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Monday, May 3, 2010

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Chair

Ms. Candice Hoepfner

Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

Monday, May 3, 2010

• (1530)

[English]

The Chair (Ms. Candice Hooppner (Portage—Lisgar, CPC)): Good afternoon, everyone. I would like to call to order meeting 15 of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities.

Pursuant to the order of reference of Wednesday, March 3, 2010, we have before us Bill C-395, An Act to amend the Employment Insurance Act (labour dispute), and we will now be going through clause-by-clause consideration.

(On clause 1)

The Chair: Shall clause 1 carry?

Yes, Mr. Lessard.

[Translation]

Mr. Yves Lessard (Chambly—Borduas, BQ): Madam Chair, we already discussed it. Further to remarks made by witnesses, namely representatives of the Conseil national des chômeurs et chômeuses and the FTQ, we examined clause 1 carefully. These witnesses were concerned about the benefits workers would receive during the period following the dispute. Initially, we thought it was obvious that the provision was included.

To be safe, though, it may be preferable to move an amendment that makes the intent of the bill perfectly clear.

I will hand out an amendment. We have begun discussing Bill C-395, An Act to amend the Employment Insurance Act (labour dispute), is that right?

[English]

The Chair: Bill C-395, yes.

[Translation]

Mr. Yves Lessard: Bill C-395, right?

The Chair: Yes.

[English]

Is that what you...?

[Translation]

Mr. Yves Lessard: I thought so. Very well. Someone missed the beginning of the meeting and told me I was not on the right bill.

[English]

The Chair: Okay. So you don't want to amend clause 1 in Bill C-395; that's what you're saying.

[Translation]

Mr. Yves Lessard: Yes, Madam Chair. I want to move an amendment to clause 1.

[English]

The Chair: Right. That's what we're discussing.

[Translation]

Mr. Yves Lessard: It is line 19 on page 1. If I may, I will hand out the amendment in both official languages, and we can read it together.

[English]

The Chair: Mr. Lessard, I think you have the wrong one. We're looking at Bill C-395. Is that the bill you want to amend?

[Translation]

Mr. Yves Lessard: Yes. Are we talking about the same thing? I am also talking about Bill C-395.

[English]

The Chair: Okay, then, we are on the same page.

Is it the line at the very end?

[Translation]

Mr. Yves Lessard: I will wait until everyone has the amendment, and then I will explain.

This will be the only amendment we put forward. As I said earlier, the purpose of the amendment is to add clarity. In our view, it is in keeping with the intent of the bill.

On line 19 of clause 1, on page 1, the sentence ends as follows: "where the person was employed." In order to make it clearer, the period should be replaced by a comma followed by the addition of "provided that, for the purposes of determining the weekly rate of benefits, the qualifying period is established retrospectively to the fifty-two weeks preceding the beginning of the dispute."

That way, the bill would indicate the date when the extension in question begins.

• (1535)

[English]

The Chair: Monsieur Lessard, can I ask you one question to begin with? Your bill says to amend by replacing line 19, but you're referring to line 18.

Ms. Raymonde Folco (Laval—Les Îles, Lib.): It's page 18 in French and page 19 in English.

The Chair: Thank you.

We are going to suspend for a few minutes so we can all have a chance to take a look at this amendment.

•

_____ (Pause) _____

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• (1540)

The Chair: Thank you.

Mr. Lessard, we'll ask you to please explain your amendment for us. We all think we understand it, but we would like to hear your explanation.

[Translation]

Mr. Yves Lessard: This amendment helps to ensure that there will be no debate to grant rights other than those set out by the bill. So the amendment anchors the dispute in time, because it is the dispute that determines when people are no longer entitled to receive EI.

Witnesses pointed to the fact that when you do not specify when the person's entitlement to receive benefits begins, it can be open to interpretation. So we are saying that during the 52 weeks preceding the dispute, the worker must have been employed by the company in order to be considered to have been laid off when the employer shut down. It happened three years later, in this case.

I am not sure whether that is clear. At first, we did not think we needed to specify that, but, in light of what some witnesses pointed out, we think it might be open to interpretation otherwise. So we think it should be included in the bill.

[English]

The Chair: Madame Folco.

[Translation]

Ms. Raymonde Folco: I think the starting point behind the logic has to be in clause 2, as it appears here, which indicates the date that the bill comes into force, January 1, 2008. If I understand Mr. Lessard's amendment correctly, it would make it possible to limit the retroactivity set out in clause 1(2)(8) to 12 months. It could not go back more than 12 months before January 1, 2008. The period could begin only as of December 31, 2007. Therefore, Mr. Lessard's bill limits the retroactivity of the period.

Is that right, Mr. Lessard?

Mr. Yves Lessard: Those are two things, I believe. You are partly right, but we cannot grant a right that was not intended in the legislation. Entitlement to EI benefits is not retroactive. Benefits are applicable only as of the date when the workers were laid off, January 1, 2008. The dispute had gone on since 2005, for three years. So what we are saying is that, in order for a worker to be entitled to EI benefits, not only does the worker have to have been

involved in the dispute and been locked out, but the worker must also have been employed by the employer during the 52 weeks preceding the beginning of the dispute. And that is what we want to clarify. Is that clearer now?

Ms. Raymonde Folco: Yes. Thank you, Mr. Lessard. It is for me, yes.

[English]

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): I just have a couple of comments.

First, I've always felt that trying to craft a bill retrospectively to cover a particular situation, as Mr. Lessard has in mind, is not a good thing to do. Second, it is much broader than that and catches anyone who would have been in similar circumstances for the period starting January 1, 2008.

As I understand his amendment, if there were a dispute on January 2, 2008, you would reach back 52 weeks to 2007 to determine what benefits the person would be paid. But it would only be for those disputes that came into effect on January 1, 2008, or later.

Is that correct?

• (1545)

[Translation]

Mr. Yves Lessard: Mr. Komarnicki's question is important because it goes to the heart of the matter. Remember this is an exceptional circumstance. It is very rare that a company would shut down after a long dispute and that the workers would be entitled to EI benefits. Usually, the company shuts down before the dispute goes on for 52 weeks. The only case we found was this one, but you are right, it could apply to others.

It is a dispute that lasted three years. The order to shut down the company came after a three-year lock out. In January 2008, the employer decided to shut down. As a result, what both levels of government considered a lock out officially turned into a shutdown, and all the workers were laid off. So everyone wanted to collect EI, but the government would not let them because it had been more than 52 weeks since they had worked. It had been three years.

Normally, these people who had worked for 20, 30 or 40 years would have been entitled to EI if the company had shut down during the first 52 weeks of the dispute. They were denied benefits because the dispute went on so long. Now we are saying they should be entitled to receive EI. Witnesses wanted to know who would be entitled to EI.

Those who, for example, were absent, who were hired in the meantime or whatever the case may be, are they entitled to EI? These witnesses felt that clarification was necessary. They suggested that the bill indicate that these people must have been employed by the company in question during the last year preceding the beginning of the dispute. That is what the amendment says. These people must have been employed during the last year preceding the dispute, they must have worked during that period. In that case, they would be entitled to receive EI.

[English]

Mr. Ed Komarnicki: Just for one further point of clarification, are you meaning, then, that you could actually reach back beyond January 1, 2007, for determining the benefits?

[Translation]

Mr. Yves Lessard: Yes. If the company had shut down during the first year of the dispute, workers would have been entitled to the number of benefit weeks equivalent to the period during which they worked. This dispute lasted more than 52 weeks. In the case of the prisoners, it was 104 weeks, I believe; they already have that right. Here we are saying that, in the event of a dispute, entitlement begins as soon as there is a dispute. Entitlement begins as soon as the company shuts down, in relation to the beginning of the labour dispute. It is as if the workers had been laid off the day before.

[English]

The Chair: Is there any further discussion on the amendment? Everyone understands it?

All right.

Mr. Lessard moves to amend clause 1 by replacing line 19 on page 1 with the following:

the person was employed, provided that, for the purposes of determining the weekly rate of benefits, the qualifying period is established retrospectively to the fifty-two weeks preceding the beginning of the dispute

(Amendment agreed to)

(Clause 1 as amended agreed to)

(Clause 2 agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended be carried?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Thank you.

Now, pursuant to the order of reference of Wednesday, March 3, 2010, we will deal with Bill C-308, An Act to amend the Employment Insurance Act (improvement of the employment insurance system).

(On clause 1)

The Chair: Shall clause 1 be carried?

Yes, Mr. Savage.

• (1550)

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): This is just for a point of clarification, Madam Chair.

Maybe the clerk can confirm: the Speaker has confirmed that this requires a royal recommendation, this bill, correct?

The Chair: Bill C-308? Yes.

Mr. Michael Savage: And maybe the parliamentary secretary will confirm that the government will grant one?

A yes or no will do.

Mr. Ed Komarnicki: Just a yes or no will do?

No.

The Chair: Mr. Lessard.

[Translation]

Mr. Yves Lessard: As a courtesy, I would like to hear what Mr. Komarnicki has to say about the matter, as parliamentary secretary.

Mr. Komarnicki no doubt heard the argument raised by one of the witnesses that the bill would not give rise to any additional costs because normally these people would have received benefits if the dispute had not gone on so long. I would like to hear what Mr. Komarnicki has to say about that just for the sake of clarity.

[English]

The Chair: Well, if he so wishes, he could address it. However, right now we are not actually discussing that. We're going through the bill clause-by-clause.

Mr. Savage did have a question to see if it would royal assent.

It will require royal assent, so I don't believe this is the time when we should be having discussions as it pertains to that issue. I think we need to be going through this clause-by-clause. That discussion probably should have happened earlier on, as we were discussing the bill.

Shall clause 1 be carried?

All those in favour...

Mr. Lessard.

[Translation]

Mr. Yves Lessard: Madam Chair, you say that this discussion should have happened earlier on. I am not trying to get into a debate, but I think it would be enlightening for the committee to discuss the issue. If you say I can ask the question once we have finished with the clause by clause, I would like to get the answer here in committee.

[English]

The Chair: I appreciate that, and I think you're right; I'm trying to move us along in the agenda.

Maybe what we could do is move forward on this, and then possibly at the end of this portion of our meeting we could open it up for further discussion.

That would probably be a very good idea. Thank you.

Again, shall I be carried?

(Clause 1 agreed to)

(On clause 2)

The Chair: *Oui.*

[*Translation*]

Mr. Yves Lessard: I just want to explain something, Madam Chair.

[*English*]

The Chair: Yes.

[*Translation*]

Mr. Yves Lessard: I want to clarify something, if I may. The government temporarily set the insurable earnings amount at \$43,200, and in the wording of the bill, it talks about \$42,500. That amount is indexed. Currently, the amount is slightly higher. I think everyone understood.

That is all I wanted to say, Madam Chair. We can carry on.

•(1555)

[*English*]

The Chair: Were you asking Mr. Komarnicki for clarification?

[*Translation*]

Mr. Yves Lessard: I was just clarifying something, Madam Chair.

[*English*]

The Chair: Oh; you were clarifying.

[*Translation*]

Mr. Yves Lessard: The bill talks about \$42,500 in insurable earnings, but currently that amount is \$43,200. I just wanted to point out that, under the bill, the amount would have been indexed since 2009, so it would be slightly higher than \$43,200. It was just to say that the rule that applies here would apply to the amount allowed currently. It was just a clarification.

[*English*]

The Chair: Thank you very much.

(Clauses 2 to 10 inclusive agreed to)

The Chair: Shall the schedule carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: We don't need a reprint.

Thank you. That work is completed.

I will now allow Mr. Komarnicki the opportunity to answer Monsieur Lessard's question.

Mr. Ed Komarnicki: He could restate the question, I suppose, so I could get it more clearly, but in essence this bill would require significant spending in a host of areas.

One, of course, is increasing the amount of the benefit by raising it. There are a number of other things. It would end up costing a few billion dollars.

I know he said before that there were funds in the EI account that were taken by the previous Liberal government and used for other purposes, but that money is gone. Notwithstanding all of that, there is a cost to this, and a royal recommendation would be required. It's not something we would want to impose on employers, employees, or the Government of Canada.

The Chair: Thank you, Mr. Komarnicki.

Monsieur Lessard.

[*Translation*]

Mr. Yves Lessard: I understand that Mr. Komarnicki is talking about Bill C-308, which will cost money, but my question about the royal recommendation had to do with Bill C-395. Since he mentioned Bill C-308, I will use this opportunity to remind Mr. Komarnicki that he was among those members who voted with us in 2005, in favour of the 28 recommendations, and that the provisions in Bill C-308 reflect some of the 28 recommendations that he supported.

[*English*]

Mr. Ed Komarnicki: That was then, this is now.

Some hon. members: Oh, oh!

Mr. Ed Komarnicki: I mean, I thought I knew then, but I know now for sure.

[*Translation*]

Mr. Yves Lessard: Your name is there.

•(1600)

[*English*]

Mr. Ron Cannan (Kelowna—Lake Country, CPC): He's a much wiser man now.

Mr. Ed Komarnicki: The fact of the matter is that it's quite simple, really. This is not a bill that the government is proposing. It is a private member's bill. In fact, in fairness to Mr. Lessard, the witnesses have testified that we're not able to say what it is going to cost.

You yourself, Mr. Lessard, indicate that you're attempting to apply it to a specific situation. But the fact is it applies broadly to a number of other situations that could qualify, and it is retrospective and will cost a significant number of dollars, and those dollars are going to have to be paid by someone. It's a present cost that you're trying to impose retroactively, and either EI rates will be affected in one fashion or another or the general public of Canada will. And for the same reasons I stated before, a recommendation will be required.

The Chair: Okay, very good.

I just want to remind everyone before we adjourn that we are travelling to our first nations reserves on Monday. Georges needs to have names in of everybody who would like to go on that trip with us, because it's one week away. We want to make sure we have representation from each party. So this is just a reminder to please get your names in.

Mr. Lessard, did you have anything else you wanted to say, or can I adjourn?

[*Translation*]

Mr. Yves Lessard: Ms. Beaudin and I want to confirm that we will be attending in Val-d'Or. We are confirming what we said last week.

[*English*]

The Chair: Okay. So you two will be the members of the Bloc who will be attending.

[*Translation*]

Mr. Yves Lessard: Yes.

[*English*]

The Chair: Okay.

Is there any other business? If not, we will adjourn.

Thank you. The meeting is adjourned.

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