

Canada Industrial Relations Board



Conseil canadien des relations industrielles

Order No.: 1002-NB

**IN THE MATTER OF THE**

*Canada Labour Code*

- and -

Air Line Pilots Association, International,

applicant,

- and -

WestJet, an Alberta Partnership;  
WestJet Encore Ltd.,  
Calgary, Alberta,

employers.

**WHEREAS** the Canada Industrial Relations Board (the Board), by order no. 11139-U issued May 12, 2017 and order no. 11192-U issued November 29, 2017, declared the applicant union to be the certified bargaining agent for all pilots employed by WestJet, an Alberta Partnership and WestJet Encore Ltd.;

**AND WHEREAS** the Board has received from the applicant union an application for interim relief pursuant to section 19.1 of the *Canada Labour Code (Part I-Industrial Relations)* (the Code), filed in conjunction with an unfair labour practice complaint (Board file no. 32468-C), alleging that the respondent employers have violated various provisions of the Code by negotiating terms and conditions of employment directly with members of the bargaining unit in breach of the statutory freeze thereby undermining the applicant's role as the exclusive bargaining agent of these employees;

**AND WHEREAS** the Board held a case management meeting with the parties concerned on February 21, 2018, and provided them with the opportunity to present oral argument with respect to the application for interim relief;

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**AND WHEREAS**, the Board reserved its decision on the application for interim relief and offered an opportunity to the parties to resolve the matters pending before the Board;

**AND WHEREAS**, the parties were unsuccessful in resolving these matters and the union has now requested that the Board issue its decision on the application for interim relief;

**AND WHEREAS**, after consideration of the parties' written and oral submissions, the Board is of the opinion that:

- a) There is a serious issue to be tried in the complaint filed pursuant to sections 50(a), 50(b), 94(1)(a) and 94(3), alleging that the employers altered the terms and conditions of employment and interfered in the representation rights of the applicant union;
- b) There is a potential for substantial irreparable harm to the union as the bargaining agent representing the employees in the negotiation of the terms of a first collective agreement;
- c) Considering the timing of the alleged violation during the sensitive period of collective bargaining, the balance of convenience, in this case, favours the applicant union; and
- d) An interim order is appropriate for the purpose of fulfilling the objectives of the *Code* and supporting the constructive settlement of disputes.

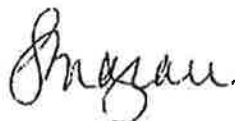
**NOW, THEREFORE**, the Board, in the exercise of the authority vested in it by section 19.1 of the *Code*, hereby grants, in part, the application for interim relief and makes the following orders:

1. The respondent employers are to cease and desist from implementing the Leave of Absence policy announced on January 31, 2018 in connection with employment opportunities at Swoop and from negotiating directly with members of the bargaining units represented by the applicant with respect to these Leaves of Absence;
2. The respondent employers are to rescind the offer of a two-year Leave of Absence policy and the conditions associated with that offer in order to fly for Swoop, as communicated to members of the bargaining units on January 31, 2018; and
3. The respondent employers are directed to immediately transmit, by email, a copy of this Order to all members of the bargaining units represented by the applicant union.

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**FURTHERMORE**, this Order shall remain in effect until the earlier of the date on which the parties reach agreement with respect to the issue in dispute in this application or the related complaint in Board file no. 32468-C is disposed of.

**ISSUED** at Ottawa, this 2nd day of March, 2018, by the Canada Industrial Relations Board.



Ginette Brazeau  
Chairperson

**Reference: File No. 32467-C**

