

Nathan Beausoleil

From: Nathan Beausoleil
Sent: February 17, 2023 11:36 PM
To: Nathan Beausoleil
Subject: Update on Negotiations + Mediation

Hello,

Apologies for reaching out to you all so late, over the weekend and via your Nimbus e-mail address. I recommend, if comfortable, that you provide your personal e-mail address to either myself by reply or by e-mailing membership@moveuptogether.ca so we can send relevant information regarding your employment to that address going forward (if you have not already done so).

As you should know from our bulletins ([here](#) and [here](#)), the Parties mutually agreed to enter mediation at the BC Labour Relations Board after discussions had stalled out after over a year of attempting to bargain a first Collective Agreement on your behalf. We met with the mediator and the Employer at the Board on February 8, 9, 10 and today.

We had also received notice that mid-mediation, the Employer had e-mailed a number of you advising to anticipate a 42% wage decrease incoming in the next term, in violation of the BC Labour Relations Code.

I wish I was e-mailing you today to inform you that we have reached an agreement, but unfortunately, we haven't despite our best efforts. The Employer came to the table attempting to negotiate an agreement that either mirrored the Employment Standards Act, and in many cases, failed to meet the mandatory minimums provided under that legislation.

The Employer's bad faith bargaining culminated today with them tabling the following wage proposal :

ARTICLE 31 – TERM Outstanding – ER Proposal

31.01 Duration

This Agreement shall commence effective the date of ratification and expire 3 years from the date of ratification. Either party to this Agreement may, within four months immediately preceding the termination of this agreement, give to the other Party written notice to commence collective bargaining.

'Appendix A' Outstanding – ER Proposal

Hourly Rates

Classification	Current	01-May-23	01-May-24	01-May-25
Instructors (less than seven years experience)	\$30.00	\$30.00	\$30.00	\$30.60
Instructors (more than seven years experience)	\$50.00	\$50.00	\$50.00	\$51.00
Techs	\$15.65	June 2023 BC Minimum Wage	June 2024 BC Minimum Wage	June 2025 BC Minimum Wage

The rates for Instructors are inclusive of the vacation pay, statutory holiday pay, preparation time and marking time. The wage rates outlined above are the minimum wage rates and they do not prevent the Employer from paying a higher wage rate.

The Employer is claiming that immediate financial crisis at Nimbus is the reason why they are seeking to decrease some employees between 30-60% of their hourly wages, locking in others into 4 year wage freeze punctuated with a minor 2% wage increase, and refusing to pay technicians even pennies more than the minimum wage despite that figure being [miles behind the minimum living wage in the MVA](#).

Employers seeking wage decreases or wage freezes during negotiations are rare, but not unheard of. However, the Employer is legally expected to provide the bargaining agent with access to audited financial statements or other financial information to support their position of financial crisis. Nimbus is refusing to provide us with that access, despite being legally required to do so.

After tabling this wage proposal late tonight, the Employer would only agree to provide us a handwritten summary (on a whiteboard, with the promise that we wouldn't take pictures) of the financial status of the company. When we advised that we needed the financial statements to diligently review and consider their position, they stated that they would only release the financial statements for our review once we signed off on the wage decrease. We cannot, in good conscience, consider bringing this concession to you for a vote without reviewing the books and agreeing that :

- A) Nimbus is on the brink of bankruptcy; and
- B) Nimbus has done everything possible to adjust other areas of the business before expecting you to bear the burden of their financial insolvency.

Again, these wages were paired with other benefits and entitlements that either did not or barely met the minimum employment standards mandated in the province.

The wage proposal also has a number of red flags and non-negotiables, specifically the "experience" qualifier for the instructors that the Employer did not elaborate on (what is relevant experience, who determines the relevancy, etc.) and the requirement that the instructors work for free (the wage rates listed are for instruction time in modules only, and instructors are expected to grade in their free time unpaid).

Due to a confidentiality clause that the Parties agreed to at the beginning of mediation, I cannot share with you the handwritten figures they were relying on. We will be seeking an order at the board for the release of that information so that we can review and be able to properly inform you on Nimbus' financial status.

The appointed Mediator unfortunately cannot make findings on labour code violations, and we are unable to file complaints at the Board on those code violations until the mediation process is complete. We asked the appointed mediator to "report out" so that we can seek an award at the Board on a number of matters and share this information with you.

"Reporting out" effectively ends the mediation process with the Parties being unable to reach an agreement through mediation. The mediator reports out to an associate Chair at the Board, who then makes a decision on whether or not the Parties have bargained in good faith based on the mediator's report, and decides if :

- a) whether they will arbitrate, or force, an agreement on the Parties. This is rare and we aren't expecting this as an outcome, despite multiple reported unfair labour practices by the Employer.
- b) recommend binding mediation. A new mediator is appointed, the process begins anew, but the Parties are bound to the decision of the mediator if they are still unable to come to an agreement.
- c) the Board authorizes the Parties to begin strike or lock out proceedings.

The appointed mediator has informed us that they will report out within 48 hours of 6 PM today, so we are anticipating that will be done by Monday. We're expecting the associate Chair will have a decision quickly after the report is finalized.

I'll be reviewing our position with our senior leadership on Tuesday to figure out next steps, and we'll likely be holding a membership meeting to go over all of this information on Wednesday evening. It is incredibly important that you attend the meeting, details will follow on Tuesday. We will also be filing for orders at the Board for disclosure of the financial statements and a declaration that their actions have violated the labour code.

I'm sorry I don't have better news at the end of this process. I was hopeful the Parties would be able to come to an agreement that you could consider fair and respected your contributions to Nimbus.

More information to follow soon. Please update your e-mail addresses to your personal accounts. Have a great weekend, and talk soon.

In solidarity,

Nathan Beausoleil
Union Representative

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