

## Nothing left but to wait - Union pres

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The agreement was signed by the BOG on November 29 and contained a clause according to which a \$950 lump sum salary settlement was to be sent out to faculty members by December 10. The judgement of the court was not delivered until 5 pm on December 10. In the meantime, however, the money was sent out to all faculty with an accompanying letter explaining that the court's decision was not known. Under section 70 of the Ontario Labour Relations Act (OLRA), the union and the management can, and did, make arrangements to "alter the rates of wages and any other term or condition of employment", and sent out the retroactive salary settlements. Faculty salaries were also increase by the negotiated 8.75 percent for December under the same clause in the OLRA.

The court said it would stay the certification, because, it said, "we can see little prejudice to the respondents other than some delay" but that the prejudice to the Independent Faculty Members could be much greater if the application for judicial review is successful, or if the agreement is deemed not to be collective agreement within the provisions of the Labour Relations Act and the parties have acted under the terms of the agreement."

Lawyers for the challenging professors have argued that, because the collective agreement contains a clause to the effect that it is not valid should the certificate not be confirmed, the contract is not in fact a collective agreement.

The judges also urged that an early date be set for the judicial hearing, and this date had since been set for January 13.

Chairman of the BOG Bertrand Gerstein said the board could do nothing else except ratify the contract, since they were under obligation by the Ontario Labour Relations Act to bargain in good faith. "What if everyone decided to file for a review? Just think what that would do to unions," he said.

YUFA wanted to appeal the stay, and applied to the Ontario Appeals Court for leave to appeal the Divisional Court ruling. In the Appeals Court, lawyers for the faculty association, York University, and the Labour Board argued that the Divisional court had no jurisdiction to stay the union, but the judges did not accept this argument.

The lawyers also argued that the Divisional court did not clarify the status of the union and of the agreement. They said because the court offered no direction to either the association nor the university as to what to do next, the parties were left confused about the appropriate form of behavior in the present situation.

Jefferey Sack, counsel for YUFA, said this was the first such case in Ontario history.

Ian Scott, lawyer for the Labour Board, said there are three vulnerable stages in the life of a union: the time of application for union status, the time of granting of the certificate and the time of the creation of the first collective agreement. At each stage the rights, responsibilities and privileges of the parties are defined by law, he said.

In discussing the case, the judges said there was not enough time to have an appeal heard before the judicial review on January 13, and denied YUFA leave to appeal the stay.

Jack Granatstein, president of YUFA, commented, "There is nothing left for us to do now but wait until the 13th (of January). So we wait."



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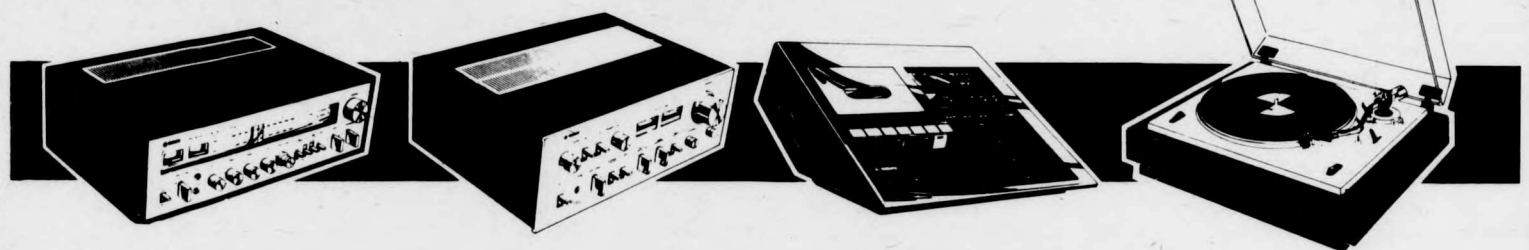


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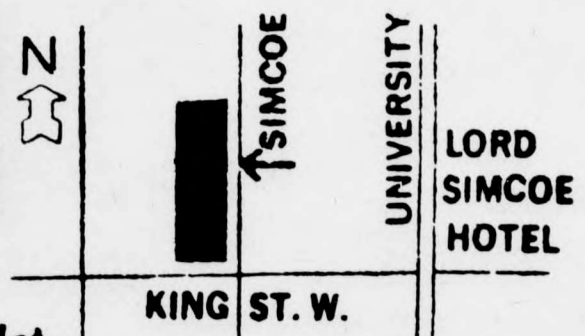
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