



Brothers, Sisters:

Bankruptcy of Util

On August 4 2023, Util declared bankruptcy. A company called KSV was appointed as the bankruptcy trustee. The role of a bankruptcy trustee is to take over the assets of the company in order to distribute the assets of the company amongst all creditors according to certain rules.

Operation of the business by KSV

KSV has also been appointed as a receiver and manager by the Ontario Superior Court of Justice. KSV is appointed as a receiver and manager so that it can operate the business for a limited period of time. The Union has been told that the length of that operation will be between three and eight months.

The continuation of the business by KSV for this period of time has two objectives. The first objective is to enhance the value of the business which would benefit all creditors including employees. The second purpose is to potentially interest a buyer that would continue to operate the business in the future.

KSV negotiated with Unifor the basis on which it will operate the business. KSV will follow the collective agreement. It will deal with Unifor to resolve disputes.

KSV will be recalling you to work in accordance with the process in the collective agreement. That will happen in the next days. We expect that some of the existing management will remain in place to assist in running the business.

It will be necessary for a sufficient number of employees to accept the recall to work. If not enough employees do accept a recall to work, the plan to continue to operate the business might fall apart.

In order to incentivize employees to accept the recall to work, KSV as the Court-appointed receiver has agreed to the following incentive payments following a return to work, based on a regular week of wages (the “**Retention Pay**”):

1. Recalled Employees shall be entitled to the following Retention Pay:
 - i. Recalled Employees who work for the period commencing on the date recalled (the “**Recall Date**”) and ending three months after that date (the “**Initial Retention Period**”), will be entitled to and will be paid **one week Retention Pay** (the “**Initial Retention Payment**”);
 - ii. Recalled Employees who also work for the period from three months plus one day from the Recall Date to the date that is six months from the Recall Date (the “**Secondary Retention Period**”), will be entitled

to and will be paid an additional two weeks Retention Pay (the “**Secondary Retention Payment**”).

- iii. If operations continue beyond six months, further retention bonuses will be negotiated at that time.
2. Employees terminated for just cause during the Initial Retention Period or the Secondary Retention Period will not be entitled to Retention Pay;
3. Employees who are terminated without just cause during the Initial Retention Period will be paid the Initial Retention Payment; and
4. Employees who are terminated without just cause during the Secondary Retention Period will be paid the Initial Retention Payment and the Secondary Retention Payment.

If you do not accept a return to work if it is offered, it is possible that your entitlement to Employment Insurance could be affected. That is because a refusal of similar employment may disqualify you from Employment Insurance.

These events create a lot of uncertainty but the decision to cooperate with KSV’s operation of the business is, in our judgment, beneficial to achieve the two objectives set out above. Even if the business is not sold to a new buyer, we have assessed that the position of employees will not be harmed by this cooperation. To the contrary, we think that there is a chance of a much better outcome than if we do not cooperate.

Termination and severance pay from Util

Our members may have claims for termination pay and severance pay from Util.

These claims against Util as a bankrupt company for severance pay and termination pay will have to be decided through a bankruptcy process. That is separate from the continued operation of the business by KSV as the receiver. There is a federal government program called the Wage Earner Protection Program that provides some compensation where a bankrupt company does not have enough assets to satisfy the severance pay and termination pay claims.

We hope that this information will answer some of your questions. You may be assured that Unifor is protecting your interests.

In solidarity

John Turner, Local 112 President
Sam Snyders, National Representative