SUPREME COURT DECISION AGAINST THE INCLUSION OF MANAGERS IN THE LABOUR CODE
APRIL 22, 2024

Dear Members,

This is the end of a very long saga led by the Association des cadres de la Société des casinos du Québec with the decision of the Supreme Court of Canada on April 19.

This association has been defending the right of managers to real negotiation since 1996, being among the associations of managers that have filed the following demands:

- Application to the International Labour Office (won 2 times)
- Application for certification to the Administrative Labour Tribunal (TAT) (won)
- Action by the government and the Société des casinos in the Superior Court to have the decision of the TAT overturned (won by the government and the Société and lost by the Association)
- Appeal to the Court of Appeal by the Association (won)
- Appeal to the Supreme Court of Canada (won by the government and Société)

Essentially, and being unable to have the right to meaningful negotiation of their working conditions and compensation conditions, the managers decided to apply for union certification from the Administrative Labour Tribunal (TAT), which was granted to them.

The TAT concluded that excluding managers from the labour code and the right to organize was a violation of the freedom of association protected by the charters of rights.

The government and the Société went to the Superior Court to overturn this decision, which they obtained.

The Association des cadres appealed to the Court of Appeal and won the case in January 2022.

Finally, the Société des casinos and the Attorney General of Quebec appealed to the Supreme Court and the Court ruled that the definition of employee provided for in the Quebec Labour Code did not violate the freedom of association of casino managers, therefore, managers could not apply for and obtain union certification in order to be able, ultimately, to genuinely negotiate their working conditions and compensation.

It explained *that the exclusion of managers from the Labour Code was not intended to impede their right of association, but to distinguish between managers and employees in a hierarchy, so as to avoid placing managers in a conflict of interest and so that employers would know that managers would represent their interests.*

Now, the question is: who represents the interests of managers and how do we ensure that we have a framework for negotiating working conditions and real compensation?

It is sad to see that an association of managers has to "unionize" in order to be able to truly negotiate with its employer, the government!

Despite the end of this saga, the debate is still relevant since managers do not have the right to a real negotiation.

The idea of the APER filing a class action lawsuit for managers against the government for damages for the lack of meaningful negotiation, thus hampering their right of association protected by the charters, seems increasingly interesting...

We won't give up!

Here is the link to the Supreme Court's decision: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/20398/index.do

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