

# WHAT'S NEW

## ISSUE 5 - May 2012

In an effort to keep the Labour Relations Community informed on an ongoing basis of happenings at the Labour Relations Board, the Board produces a monthly newsletter - "What's New." The following is Issue 5 for 2012.

### NEWS AROUND THE BOARD

Labour Relations Board Chair's Conference – Chair Asbell and Director of Settlement, Tannis Brown, will be attending the Chair's Conference in Vancouver on June 18, 19 and 20<sup>th</sup>.

Education Caucus - The Board will be holding a half day Education Caucus on Tuesday, May 15, 2012. This Caucus will be a first for the Board as we will be testing video conferencing equipment recently purchased by the Board. The Caucus will be held in both Edmonton and Calgary at the same time with Board members attending at their closest respective Board office for the session.

### RECENT CASES

*Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*, 2012 SCC 10

In March of 2012, the Supreme Court of Canada again issued a decision narrowing the circumstances when the correctness standard (as opposed to the reasonableness standard) will apply in the judicial review context.

In particular the Court narrowed the concept of preliminary or collateral questions of law which engage the correctness standard of review.

**United Steel, Paper and Forestry, Rubber Manufacturing, Energy Allied Industrial and Service Workers (United Steelworkers) v. Vale Inco Limited (Ontario Labour Relations Board, February 23, 2012)**

Flowing from a long and bitter strike by the United Steelworkers, Vale Inco Limited terminated nine employees as a result of alleged misconduct during the course of the strike. As part of the settlement negotiations aimed at ending the strike, the union wanted the employees reinstated or to have the cases proceed to arbitration to determine whether the terminations were justified. The employer refused to negotiate with respect to the terminated employees. The union argued the employer's refusal to negotiate with respect to the terminated employees amounted to a failure to "make every reasonable effort to make a collective agreement" as required by the statute.

Accepting the union's position, the Board concluded the employer's position on the issue of the terminated employees amounted to a breach of its obligation to "make every reasonable effort to make a collective agreement." The circumstances of the case, the fact that arbitration with respect to discharged strikers is an issue of particular sensitivity to trade unions and the employer's "firm and inflexible" stance on the issue demonstrated a failure to "make every reasonable effort" to conclude a collective agreement.

#### **CONFERENCES:**

- [Labour Law Conference](#) - April 11-12, 2012 - Ottawa, ON
- [Council of Canadian Administrative Tribunals](#) - May 13-15, 2012 - Calgary Alberta
- 49th Annual Conference for the Canadian Industrial Relations Association (CIRA). The conference is being held in Calgary from May 29-31, 2012. For more information follow this link: <http://acri-cira2012.blogspot.com/>.
- [Labour Arbitration and Policy Conference](#) - May 30-31, 2012 - Calgary, Alberta
- Canadian Labour Board Law Conference - October 16-17, 2012 - Toronto, Ontario