

# **NAVISTAR** UPDATES

## **December 20, 2012 - Severance/Pension Update**

Over the last number of weeks Navistar has denied severance to those individuals who may be eligible for an unreduced deferred pension. The union does not agree with the company's position regarding entitlement for severance pay. Please find below the explanation of this situation.

Why doesn't the union abandon the case at FSCO so Navistar will pay severance pay? The simple answer is that the union is defending the legal rights of the Chatham members.

According to the law in Ontario, the plant closure and restructuring of Navistar's operations in Chatham triggers a partial wind-up of the hourly pension plan. Workers who lost their employment at Navistar as a result of the company's decision to close the facility are entitled under the Pension Benefits Act of Ontario -- provided their age plus years of employment at Navistar totals 55 or more -- to retire or grow-in to a pension on the date that provides the member with their most valuable pension.

In many cases this most valuable retirement date will be a member's 30 year retirement date. In other cases it will be the date the member attains age 55 and at least 10 years of service -- the criteria for qualifying for a Special Early retirement pension under the Plan. For members at or close to age 62 and over who have at least 10 years of service it may be immediate retirement.

The plant closure and pension plan wind-up triggers something known as the "deemed consent" provisions under the Pension Benefits Act. The deemed consent provisions essentially mean that where the consent of the employer is required in order to receive a particular pension benefit, as in the case of the Special Early pension, this consent is "deemed" to be given. Combined with the grow-in rights contained in the Act, deemed consent provides many Chatham members with access to Special Early retirement under the pension plan.

Navistar has disagreed with the Union's position on the wind up and in particular disputed the application of the deemed consent provision. The company has repeatedly refused to provide the union with a single example of a case in Ontario where deemed consent has not applied in a plan windup. It has refused to provide the Union with copies of any advice or opinions of its pension advisors (actuaries and lawyers) that support the company's position on this issue. We firmly believe this is because Navistar has not received such advice -- instead we suspect it is choosing to ignore the advice of its advisors in the hope of minimizing the cost of the closure and avoiding its full legal obligation to Chatham members.

### **So what does this mean to a Navistar member?**

While every member's case is unique, the facts are that the vast majority of Chatham members in the hourly pension plan meet the rule of 55 and qualify to grow-in to an

enhanced pension as part of the partial wind-up. For a member aged 50 with 21 years of service, for example, the difference in the value of the pension assuming the member is entitled to grow-in to the most valuable retirement date on wind-up (the Union's position) and the value of this member's pension under Navistar's interpretation, is over \$43,000. This is how much such a member stands to lose if the Union were to abandon its position with FSCO and agree with Navistar, in order for Navistar to agree to pay out the 21 weeks of severance pay to this member. Clearly this would not be in the members' best interest.

**Please note the above calculations will be different for every plan member.**

We will continue to update when accurate information is available. We are awaiting a meeting with FSCO and the Corporation in the early New Year and hopefully, reaching a conclusion to the many outstanding issues. We will update our membership following this meeting.

### **Local Union Assistance – Severance / Pension**

To further assist the membership in this fight with Navistar, Chairperson Cathy Wiebenga has agreed to be at Local 127 hall on the following dates:

Wednesday January 2, 2013  
Tuesday, January 8, 2013

Please watch the website for future dates on this matter. We ask the membership to understand that Cathy may not have all the answers or solutions to the many issues but we thought it important to have someone to go to in attempt to answer some of your questions. In consultation with Sonny Galea from Local 35, Cathy will also attempt to answer any questions for the office members. This process is being set up by jointly with the CAW National Union and the Locals 35 and 127.

President Ken Lewenza remains committed to ensure that our Union continues to provide full support from our Legal and Pension and Benefit Departments and Service Staff.

I am sure you join us in commending Cathy for making this effort on behalf of the Navistar members.