

## **FAILURE TO MEET PAYROLL BY A PRODUCTION AND THE PERFORMANCE BOND**

We recently had a production run into financial problems that ultimately had them miss the payment of the payroll as per our contract. Although the payroll in question was eventually paid it led to a discussion, from many workers I talked to, on what protection the union has for a producer who defaults on payroll.

Prior to going to camera a producer will provide the union with a Performance Bond. Ideally it would be nice to receive an amount to cover two week's pay. Typically you would not find out the production is defaulting on payroll until the week the payment is required, which is the end of the week following the week that is owed. So the production would then owe the prior week and the current week of pay.

A union such as ours represents a large portion of the crew. A weekly gross payroll for our bargaining unit, once a show goes to camera, could easily average anywhere from \$200,000 to \$300,000. This means we would need a Performance Bond of about \$500,000 (2 week's pay) to ensure the crew is paid. This is not practical and a production would never agree to this. What we receive, per our Master Agreement with the CMPA, is an amount that essentially covers any outstanding individual crew member disputes at the end of the show.

It may seem that the union takes on a great risk that the crew may not be paid. However, this has not proven to be the case. In the over 17 years I have been Business Manager at this union local only one show has created any concern about paying our crew, once the show went to camera, and that show eventually paid without us having to resort to taking any legal action. That production is the one previously mentioned.

If a show is to go down it has historically happened in early prep, often before we have had a chance to sign the show. To the best of my knowledge the crew was paid. If the show has not been signed yet we will not receive the payroll.

In conclusion, the signing of any independent production does not come risk free. However, our track record has proven that the risk is minimal. If we were ever put in a position of having to go after a production legally we have considerable resources to do so. Although productions defaulting on payroll are rare, I have linked articles to couple of the more prominent cases. One was a show shooting in BC and one is from Alberta:

<http://playbackonline.ca/2004/08/16/choas-20040816/>

<http://calgaryherald.com/entertainment/movies/labour-board-rules-producers-of-alberta-shot-western-cannot-touch-alberta-film-grant-funds-until-workers-paid>

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