Negotiations at a Glance

Red Circles

I like Ottawa. Mitten-clad skaters on the Rideau Canal. Fragrant fruit and vegetable stands in the Byward Market. A veritable feast of galleries and museums. All good stuff. But I was there in March, with my first-ever serious case of food poisoning, too late for the skaters, too early for the fresh produce, too busy for the cultural enrichment, and – for one night – too sick to care. I was there for the CAUT Forum for Chief Negotiators and, as it turned out, I'm glad I was.

The Forum was filled with intriguing ideas and rich information. The conversations ranged from the French intellectual Pierre Bordieu's musings on disengagement, to the results of a CAUT-commissioned study that shows university professors are held in high regard by Canadians, to the ways in which the so-called "shock doctrine" operates in the world of collective bargaining today. There were presentations from Canadian labour leaders inside and outside the academy, from Chief Negotiators and Association Presidents from various faculty associations here and from the United States, and from much of CAUT's leadership, including our own Wayne Peters who did an especially fine job of joining the different strands of conversations into a cohesive, insightful and inspiring closing reflection. The crowd was interesting: a mix of the grumpy warriors, the gentle wisemen/women and the various sorts in between. They were experienced negotiators and not. They were generous with their insights and advice. They were thoughtful in their questioning.

Despite the many subjects that wound their ways into the weekend, the framing focus for the Forum was "negotiating to a deadline." I had some sense of what this meant before boarding the plane, largely as a result of a debriefing session held after the last round of negotiations at UPEI. The essential idea is this: you need a timeline before you enter formal negotiations, and you need to attend to that timeline throughout the process. Personally, I prefer "timeline" to "deadline." It sounds less lethal, for one thing. But word choice aside, the idea is the same: this isn't a play-it-by-ear, take-what-comes, it-will-end-when-it-ends process. In the best of practices, the progress of negotiations is considered, mapped and smartly timed. There is an organized beginning at an appropriate point on the calendar, a genuine, deep, pro-active engagement in the practice of negotiations at the table for a reasonable period of time, and a sensible expectation that a deal can be reached (or is clearly taking form) by a certain date. That "certain date" is placed on the calendar and red-circled. It is a date that reflects both a reasonable judgment about what an adequate amount of time at the table is and what date works advantageously for the membership in terms of seeking third party intervention (conciliation) and the events that can flow from that.

This is a good approach. To my mind, it's problematic only when a "deadline" has been circled and there is insufficient time at the table to reasonably work toward an agreement. The amount of time at the table has not been problematic for us, or wasn't until the end of June. The teams met roughly twenty times between March and June and most of those meetings were day-long ones. It is reasonable to expect that there would have been considerable progress in the course of those meetings, that both sides, in some rough kind of reasonable quid pro quo, would have let go of or substantially altered some proposals the other side found deeply problematic, would have hung tightly to those proposals that were and are viewed as essential, and would have shifted and sifted and wiggled and squirmed around the rest. (I can say with good conscience that our team did those things.) And it is reasonable to expect it would have become clear that there was sufficient accommodation, movement and sifting that an agreement, imperfect though it may be, looked like it was taking shape. Or not.

Time at the table was not our problem. The issue was movement. Those of you who attended our Coffee Chats on July 9th or 10th will have heard our expressions of concern – indeed you amplified our expressions of concern – about the lack of significant movement from the Employer, both on the proposals they brought to the table and in their responses to ours. It is heartening to see and empowering to hear our community meeting together in the depths of summer in an expression of community interest. And it is profoundly meaningful to have our community express its desire to see a timely resolution to this process, while remaining deeply committed to defending and advancing the legitimate interests of our academic staff and community.

The surprising news on July 5th that the Employer's Chief Negotiator has been replaced has necessarily delayed meetings between the teams for a period of time. But once their new Chief has prepared there is no room for delay: the red-circled date looms. And importantly, there is no reason for delay. The Faculty Association Executive, the Negotiating Team, and most importantly the Membership remain committed to the timely completion of a new collective agreement that fairly and reasonably recognizes our professionalism, dedication, skills and plain hard work. It's time for a show of respect from the Employer, a kind of respect made tangible through the conclusion of a new collective agreement that fairly recognizes our value to the institution.

The two teams have agreed to enter a period of "block bargaining" beginning August 20th. For a week, and perhaps for a number of days following, the teams will meet in full day and evening negotiating sessions. The hope is that we will emerge from that process in one piece and with a deal, or with a clear indication that one is shaping up. There are reasons to be hopeful as we enter this intensive process. On August 10th, the Employer's Team indicated it was withdrawing its proposals around "demerit" pay, annual evaluations for tenured faculty and librarians, and the removal of Department Chairs from the Bargaining Unit. These are welcomed developments, but significant issues remain on the table, including our proposals around workload, benefits and salary for faculty, librarians and CNIs, and working conditions, benefits and salary for sessionals. Additionally, the Employer's proposals around the teaching stream and the involvement of Deans in evaluations are still in play. We are hopeful – genuinely hopeful – that evident progress will be made the week of the 20th. But if not, and in a case like ours where there have been and are before us many hours at the table, it is reasonable to assume some kind of intervention will be necessary.

As our team proceeds in this process, so too does the coalition of unions that has united to negotiate pension benefits at an adjacent table. Wayne Peters, Chief Negotiator of the coalition, provides some useful context for discussions at the pension table in this edition of *Negotiations-at-a-Glance*.

We look forward to your continued support in the days to come and will update you on our progress in late August. In the meantime, enjoy the last days of summer!

Sharon Myers

At the Pension Table

Efforts made by the joint-union coalition have secured pension as a term and condition of our employment that must be negotiated at the bargaining table. This is especially noteworthy since employers on most campuses—ours included—have long asserted that pension plans are the domain of management rights and somehow outside the scope of bargaining. In the unions' opinion, then, the employer is now precluded from making unilateral changes to the plan or its funding formula. Within the union groups, this is recognized as the most significant gain made by the joint-union coalition in regards to pension. With another round of pension negotiations between the four campus unions and the employer now proceeding, it would be useful, I think, to provide some relevant background.

Our last pension negotiations concluded with a memorandum of agreement in the fall of 2010 which provided some improvement to the pension benefit formula for both past and future service. On average, the employees' contribution to the plan increased by 1.2% of salary as their share of the funding for this improvement. A portion of this (0.88%) was amortized over a 15-year period while the remaining amount (0.32%) is on-going. The current round of negotiations seeks to build on this previous improvement to further strengthen the benefit formula.

The status of our pension plan is measured every three years through an actuarial valuation based on best-practice estimates and assumptions. At the time of our previous negotiations, the most up-to-date valuation assessed the plan for a three-year period ending April 30, 2008. The most recent valuation covers the period ending April 30, 2011. This assessment indicates that the plan, at that time, was funded at about 80% with a deficit of about $35M. While this valuation is more than a year old, it nevertheless sets some of the context for the present bargaining environment.

The total cost to maintain a pension plan is a combination of the cost to meet current obligations (current service cost) and the cost to underwrite any ongoing deficit (actuarial liability). The 2011 valuation indicates that this total cost has increased by about 4.12% of salary since the previous valuation. This increase is influenced by a number of factors which include, for instance: a growth in plan membership; an increase in total campus salary; the improvements made in 2010; and the performance of the financial markets over the last several years.

The important thing to note here, though, is that campus employees are already paying out-of-pocket for a portion of this 4.12% of salary through the additional employee contribution of 1.2% of salary resulting from the 2010 memorandum of agreement. While there was some improvement to the benefit formula in return for this, it should be pointed out that employees, in fact, funded 100% of the past-service and 50% of the future-service improvements that were made.

So, as of April 30, 2011, the net change in the status of the pension plan since the previous valuation is an additional requirement of 2.92% of salary, amortized over 15 years, to fully fund the plan. Under our defined-benefit plan, the obligation to cover this additional cost rests with the employer. At this point, the value of securing pension as an item for the bargaining table should be fully apparent. Without this, the employer could simply declare that employees will bear this additional cost.

In all of this, it is critically important to remember two things: 1) a future pension benefit is deferred income; and 2) the contributions made toward this future benefit by the employer during one's employment are made in lieu of payment toward salary. In other words, a pension benefit and the employer's contribution to it are part of a total compensation package--including salary, benefits, pension, and other programs and services—which we negotiate in return for our employment. In this sense, the contributions paid by both the employer and the employees belong to employees, plain and simple.

Under the provisions of our defined benefit pension plan, the employer currently contributes about twice as much to the plan as employees do. While the employer sees this as a significant burden on the University's finances, it is, in fact, part of the cost of recruiting and retaining exceptional members of the academic staff and other campus employees. Again, it's part of the total compensation package which we accept in return for our employment. Any shift in the current pension funding model can only be negotiated at the table and must be done in the context of a total compensation package. We should never fall prey to the notion that a pension benefit and, more importantly, the employer's contributions to it are bonuses for employees that can simply be taken away when times are tough. Any such action on its own, of course, would be no less than a roll-back of employee compensation.

As for the status of current negotiations, the unions have recently presented the employer with a proposal that seeks modest improvements to the benefit formula while also recognizing the existing shortfall in pension funding. We are waiting on the employer for a response which we expect will come as part of the upcoming negotiations starting on August 20.

Wayne Peters

Annual General Meeting

University of Prince Edward Island Faculty Association

September 26th, 2012
1:30 pm

(quorum necessary)

The agenda will include an update on the status of negotiations.