

EMPLOYER/EMPLOYEE RELATIONSHIPS IN THE ARTS

May 17, 2002

On May 16 in Toronto a group of arts organizations assembled in the boardroom of the Canadian Opera Company to discuss a new interpretive bulletin drafted by the Canadian Customs and Revenue Agency (CCRA) which aims at clarifying the employer-employee relationship. The meeting was convened by the Canadian Conference of the Arts and those attending included representative from orchestras, theatres, arts labour organizations, and arts service organizations in the performing arts.

The CCRA's draft bulletin had been requested by arts groups following such problems as tax courts determining that a symphony orchestra is the employer of its musicians -- rather than the musicians being contract workers. If the relationship is defined as employer/employee, the result would be that the orchestra must immediately assume a debt for EI and CPP for its musicians. The roundtable discussion revealed that there is a spectrum of points of view regarding the employer/employee relationship in performing arts companies, however there was agreement that the CCRA's draft bulletin leads towards the conclusion that performing companies are employers.

The group concluded that some research and analysis was required and decided to ask CCRA to hold off on releasing its draft bulletin until this could be completed. An official from the Department of Canadian Heritage explained that a consulting firm was being engaged to produce a study that would reveal the economic impact of a change in employment status of artists in the performing arts sector. As this study is expected to be completed in early fall, the request to CCRA will be that they do no further work on their bulletin until this study is complete. The group also heard a presentation from a labour lawyer who had examined jurisprudence pertaining to the employer-employee relationship, specifically in cases that related to arts organizations and artists.

As the meeting concluded, a task force was formed comprising several individuals who will work over the summer months to develop a plan, examine research that pertains to this issue and suggest ways that the current system can be adjusted to fairly reflect the working conditions of artists. It was also noted that a review of the federal Status of the Artist Act is being completed by a firm contracted by the Department of Canadian Heritage, and that this review may contain information pertinent to the solution of the problem of how artists might, maintain independent contractor status while having the right to collective bargaining.

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