

PROVINCE OF NEW BRUNSWICK



Labour and Employment Board

PS-021-21

**IN THE MATTER OF THE *PUBLIC SERVICE LABOUR RELATIONS ACT*
AND IN THE MATTER OF A COMPLAINT PURSUANT TO SECTION 19**

BETWEEN:

Canadian Union of Public Employees, Locals 1252, 1190 and 1251

Complainants,

- and -

Her Majesty in right of the Province
as represented by Treasury Board

Respondent.

ORDER

WHEREAS Canadian Union of Public Employees, Locals 1252, 1190 and 1251 did file, on November 7, 2021, a Complaint before the Labour and Employment Board alleging that the Respondent, Her Majesty in right of the Province as represented by Treasury Board, has sought to compel, by intimidation and threat, employees who are employed in non-designated positions to refrain from exercising their right to strike under the *Act* and has violated subsection 76(4) of the *Public Service Labour Relations Act* (“the *Act*”) by locking out employees in positions designated as essential in Local 1252, by refusing to permit them to work, and by refusing to pay them;

AND WHEREAS the Respondent filed a Reply on November 7, 2021 in which it firstly raised a preliminary issue that the Board lacks jurisdiction to consider the Revised Mandatory Order declared pursuant to the *Emergency Measures Act*, and in the alternative, that the Revised Mandatory Order is a lawful action in accordance with section 113 of the *Act*, and secondly, it denied the allegations;

AND WHEREAS a virtual hearing was held on November 7, 2021, via the Zoom platform, during which the parties were given full opportunity to present evidence and make representations;

AND WHEREAS having considered the evidence and the representations of the parties, the Board is not satisfied, on the basis of the evidence led, that there has been a violation of the *Act* pursuant to sections 7(3)(c), 76(4), 102 or 104(2);

NOW, THEREFORE, the Labour and Employment Board does hereby **DISMISS** the within Complaint filed by Canadian Union of Public Employees, Locals 1252, 1190 and 1251.

The Board's Reasons for Decision will follow.

ISSUED at Fredericton, New Brunswick, this 7th day of November 2021.



**DAVID MOMBOURQUETTE
CHAIRPERSON
LABOUR AND EMPLOYMENT BOARD**