

1. The Union does not dispute the facts as alleged by Local 1518. The Union accepts and may rely upon those facts.
2. The Union has a current collective agreement, entered into with Canada Safeway, with a term from April 1, 2013 to March 31, 2023 (the "Collective Agreement"). The Collective Agreement covers employees engaged in the preparation, handling and sale of meats, fish and poultry, and applies to all present and future Safeway stores in British Columbia.
3. Canada Safeway was acquired by Sobeys West Inc. (the "Employer") shortly after the Collective Agreement was entered into.
4. On January 23 2018, the Employer served the Union with what purported to be a notice pursuant to Section 54 of the *Code*. The notice stated that 10 Safeway stores will be closed and declared that the employment of employees at all of those stores will be terminated.
5. The store closures are to be effective on May 5, 2018, with the exception of what is described as the "City Square" store, which is to close on July 28, 2018.
6. A copy of this notice is attached (Exhibit "A").
7. In the case of five of the stores, the Employer has stated that the stores may reopen, albeit with a proposed renovation and rebranding of the store as "Freshco" stores.
8. However, the Employer stated in its notice to the Union that the re-opening of the five stores depends upon "the outcome of negotiations for new collective agreements."
9. The Union's Collective Agreement includes a Letter of Understanding (LOU No. 29) that provides for reopening of the collective agreement and a process for negotiation of changes to the Collective Agreement that may be triggered within "six (6) months immediately preceding March 31, 2018," with notice by either party to the other party. The Employer triggered the reopening and renegotiation procedure in LOU No. 29 by written notice dated October 6, 2017, and those negotiations were pending when the Employer's Section 54 notice was issued.

## III. Submissions

The Employer in this case, while giving notice that it will be closing certain of its stores, explicitly tied the store closures, and the possibility of reopening certain of those stores, with its goal of achieving new collective agreement terms with the Union and Local 1518. This constitutes a "lockout" as defined by the *Code*.

The Employer is not in a lawful position to lockout employees and has not issued a lockout notice. Its actions are in breach of the *Code*.



#### IV. Remedy

The Union supports and joins in the requests for the orders sought by Local 1518, and further requests that any make whole order to the employees, including an order for all wages and benefits lost, include the employees represented by the Union.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Yours truly,

**KOSKIE GLAVIN GORDON**

Per:

**WILLIAM CLEMENTS**

WC/ks  
Enclosure

cc: UFCW, Local 247 (Attn: Suzanne Hodge) (by email)  
Hastings Labour Law Office (Attn: Chris Buchanan) (by email)  
Roper Greyell (Attn: Tom Roper, Q.C.) (by email)  
Banister & Co. (Attn: Jonathan Hanvelt) (by email)