

Conservative government ordered to pay \$103 million in damages for interference in public elementary educators' bargaining rights

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TORONTO, ON – Justice Thomas R. Lederer has issued his decision on a remedy to an Ontario Superior Court of Justice ruling in April 2016 that recognized the Ontario government violated the collective bargaining rights of educators when it imposed Bill 115 in the fall of 2012. The award of damages—\$103,100,000—to the Elementary Teachers' Federation of Ontario (ETFO) is significant.

"ETFO welcomes today's decision, but we recognize it does not replace the loss of ETFO members' bargaining rights, nor the sick leave, gratuities, and salary ETFO members lost when the Ontario government imposed Bill 115," says ETFO President Karen Brown. "We thank the court for recognizing that our members' constitutional rights were violated by a government who unjustly forced contracts on them, froze their pay, and cut sick day provisions as part of an austerity push. Justice Lederer's decision serves as a reminder to the government that they must never interfere with collective bargaining rights."

Under the terms of the remedy, ETFO members who were employed by a school board between September 1, 2012, and August 31, 2014, including those who are no longer employed by a school board *may be eligible* if they meet the criteria of the award. Details about the remedy, the amount of damages paid to individuals, and how the amount owed will be distributed to those who are eligible will be shared with members and former members in the days ahead.

Adds Brown, "Bill 115 blatantly interfered with lawful collective bargaining activities in the education sector for three years. It put the actions of the government beyond the review of the Ontario Labour Relations Board, outside the reach of the Ontario Human Rights Commission, and even above the courts. It should never have been introduced."

Background

In September 2012, the Government of Ontario passed Bill 115, the *Putting Students First Act*. Bill 115 required that any collective agreement negotiated between a school board and a teachers' bargaining unit must be consistent with a memorandum of understanding the government had negotiated with the Ontario English Catholic Teachers' Association (OECTA). If it was not, a collective agreement consistent with the OECTA memorandum of understanding would be imposed by the government.

ETFO and other education unions challenged Bill 115 under the Canadian Charter of Rights and Freedoms, arguing that it "substantially interfered with meaningful collective bargaining" between school boards and bargaining agents in the education sector.

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On April 20, 2016, the Superior Court of Justice held that Bill 115 substantially interfered with collective bargaining contrary to s. 2(d) of the Charter. In his decision, Justice Lederer ruled that the passage of the *Putting Students First Act* infringed on union members' rights to meaningful collective bargaining under the Charter of Rights and Freedoms. He also determined that the process the government engaged in was "fundamentally flawed."

[ETFO](#) represents approximately 83,000 members, including public elementary teachers, occasional teachers, designated early childhood educators, education support personnel, and professional support personnel. Visit BuildingBetterSchools.ca.

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