

CIRB ruling means Canadian rail strike could happen on Aug. 22



While strikes are not uncommon in Canada, usually the labor action doesn't impact both railroads simultaneously given the varied collective bargaining cycles. Photo credit: Boxcar Media / Shutterstock.com.

Ari Ashe, Senior Editor | Aug 9, 2024, 3:43 PM EDT

Commodities transported on Canadian rails are not considered essential services because “reasonable alternatives” exist through long-haul trucking, the Canada Industrial Relations Board (CIRB) ruled Friday, opening the door for a strike to occur as soon as Aug. 22 that would shut down both Canadian railroads.

If the Teamsters Canada Rail Conference (TCRC) went on strike against Canadian National (CN) and Canadian Pacific Kansas City (CPKC), the result would be “inconvenience and economic hardship ... [but] ... not pose an immediate and serious danger to the safety and health of the public,” the CIRB wrote in its unanimous ruling.

TCRC represents about 6,000 conductors, engineers and yard workers with CN and 3,200 with CPKC. The union also represents about 80 rail traffic controllers with CPKC, often referred to as dispatchers.

“Given the circumstances of this case, the board places the parties back in the position they were in on May 9, 2024, when the ministerial referral was made,” the CIRB said. “Accordingly, the board orders a 13-day cooling-off period.”

The decision unfreezes the clock that was paused on May 9 and puts the two sides on course for a strike on Aug. 22 should a deal not be reached by then. While strikes are not uncommon in Canada, usually the labor action doesn’t impact both railroads simultaneously given the varied collective bargaining cycles.

The core issues in the dispute between the union and railroads include salaries, work-life balance and rest periods. CN and CPKC want to abolish the current pay structure for conductors and engineers and replace it with an hourly wage that they consider “modernized.”

TCRC has said the pay structure proposal would mean salary cuts, and it objects to the proposals to amend current workplace rules regarding on-duty time and rest periods.

The West Coast ports of Vancouver and Prince Rupert would be most negatively impacted by a potential strike, given their dependence on rail. CN serves Prince Rupert with most cargo transported inland via rail, while at least half of Vancouver’s volume also moves on trains.

Shippers are likely to explore one of two alternatives to move freight should a strike occur. They could transload cargo into long-haul trucks or pay a trucking company to dray containers about three hours south of Vancouver to Seattle, where the cargo could then move on US-based railroads BNSF Railway or Union Pacific Railroad.

TCRC, in a statement issued after the CIRB ruling, said the union would give 72 hours’ notice of any strike.

“The union’s focus remains on negotiating in good faith and reaching agreements at the bargaining table,” TCRC said. “Whether or not that is possible is entirely up to CN and CPKC.”

First major test for new labour minister

The CIRB decision doesn’t come as a surprise as neither the railroads nor union believe all commodity groups are essential to public safety. CN and CPKC had also

requested a new 30-day cooling off period; that was rejected by the board as unnecessary and because, it said, such a move would only benefit management.

With the Canadian parliament out of session until Sept. 16, lawmakers may have to return to Ottawa early to pass back-to-work legislation should a strike occur.

Containerized shipping was never a component of the CIRB's regulatory review; instead, the question was whether a strike impacting non-containerized commodities such as diesel, propane, potash, grain and other agricultural products would jeopardize public health and safety. For each commodity, the board ruled that there were viable alternatives such as trucking and pipelines that could pick up the slack in the short term should a strike occur.

The CIRB ruling comes as the railroads and union met twice this week with Canada's Minister of Labour Steve MacKinnon to see if he could bridge the divide. More talks are anticipated next week. MacKinnon is new to the position, having only been sworn in on July 19.

"It is the responsibility of unions and employers to negotiate deals at the bargaining table," MacKinnon wrote on X, formerly Twitter, Friday afternoon after the CIRB ruling.

CPKC and CN are asking MacKinnon to force binding arbitration on both sides, as his predecessor did in June between Canadian airline WestJet and the union representing mechanics.

Still, a TCRC spokesperson told the *Journal of Commerce* that despite the binding arbitration, the airline mechanics eventually went on strike for two days before reaching an agreement.

"We trust the new minister will respect rail workers' right to collective bargaining," the spokesperson said.

If MacKinnon does not exercise binding arbitration, only lawmakers in Ottawa could end a strike.

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