

# STRIKES 101

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A strike is the most recognizable and publicized element of a workplace dispute, but it's also one of the most confusing and misunderstood. This simple guide helps clarify what a strike is and what's involved.

## **What is a strike?**

- A strike occurs when a team of people withhold labor in order to improve their working conditions.
- Strikes are often the most impactful way working people can come together to influence terms and conditions of their employment.

## **Why do working people choose to strike?**

- Men and women may choose to strike when:
  1. an employer commits an unfair labor practice, such as refusing to recognize its employees as a union; or
  2. the employer, employees and their union are unable to reach a collective bargaining agreement and the most recent proposal on the table is unacceptable to employees.
- Union members vote on whether or not to strike. Because of the personal and collective sacrifices striking requires of working people, many unions require a two-thirds majority vote in order to strike.
- Men and women don't always strike over "bread and butter" issues like wages and benefits. Teachers have gone on strike to improve class size for their students; warehouse employees have gone on strike over unsafe conditions; and machinists have gone on strike to keep jobs from going overseas.
- Strikes can be undertaken as a last resort by employees wanting to resolve a significant labor dispute with their employer or when matters are at an impasse and workers have exhausted all other options.

## **What's at stake for striking employees?**

- Strikes can pose significant economic risks for employees, which is why working people and their unions don't take the decision to strike lightly.
- Even if they receive a modest level of financial assistance through their union's strike fund, employees are not paid by their employer during a strike.
- There is no guarantee that an employer will meet the demands of striking employees.
- Working people engaged in an economic strike can lose their jobs if their employer decides to hire permanent replacements.

## **Are strikes legal?**

- Depending on the sector and industry in which someone works, various laws dictate whether a strike is legal, and when and how a strike can occur.
- Working people generally do not have to be in a recognized union in order to strike.

- The National Labor Relations Act (NLRA) grants the majority of private sector employees the right to strike. Farmworkers, domestic workers, independent contractors and some supervisors are explicitly exempted from the law. The Railway Labor Act protects the right of workers specifically in the railway and airline industries to strike in certain circumstances.
- People employed by the federal government do not have the right to strike. The men and women who work for state and local governments only have the right to strike if their state allows it by statute. Generally, police officers, firefighters and prison guards – who are deemed to hold “essential” positions – generally never have the right to strike.
- The International Labor Organization considers the right to strike essential to freedom of association, as long as it doesn’t interfere with public safety.

## Types of strikes

- An unfair labor practice (ULP) strike is in response to an employer violating federal labor law – for instance, when an employer fires employees for attempting to form a union. Working people cannot be permanently replaced in a ULP strike.
- An economic strike is when individuals strike to compel an employer – such as when an employer insists on cutting pay and benefits. In these strikes, an employer can permanently replace employees.
- A sympathy strike occurs when men and women strike in solidarity with other working people who are striking or who are locked out by their employers. For example, delivery drivers may refuse to cross a picket line to deliver packages to a company whose employees are on strike, even though they are not directly involved in the dispute. If someone honors a ULP strike through a sympathy strike, they cannot be permanently replaced, whereas if they honor an economic strike, their employer can permanently replace them.

## What’s the difference between a strike, a lockout and a work stoppage?

- A lockout is the opposite of a strike and occurs when an employer prevents employees from working in order to pressure them into accepting certain working conditions.
- Employees can stop working temporarily in response to abnormally dangerous working conditions. This is considered a work stoppage, not a strike. However, individuals must return to work when their employer properly addresses the unsafe conditions. It is unlawful for employers to permanently replace anyone engaged in a work stoppage if their position is covered by the NLRA.

## How often do strikes occur?

- The Bureau of Labor Statistics tracks strikes and lockouts involving more than 1,000 employees.<sup>1</sup> In 2015 there were 12 large strikes and lockouts, a rise from 11 in 2014 and 5 in 2009. However, from the 1940s up until the late 1970s, there were hundreds per year.
- Scholars have attributed the sharp decline in strikes in the United States to the ability of employers to permanently replace striking employees.<sup>2</sup> Because U.S. employers can permanently replace employees engaged in an economic strike, the International Labor Organization considers the United States in violation of international standards on the freedom to associate.<sup>3</sup>

## Citations

1. Bureau of Labor Statistics. 2016. “Table 1. Work stoppages involving 1,000 or more workers, 1947–2015,” February 10, 2016. <http://www.bls.gov/news.release/pdf/wkstp.pdf>.
2. Pope, James Gray. 2010. “The Right to Strike Under the United States Constitution: Theory, Practice, and Possible Implications for Canada,” *Canadian Labour and Employment Law Journal*, Vol. 15.
3. Compa, Lance. “Unfair Advantage: Workers’ Freedom of Association in the United States under International Human Rights Standards,” Human Rights Watch, August 2000. <http://www.hrw.org/sites/default/files/reports/uslbr008.pdf>.