

BRITISH COLUMBIA LABOUR RELATIONS BOARD

MVT CANADIAN BUS, INC.
(the "Employer" or "HandyDart")

-and-

AMALGAMATED TRANSIT UNION, LOCAL 1724
(the "Union")

PANEL: Ritu Mahil, Vice-Chair

APPEARANCES: Michael Korbin and Alexander Mitchell,
for the Employer
Amanda A. Rogers, for the Union

CASE NO.: 59875

DATE OF HEARING: October 15, 2009

DATE OF DECISION: October 16, 2009

DECISION OF THE BOARD

1 The Labour Relations Board, (the "Board") is concerned in this proceeding with a directive by the Minister of Labour, pursuant to Section 72 of the *British Columbia Labour Relations Code*, R.S.B.C. 1996, c. 244 (the "Code"), to designate essential services for the Employer as set out in Schedule "A". The directive relates to a dispute between the Employer and the Union. Pursuant to Section 72, the Board is required to designate those facilities, productions and services that the Board considers necessary or essential to prevent immediate and serious danger to the health, safety or welfare of the residents of British Columbia.

2 The Union and the Employer were given a full opportunity to make submissions. All submissions made at the hearing have been carefully considered.

3 The Board is satisfied, after considering the evidence and the submissions placed before it, that the following designations and orders should be made and the following conditions imposed, pursuant to Sections 72, 73, 133(2), 134 and 139 of the Code.

1. The Board hereby designates the following facilities, productions and services as necessary or essential to prevent immediate and serious danger to the health, safety or welfare of the residents of British Columbia:

(i) Facilities

The continued operation of HandyDart required for the transportation of persons requiring renal dialysis and treatment or therapy for cancer.

(ii) Services

The maintenance of all the services necessary or essential for the continued operation of HandyDart as set out in Schedule "A".

2. To ensure that the facilities and services designated as necessary or essential are supplied, provided or maintained by the parties in full measure, the Board makes the following Orders:

- (i) (a) The Employer shall utilize the services of its management and excluded personnel who are qualified to the best extent possible. Management and excluded personnel who are deployed to perform essential service work pursuant to this Order shall work a minimum of sixty (60) hours total per week unless otherwise agreed by the parties locally or otherwise ordered by the Board

on application. The Employer shall, if requested by the Union, record the daily number of hours and locations worked by each manager and excluded employee and forward a written record of the hours and locations worked to the Union every seven days.

- (ii) (a) The Union shall schedule its members qualified to do the essential work to work in accordance with the Essential Service Designations in Schedule "A". The Employer will give the Union at least twenty-four (24) hours notice for the specific shifts that will need to be filled by bargaining unit members. The Union will provide the Employer with a list of employees and shifts worked within twenty-four (24) hours following the end of the pay period. Where a shift is designated in Schedule "A", that shift shall not be split between employees unless otherwise agreed to by the parties.
 - (b) The Employer shall direct those scheduled employees employed at HandyDart to perform the duties of their employment that it determines to be necessary or essential to comply with this Order.
 - (c) The Union shall instruct its members employed by HandyDart to perform the work as directed by the Employer in (b) above.
 - (d) Every employee shall perform the duties of his employment as directed by the Employer in (b) above.
 - (e) Schedules, directions and instructions in (a), (b) and (c) above shall be governed by the terms and conditions of the applicable collective agreement last in force between the Employer and the Union except as altered by this Order.
 - (f) Subject to obtaining any required permission from the City of Surrey, the Employer will provide a mobile office in a parking area adjacent to the Cloverdale depot to facilitate the Union in meeting its obligations under this Order. The Employer will seek such permission from the City of Surrey forthwith. Until such approval is obtained, or in the event that it is not obtained, the Employer will provide an office to the Union at the Champlain office to facilitate the Union in meeting its obligations under this Order.
- (iii) The Union is ordered to provide unrestricted access and egress for those persons covered by this Order.

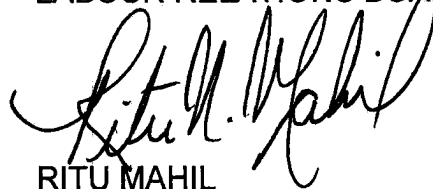
3. The Board retains jurisdiction to monitor the operation of the facilities and services of HandyDart during the dispute and to make such change to this Order,

as may be necessary for the continued supply, provision or maintenance of the facilities, productions and services which are necessary or essential to prevent immediate or serious danger to the health, safety or welfare of the residents of British Columbia.

4. Conditions of this Order are attached as Schedule "B".

4 This Order reflects the current determination of the Board. The above designations may be increased by agreement of the parties or revised by successful application to the Board by the Employer or the Union.

LABOUR RELATIONS BOARD

A handwritten signature in black ink, appearing to read "Ritu Mahil", written in a cursive style.

RITU MAHIL
VICE-CHAIR

Schedule "A"

| North Road Depot | | | | | | | | |
|-------------------------|----------|----------|-----------|----------|----------|-----------|----------|----------|
| Hours | Monday | Tuesday | Wednesday | Thursday | Friday | Hours | Saturday | Sunday |
| 0530-1330 | 2 | 2 | 2 | 2 | 2 | 0500-1300 | 1 | 1 |
| 0600-1400 | 2 | 2 | 2 | 2 | 2 | 0545-1345 | 1 | 1 |
| 1100-1900 | 2 | 2 | 2 | 2 | 2 | 0600-1400 | 1 | 1 |
| 1500-2300 | 2 | 2 | 2 | 2 | 2 | 1045-1845 | 2 | 2 |
| | | | | | | 1700-2100 | 1 | 1 |
| | | | | | | 1700-1900 | 1 | 1 |
| Total | 8 | 8 | 8 | 8 | 8 | | 7 | 7 |

| Kent Street Depot | | | | | | | | |
|--------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Hours | Monday | Tuesday | Wednesday | Thursday | Friday | Hours | Saturday | Sunday |
| 0500-1300 | 2 | 2 | 2 | 2 | 2 | 0500-1300 | 1 | 1 |
| 0530-1330 | 1 | 1 | 1 | 1 | 1 | 0600-1400 | 2 | 2 |
| 0600-1400 | 2 | 2 | 2 | 2 | 2 | 1030-1830 | 2 | 2 |
| 1030-1830 | 2 | 2 | 2 | 2 | 2 | 1045-1845 | 1 | 1 |
| 1100-1900 | 3 | 3 | 3 | 3 | 3 | 1100-1900 | 2 | 2 |
| 1500-2300 | 2 | 2 | 2 | 2 | 2 | 1115-1915 | 1 | 1 |
| 1630-2430 | 3 | 3 | 3 | 3 | 3 | 1200-2000 | 1 | 1 |
| Total | 15 | 15 | 15 | 15 | 15 | | 10 | 10 |

| Cloverdale Depot | | | | | | | | |
|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|----------|----------|
| Hours | Monday | Tuesday | Wednesday | Thursday | Friday | Hours | Saturday | Sunday |
| 0515-1315 | 1 | 1 | 1 | 1 | 1 | 0515-1315 | 2 | 2 |
| 0530-1330 | 2 | 2 | 2 | 2 | 2 | 0545-1345 | 1 | 1 |
| 1000-1800 | 2 | 2 | 2 | 2 | 2 | 1000-1800 | 1 | 1 |
| 1030-1830 | 1 | 1 | 1 | 1 | 1 | 1100-1900 | 1 | 1 |
| 1100-1900 | 2 | 2 | 2 | 2 | 2 | 1500-2300 | 1 | 1 |
| 1745-2245 | 2 | 2 | 2 | 2 | 2 | | | |
| 1500-2300 | 2 | 2 | 2 | 2 | 2 | | | |
| Total | 12 | 12 | 12 | 12 | 12 | | 6 | 6 |

Essential Office Work (to be performed by management) in support of the Facilities and Services designated in this Order: dispatching; booking; scheduling; payroll including trip edit; check-in clerk functions (providing drivers with keys and manifests and taking them back); and collection of fares.

Schedule "B"

1. Health and Welfare Benefits

1. In accordance with Section 62 of the Code, the Employer shall continue health and welfare benefits for all employees following the commencement of a lawful strike or lockout if the Union tenders to the Employer the Union's Share (as defined in paragraph 2) of the health and welfare benefits on or before the regular due date as described in paragraph 3.
2. The "Union's Share" is defined to mean the percentage of hours that bargaining unit employees do not work due to a strike or lockout as compared to full operations.
3. The regular due date for health and welfare premium payments to the third party provider is the 20th of each month. Thus, by the 20th of each month, the Union must tender to the Employer its share of the payment to cover health and welfare benefits for the following month. The Union must, by the 20th of the month after a strike or lockout commences, reimburse the Employer for the Union's pro-rated share of health and welfare benefits the Employer already paid for the calendar month in which the strike or lockout began.
4. In the month that the strike or lockout ends the Employer will refund to the Union the pro-rated amount of the Union's Share.
5. If the Union does not tender to the Employer any of the payments described above by the 20th of each month the Employer will immediately cancel all health and welfare benefits for all bargaining unit employees. In such circumstances the Employer will pay a premium in lieu of health and welfare benefits of 12.2% to each bargaining unit employee for each hour that he or she works pursuant to the Essential Services Order from that date forward.
6. The Employer will provide the Union with monthly health and welfare benefit invoices from third parties verifying the cost of the benefit premiums and a list of all employees covered by these benefits as well as the calculation of the Union's Share.

2. Pension/RRSP Contributions

1. Immediately upon a strike or lockout commencing the Employer will cease all pension/RRSP contributions except as noted in paragraph 2 below.
2. The Employer will make all required pro-rated pension/RRSP contributions on behalf of each bargaining unit member for each hour he or she works pursuant to the Essential Services Order.

3. Operations & Picketing

1. The Employer will operate its HandyDart services out of only three of its depots for the duration of essential services: Kent Street, North Road, and Cloverdale. The Union shall not picket the other three Employer depots or the Champlain office, fuel depots or stations, or the maintenance facility on Spruce Street. The Employer shall move all buses not in use during the strike or lockout to the North Road depot.

4. Taxis

1. The Employer agrees that taxi use which normally covers work over and above what Union members provide (relief and overflow work) will not be expanded beyond current levels during essential services. The current normal level of taxi use is approximately 100 taxis per day.

5. Records provided by the Employer

1. To enable the Union to ensure that the Employer is complying with the Order, the Employer will provide the following records to the Union on a daily basis or such other mutually agreeable times:
 - a. Daily trip listing (this is a list which will identify the total amount of trips and the purpose of each trip; it is understood by the parties that the "day-after" service log will be provided by the Employer to the Union by noon the following day);
 - b. Daily taxi report; and
 - c. List of managers who operate HandyDart vehicles and the hours they worked.