

June 22, 2020

Honourable Harry Bains
Minister of Labour
Government of British Columbia
Room 342
Parliament Buildings
Victoria, BC V8V 1X4

Submitted via Email: Harry.Bains@gov.bc.ca

Dear Minister:

Re: Ministerial Decision to Deny Business Community Request for Further Extension of Temporary Lay-off Time Limits under the Employment Standards Act

We are in receipt of your letter dated June 17, 2020 responding to our June 7, 2020 correspondence to Premier Horgan on the above captioned matter.

In your letter, Minister, you state that **“at this time there is no intention to extend the temporary lay-off time limits”**.

Your letter was issued the day after Premier Horgan’s announcement that he intends to consult with British Columbians on the expenditure of \$1.5 billion set aside for COVID-19 economic recovery measures. The Premier pledged to listen to British Columbians to get their input on rebuilding British Columbia – together. Your lack of appreciation for the dire situation facing thousands of small businesses and workers calls into question the sincerity of this overture.

Tens of thousands of businesses were – understandably -- shut down by your government to manage the public health crisis unleashed by the COVID-19 pandemic. Thousands of businesses had no choice but to lay off their employees to cope with what were initially expected to be brief closures to assist with broader efforts to flatten the pandemic curve. We are now approaching the 16-week temporary layoff statutory deadline, and your unwillingness to provide an extension to the statutory time limits means thousands of businesses now face what amounts to “regulated insolvency” because of your inaction.

Effectively, Minister, your inaction means many small businesses will be unable to rehire laid off employees in the worst labour market in decades with unemployment rates approaching 14 percent. It means businesses can’t pay landlords, won’t use BC Hydro power, can’t pay taxes, and many decades-long employees will not have the means to support themselves. It means despair for younger workers facing 30 percent unemployment rates. And it means workers and businesses won’t be able to purchase goods and services from other businesses. The direct and knock-on effects are countless and exactly the opposite of what is required to rebuild consumer confidence, restore government revenues and, most importantly, Minister, provide the family supporting jobs that small businesses create. The business community

repeatedly brought this looming issue to your government's attention, beginning in early April. Regrettably, you have not reached out nor responded to our concerns until last Thursday, June 17, leaving your Ministerial duties to others in your government.

The business community is extremely disappointed with your response and, respectfully, calls upon you to immediately revisit your decision and issue an extension to the temporary layoff time limits as we have requested without delay.

In our June 7 correspondence to Premier Horgan, we note that a staggering 353,000 jobs have been lost in British Columbia since the onset of the COVID-19 pandemic. We trust you agree this is an unprecedented situation that requires Ministers to maintain a "watching brief" and respond to evolving circumstances in the current public health and economic crisis. According to Statistics Canada, there are 133,600 British Columbians currently on temporary lay-off. Of these, fully 127,000 were laid off between February and May, 2020. In this context, every effort should be taken to assist hard-hit businesses to survive, reopen, and recover so that these layoffs don't become permanent.

In our previous correspondence, we acknowledged and expressed appreciation for your government's modest 3-week extension of the temporary layoff time limits from 13 to 16 weeks through Order in Council (OIC), No. 219, dated May 4, 2020. Our recent correspondence asked for a further extension, to August 31, 2020, along with six additional weeks once emergency orders are lifted. At the time OIC 219, 2020 was issued on May 4, officials in your government acknowledged the initial extension would likely need to be revisited, hence our letter of June 7 to provide sufficient lead time for you to process an OIC extending the timeframe. Our request for an extension is completely in line with those granted in other provinces. The extension is needed to save hard-hit employers from bankruptcy and/or insolvency when they are obligated by law to pay severance due to the expiry of the 16-week period which, for many employers, begins in early July. An extension would also help to facilitate laid-off workers' return to work as businesses reopen, increase revenue and cash flow and, hopefully, eventually return to pre-COVID-19 operating levels.

To be clear, many employers were forced to issue temporary layoff notices due to COVID-19 public health and emergency orders issued by your government. We all understand the unprecedented nature of the COVID-19 pandemic and the need for these measures. Yet, through your inaction now Minister, you are dismissing the gravity of the situation still facing many businesses who have been forced to close or curtail operations and layoff workers. Many firms are facing stark financial challenges, including low or exhausted operating lines of credit and/or working capital. For those businesses fortunate enough to have available credit or working capital, it is needed to help facilitate the reopening and recovery that your government is now allowing. In many cases, employers are understandably not permitted to reopen at pre-COVID-19 operating levels because of public health guidance, further straining their financial position and ability to immediately rehire workers temporarily laid off. The statutory requirement to pay severance at the end of 16 weeks due to the unforeseen circumstances of COVID-19 is unduly punitive for employers working hard to get back on their feet and is detrimental to the restoration of jobs for temporarily laid off workers.

Your letter's suggestion that employers make use of Section 72 of the *Employment Standards Act* to apply for a variance to extend temporary layoff time limits is a hollow offering and, frankly Minister, insulting to the many businesses struggling to recover or simply keep their doors open as a result of COVID-19. You are aware, or ought to be aware, of the substantial back logs within the Employment Standards Branch. If businesses are required to use this "pathway", it will be several weeks or months before extensions to statutory layoff provisions that are urgently required NOW are granted. The result will be widespread

bankruptcies and insolvencies that you, as Minister of Labour, caused through your inaction. Your approach is perplexing and is unacceptable. It also unnecessarily places at risk thousands of jobs for youth, women, and vulnerable people in our society.

In the interests of doing what is right for workers and employers in British Columbia, Minister, we call on you to act on our reasonable request for an extension to the temporary layoff time limits to August 31, 2020, along with an additional six weeks once emergency orders are lifted. Time is of the essence.

Sincerely,



Anita Huberman



Val Litwin
President & CEO



Samantha Howard
Senior Director, B.C.



Bridgitte Anderson



Chris Gardner
President



Greg D'Avignon
President & CEO



Greg Wilson
Director



Mark von Schellwitz
Vice President,



Ingrid Jarrett
President & CEO



Walt Judas
CEO



Dave Earle
President & CEO



Jeff Guignard
Executive Director

CC: Honourable John Horgan, Premier of British Columbia
Honourable Carole James, Minister of Finance
Honourable Michelle Mungall, Minister of Jobs, Economic Development and Competitiveness
Honourable Bruce Ralston, Minister of Energy, Mines and Petroleum Resources
Mr. Geoff Meggs, Chief of Staff to the Premier
Mr. Don Wright, Deputy Minister to the Premier, Secretary to Cabinet and Head of the Public Service
Mr. Trevor Hughes, Deputy Minister of Labour
Ms. Lori Wanamaker, Deputy Minister of Finance
Ms. Christine Kennedy, Deputy Minister, Jobs, Economic Development and Competitiveness
Mr. Fazil Mihar, Deputy Minister, Energy, Mines and Petroleum Resources
Mr. Andrew Wilkinson, Leader of the Opposition