

ONTARIO
SUPERIOR COURT OF JUSTICE

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|---------------------------------|---|-----------------------------------------------|
| BETWEEN: |) | |
| |) | |
| TITAN TOOL & DIE LIMITED |) | Dante Gatti and Jeffrey A. Patterson, for the |
| |) | Applicant |
| – and – |) | |
| |) | |
| UNIFOR AND ITS LOCAL 195, EMILE |) | Anthony Dale and Farah Baloo, for the |
| NABBOUT, SARKIS GASPAR, JOHN |) | Respondents |
| DOE 1 and JOHN DOE 2 |) | |
| |) | |
| Respondents |) | |
| |) | |
| |) | |
| |) | HEARD: April 3, 2025 |

REASONS FOR DECISION

KALAJDZIC J.:

- [1] The Applicant, Titan Tool & Die Limited, brought an urgent motion for an interlocutory injunction to restrain a blockade at the entrance of its premises. The motion was argued on April 3, 2025. The following morning, I made an order granting injunctive relief with reasons to follow.
- [2] These are my reasons.
- [3] At the outset, I note what this proceeding is not about. It is not about the legitimacy of the concerns of the Respondent Union and its members about the impact of tariffs on Canadian jobs. Those concerns are justified. It is not about the right to strike. This was not a strike.
- [4] At its core, this motion is about the interplay of contractual and property rights on the one hand, and on the other, the manner in which the Respondents’ right to protest is exercised. Titan has contractual obligations to move tooling owned by its customers at their request. That obligation is not in dispute. The only question is whether the Respondents should be able to obstruct the removal of customers’ property to protest the loss of work caused by U.S. tariffs. I find that they do not have that right. Accordingly, the Applicant’s motion is granted.

Facts

- [5] The Applicant, Titan Tool & Die Limited, is a unionized employer that specializes in producing components that are used in vehicles and other assemblies. It was founded almost 70 years ago. Its primary location is located at 2801 Howard Avenue in Windsor, Ontario, but it also has a manufacturing facility in Warren, Michigan.
- [6] The Respondent, Unifor, is a trade union as defined in the *Labour Relations Act, 1995*, S.O. 1995, c. 1, Sched. A. It has many chartered local unions, including Local 195 in Windsor. Together, Unifor and Local 195 (collectively “the Union”) are the exclusive bargaining agent for employees at Titan.
- [7] In order to manufacture components for its customers, Titan uses dies to stamp or fabricate components that it ships to the customer. Some of those dies are owned by the customer. In such circumstances, the contract with the customer includes a provision that the customer has the right to take possession of the die and Titan has an obligation to cooperate in returning the die to the customer.
- [8] In January 2025, Titan notified the Union that one of its customers, Toyo Seat USA Corporation, wanted its dies moved to the United States. On February 28, 2025, Titan similarly notified the Union that another customer, Autokiniton US Holdings, Inc., had requested several of its dies to be moved to the United States.
- [9] On March 21, 2025, Autokiniton wrote to Titan that it needed its tools by April 1, 2025, in advance of an expected announcement of new tariffs by the Trump Administration. In an email to Titan’s CEO, Domenic Chimienti, Autokiniton’s Commodity Manager asked to move its dies to Titan’s facility in Warren.
- [10] Titan arranged for the return of the Toyo and Autokiniton dies on March 31, 2025. A trucking company, Fortitude Trucking Inc., was hired by Autokiniton to transport both Toyo’s and Autokiniton’s dies back to the customers. Two trucks attended at Titan’s premises on Howard Avenue the morning of March 31.
- [11] At approximately 9:19 a.m. on March 31, the President of Local 195, Emile Nabbout, called Mr. Chimienti. According to Mr. Chimienti’s uncontested evidence, Mr. Nabbout demanded that no dies leave the premises or else it would “start a war”. Mr. Nabbout also stated that the Union would make an example of Titan so that other manufacturers would not consider shipping tools to the United States. Mr. Chimienti responded that the tools being shipped were not Titan’s property and Titan had no choice but to ship them. Mr. Nabbout asked that the trucks be held back until noon, and Mr. Chimienti stated that Titan would do so on the understanding that the parties would discuss the situation further and that it would need to be resolved by noon.
- [12] During the course of their conversation, one of the trucks loaded with two Toyo dies, fixtures, and a coil left the premises. The second truck was loaded with the Autokiniton tooling at approximately 9:30 a.m.

- [13] Between 9:30-11:30 a.m., a number of individuals arrived at the premises and blocked the driveway facing Howard Avenue. There is no evidence that any of these individuals are employees of Titan, but there is some evidence that they are members of the Union.
- [14] At 10:52 a.m., Mr. Chimienti contacted the Windsor Police Service (“WPS”) regarding the individuals he characterized as trespassers.
- [15] By this time, an unknown person parked their car in front of the remaining Fortitude truck. Fortitude’s driver, Sam Beidoun, was blocked from leaving the premises.
- [16] At 12:26 p.m., Mr. Chimienti again contacted the WPS and asked for assistance with the blockade. At 1:04 p.m., two WPS officers arrived at the premises.
- [17] At approximately 1:38 p.m., Mr. Beidoun confirmed by text message to Lauren Szecsei, the Materials Manager for Titan, that someone earlier that morning had told him his tires would be slashed if he tried to leave. Again, this evidence was not contested. Mr. Beidoun gave a statement to the WPS about the incident, and the WPS opened a case file.
- [18] The car blocking the truck moved at approximately 3:40 p.m., but the blockade of individuals continued. At 4:50 p.m., Titan made the decision to unload the Autokinton dies so that Mr. Beidoun, who was a U.S. citizen, could leave the premises and return to the United States. The dies were unloaded, the protesters dispersed, and Mr. Beidoun left with an empty truck.
- [19] Mr. Nabbout and Mr. Chimienti discussed meeting that evening to determine how to proceed, but no meeting was ultimately held.
- [20] On April 1, 2025, Titan received correspondence from Autokinton stating that failure to ship the Autokinton dies on time would result in potential U.S. customs duties of \$80,000.
- [21] Also on April 1, Titan commenced an application for damages resulting from tortious interference with commercial relations and trespass. The notice of application was served that day. The application record was served the next day.
- [22] In the evening of April 1, Titan shipped out the Autokinton dies. Mr. Chimienti states that Titan did so at night to avoid another potential blockade.
- [23] On April 2, 2025, representatives of the Union met with Titan executives. The Union was informed that Toyo wanted seven additional parts shipped while another company had asked for one of its tools. The Union Chair subsequently stated that Unifor National wanted to “fight tariffs for all employees.”
- [24] At the hearing of the motion on April 3, 2025, counsel for Titan advised that the additional tools would be shipped out starting April 4, 2025.
- [25] No other protests or blockades occurred on the premises between April 1 and 3, 2025.

Issues

- [26] The main issues to be decided on the motion are:
- a. Does this proceeding involve a labour dispute pursuant to s. 102 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 [“CJA”]?
 - b. If so, are the preconditions for an injunction under s. 102 met?
 - c. Has Titan met the test for a civil injunction according to *RJR-MacDonald v. Canada (Attorney General)*, [1994] 1 S.C.R. 311?
- [27] At the outset of the hearing, counsel for the Union raised a number of procedural and jurisdictional issues, but the focus of his submissions was on the test for an injunction. I will briefly address those preliminary issues first.

Law and Analysis

Procedural and Jurisdictional Issues

- [28] The Union raises two procedural issues. First, Mr. Dale submits that the Applicant should have proceeded by way of action, not application, and then sought the injunction by way of motion. Second, Mr. Dale contends that an action could not be brought against the Union in its own name.
- [29] The Union also disputes the court’s jurisdiction to adjudicate a tort action based on the Union’s impugned conduct, and that the proper forum for the main action is an arbitration.
- [30] I find that none of these arguments preclude my authority to consider the request for injunctive relief.
- [31] First, Mr. Gatti contends that there are no material facts in dispute. Proceeding by way of application, therefore, is appropriate. In any event, I agree with Mr. Gatti that even if improperly constituted as an application rather than an action, the proceeding is not rendered a nullity, and the court may grant all necessary relief to secure the just determination of the real matters in dispute: r. 2.01(1), *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
- [32] Second, the legal question regarding the ability to sue a union for damages is not settled. See *Windsor Salt Ltd. v. Unifor*, 2023 ONSC 1431, at paras. 15-20. As was the case in *Windsor Salt*, however, I need not decide the issue because Titan has identified at least one Respondent to the application who participated in the activity that Titan seeks to enjoin, Mr. Nabbout.
- [33] As to the jurisdictional issue, there is ample authority confirming the court’s inherent jurisdiction to grant injunctions, even where the underlying dispute must be decided by

mandatory arbitration pursuant to labour legislation. See *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929, at para. 57.

- [34] Consequently, I find that I have the authority to consider the motion on its merits and to grant the relief sought by Titan.

Issue A: Does the Proceeding Involve a Labour Dispute?

- [35] The Union submits that this case is about a labour dispute, as that term is defined in s. 102(1) of the *CJA*:

“labour dispute” means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

- [36] A considerable amount of time was spent at the hearing debating the proper characterization of the March 31 blockade. Mr. Dale conceded that the circumstances of the case are unusual because the events did not occur in the context of failed collective bargaining. Still, he relied on the broad wording of s. 102(1) to argue that the removal of a customer’s tooling is directly connected to the availability of work and therefore to the terms or conditions of employment.

- [37] Mr. Dale relied upon *General Motors Corp. v. BBI Enterprises Group, Inc.*, 2009 CanLII 33532 (Ont. S.C.), in support of his argument. In that case, GM moved for an injunction restraining former employees of BBI from obstructing its access to BBI’s premises to retrieve tooling owned by GM. GM took the position that there was no labour dispute because it did not involve the terms or conditions of employment; it was a dispute between the union and GM as to whether GM would be required to pay a portion of the severance payment owed to employees of BBI’s shuttered plant. Newbould J. found that the dispute was a labour dispute within the meaning of s. 102 because “terms of employment” include termination and severance pay.

- [38] I do not find the *General Motors* case helps Mr. Dale’s argument. The nexus between GM and the employees engaged in picketing was proximate. The union and BBI were negotiating a plant closure agreement that involved a potential contribution by GM – a contribution that GM disputed. In contrast, in the case at bar, the Union has no dispute with the owners of the dies and does not claim that any rights under the collective agreement have been infringed by the employer. Indeed, the Union publicly stated that it had no dispute with Titan at all.

- [39] Titan filed several press articles in its record in which Union representatives were quoted. For example, on March 31, Mr. Nabbout told CTV News: “This fight is not between us and this employer.” On AM 800, he is quoted as saying: “We’re not in a fight with the company; we’re just trying to prevent the tool from being relocated across the border.” On April 1, the Windsor Star reported Mr. Nabbout as saying: “We don’t have issues with

Titan Tool. They're a long-standing Windsor company of many decades. Customers are asking these tools be moved. We have to fight for our jobs because of Trump's illegal trade actions."

- [40] The Union did not challenge the admissibility of those articles or file affidavit evidence that the comments were not made.
- [41] Mr. Nabbout's statements make sense. They accurately describe the actual state of affairs: Titan's customers own certain tooling and under the customer contracts, Titan must return the tooling when requested. Titan did not make a business decision that affects the availability of work. It had no choice. Moreover, failing to abide by its contractual obligations with Toyo, Autokiniton and others could tarnish its reputation, jeopardize its ability to secure and maintain customer contracts, and expose Titan to monetary damages.
- [42] The Respondents engaged in a form of political protest by attempting to block the movement of tooling owned by Titan's U.S. customers. The Respondents have understandable concerns about the impact of tariffs on the Canadian auto sector, but their quarrel, as they themselves admit, is not with Titan. Based on all of the circumstances, I conclude that this proceeding does not involve a labour dispute within the meaning of s. 102.

Issue B: If the Proceeding Involves a Labour Dispute, are the Requirements of s. 102 met?

- [43] Even if the case is a labour dispute, I find that the requirements of ss. 102(3) and (6) of the CJA are met.
- [44] In a proceeding for an injunction to restrain a person in connection with a labour dispute, s. 102(3) requires that the court be satisfied "that reasonable efforts to obtain police assistance, protection and *action to prevent or remove* any alleged danger of damage to property, injury to persons, obstruction of or *interference with lawful entry or exit from the premises* in question" (emphasis added) were unsuccessful.
- [45] The policy foundation of s. 102(3) is to ensure that injunctions in labour disputes are not granted too freely, but only as a last resort: *Industrial Hardwood Products (1996) Ltd. v. International Wood and Allied Workers of Canada, Local 2693* (2001), 52 O.R. (3d) 694 (Ont. C.A.), at para. 16.
- [46] On behalf of Titan, Mr. Patterson submits that police assistance on March 31 was ineffective. The two officers kept the peace but were unable to remove the car and people blocking the truck from leaving the premises. The blockade lasted approximately six hours and only ended when Titan chose to de-escalate the situation by removing the dies from the truck so that the American driver could leave.
- [47] The precondition in s. 102(3) places the onus on Titan to satisfy the court that it made reasonable efforts to obtain police assistance and that those efforts did not result in the removal of the obstruction of lawful access to the premises: *Industrial Hardwood*, at para. 109. I am satisfied that Titan has met this onus because it called the WPS promptly and,

for more than six hours, the WPS was unable to disperse the people and vehicle blocking the Fortitude truck.

- [48] The other precondition peculiar to injunctions in labour disputes is the necessity of adequate notice. Section 102(6) of the *CJA* requires at least two days' notice of the motion for an injunction.
- [49] The detailed notice of application was served two days before the hearing. The record, however, was served and filed on April 2, one day before the hearing.
- [50] Mr. Dale did not seek an adjournment of the hearing. He did not identify what additional evidence the Union would have filed had it been given two days' notice of the Applicant's record. The basis on which Titan was seeking an injunction was clearly set out in the notice of application that was served two days prior. The Union filed its record responding to those arguments and its factum the morning of the hearing.
- [51] I find that notice of the motion was effected two days before the hearing.
- [52] The preconditions for an injunction under ss. 102(3) and (6) of the *CJA*, therefore, are met.

Issue C: Has Titan met the RJR test for a civil injunction?

- [53] An injunction may be sought in a labour dispute under s. 102 of the *CJA* and in all other disputes under s. 101 of the *CJA*. Section 101 provides that the court may grant an injunction where it appears just or convenient to do so. Under both provisions, the same test for an interlocutory injunction is used, and this was articulated by the Supreme Court of Canada in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, as follows:
- i. Is there a serious issue to be tried?
 - ii. Has the moving party established irreparable harm if an injunction is not granted?
 - iii. Does the balance of convenience favour the moving party, in the sense that the harm to the moving party if the injunction is not granted must exceed the harm to the respondent if the injunction is granted?
- [54] This list of three factors is not to be applied in an inflexible, mechanical manner. The ultimate focus of the court is on the justice and equity of the situation in issue: *Potash Corp. of Saskatchewan Inc. v. Mosaic Potash Esterhazy Limited Partnership*, 2011 SKCA 120, 341 D.L.R. (4th) 407, at para. 26; *Catalyst Capital Group Inc. v. Moyse*, 2014 ONSC 6442, 122 O.R. (3d) 741, at para. 2. The factors should be used to assess the relative risks of harm to the parties from granting or withholding interlocutory relief.
- [55] ***Serious issue to be tried.*** Mr. Dale conceded that there is a serious issue to be tried. The incontrovertible evidence is that Respondents obstructed entry and exit on Titan's premises and prevented the Fortitude driver from leaving with Autokinton's dies. Obstruction of

entry to private property constitutes a serious issue to be tried: *Fleming Door Products Ltd. v. Hazell*, 2008 CanLII 38961 (Ont. S.C.), at para. 15, and *Long Lake Forest Products Inc. v. United Steelworkers Local 1-2693*, 2006 CanLII 34442 (Ont. S.C.), at para. 32.

- [56] Moreover, obstruction of the removal of customers' dies risks monetary losses and harm to business relationships. Titan filed evidence from Autokinton that delay of the delivery of the dies would cost approximately \$80,000 in additional tariffs.
- [57] Finally, there is evidence that those obstructing the Fortitude truck intimidated the driver and threatened to slash his tires.
- [58] In the result, I find that there are serious issues to be tried with respect to the Respondents' allegedly tortious behaviour.
- [59] ***Irreparable harm if injunction not granted.*** The Supreme Court of Canada indicated in *RJR* that the issue to be decided at this stage of the analysis is whether a refusal to grant relief "could so adversely affect the applicants' own interests that the harm could not be remedied if the eventual decision on the merits does not accord with the result of the interlocutory application": *RJR*, at p. 341.
- [60] Irreparable harm refers to the nature of the harm suffered rather than its magnitude. "It is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other": *RJR*, at p. 341.
- [61] Irreparable harm is established where "one party will suffer permanent market loss or irrevocable damage to its business reputation": *RJR*, at p. 341.
- [62] Titan must deliver its products to customers on a just-in-time basis. When customers require delivery of components, and Titan cannot reliably deliver on a just-in-time basis, it is reasonable to conclude that reputational and business harm would accrue to Titan that is difficult to calculate in monetary terms. See *General Motors*, at paras. 50-53; *Blue Circle Canada Inc. v. Fielder*, [1998] O.J. No. 1786 (C.J. (Gen. Div.)), at para. 39.
- [63] The risk of physical injury or serious property damage is also sufficient to establish irreparable harm, particularly where there is a risk that incidents of unlawful conduct will escalate in both degree and number: *Ivaco Rolling Mills (2004) LP v. United Steel Workers of America, Local 8794*, 2005 CanLII 45199 (Ont. S.C.), at paras. 22-25.
- [64] Conduct that substantially interferes with fundamental rights of security of the person and liberty (such as vehicular passage) amounts to irreparable harm: *Aramark Canada Ltd. v. Keating*, [2002] O.J. No. 3505, at para. 44. The threats directed at the American driver and actions impeding his return are serious, particularly in the context of the tariff "wars".
- [65] The Union submits that because those obstructing the entrance of Titan's premises dispersed at the end of the day on March 31 and did not return, there is no risk of harm.

- [66] The court in *Unilux Boiler Corp. v. Fraser*, [2005] O.J. No. 2410, was faced with the same argument. The court still found irreparable harm because of the plausible risk that the trespass may occur again. Similarly, in *Baffinland Iron Mines Corporation v. Inuvak et al.*, 2021 NUCJ 11, Cooper J. found that there was a reasonable possibility that the protestors would return to the plaintiff's mining site after they had left because the underlying dispute had not been resolved and thus there was a need for injunctive relief.
- [67] In his supplementary affidavit sworn April 2, 2025, Mr. Chimienti stated that eight more customer parts were to be moved at the request of Titan's customers over the course of a week, starting on April 4, 2025. He also stated that the Union had communicated to him that they would not interfere with the movement of those tools, but the Union would not formalize that commitment in writing.
- [68] Without a commitment in writing, and in light of ongoing tensions over rising tariffs, I find that the risk of future obstructions similar to those on March 31, 2025 is real and constitutes irreparable harm.
- [69] **Balance of convenience.** The third factor considers which of the parties will suffer the greater harm from the granting or refusal of an interlocutory injunction pending a decision on the merits.
- [70] As stated by Sharpe J.A. in Sharpe, *Injunctions and Specific Performance*, 2nd ed. (Toronto: Thomson Reuters Canada, 1992), at § 4.10, "[w]here the plaintiff complains of an interference with property rights, injunctive relief is strongly favoured." In addition, where the potential or threat of personal injury, property damage and financial loss is real and escalating, the balance of convenience favours the moving party: *Ogden Entertainment Services v. Retail, Wholesale/Canada Canadian Services Sector Division of the United Steelworkers of America, Local 440* (1998), 159 D.L.R. (4th) 340 (C.J. (Gen. Div)), at para. 21.
- [71] The Union submits that in assessing the balance of convenience, the constitutionally protected right of employees to picket for lawful purposes must be weighed against the employer's rights and cites for this proposition *Sobeys Inc. v. United Food and Commercial Workers Canada, Local 175*, 2013 ONSC 1207. *Sobeys*, however, stated this principle in the context of a strike. The need for heightened sensitivity to the right to picket does not arise on the facts of the case before me because, as Mr. Dale confirmed, this was not a strike action.
- [72] Even if the actions taken on March 31 were a form of picketing, the balance of convenience favours Titan. Picketing involves expressive conduct and, as such, engages one of the highest constitutional values: freedom of expression. Freedom of expression is the foundation of a democratic society. See *Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.*, 2002 SCC 8, [2002] 1 S.C.R. 156, at para. 32; *R. v. Sharpe*, 2001 SCC 2, [2001] 1 S.C.R. 45; *R. v. Keegstra*, [1990] 3 S.C.R. 697; *R. v. Butler*, [1992] 1 S.C.R. 452.

[73] That said, freedom of expression is not absolute. “When the harm of expression outweighs its benefit, the expression may legitimately be curtailed”: *Pepsi-Cola Canada*, at para. 36. Thus, picketing that amounts to tortious or criminal conduct is not permitted: *Pepsi-Cola Canada*, at para. 66.

[74] The Respondents do not have the legal right to block or impede the entry and exit of vehicles or people on Titan’s premises. They may have strong views about the recently imposed tariffs, and they certainly have the right to express those views, but they cannot do so by unlawful means. They cannot do so by obstructing private property, by threatening to slash tires, or by inducing Titan to breach its contractual obligations to customers.

[75] I conclude, therefore, that the balance of convenience favours the Applicant.

Conclusion

[76] Titan has established the criteria for a common law injunction pursuant to s. 101 of the *CJA*, or in the alternative, under s. 102 of the *CJA*. The Respondents and everyone with notice of the order are prohibited from impeding the entry or exit of people and vehicles at Titan’s premises and from obstructing or attempting to obstruct the transportation of goods to and from the premises.

[77] If the parties cannot agree on the costs of the motion, the Applicant may file written submissions of not more than five double-spaced pages as well as a Bill of Costs by April 16, 2025. The Respondents may file their submissions in reply by April 23, 2025.

XXXXXXXXXXXXXXXXXXXX
Jasminka Kalajdzic
Justice

Released: April 7, 2025

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COURT FILE NO.: CV-25-00034721

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SARKIS GASPAR, JOHN DOE 1 and JOHN DOE 2

REASONS FOR DECISION

Kalajdzic J.

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