

Players file class action lawsuit against CHL

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A class action lawsuit launched against the Canadian Hockey League alleges its players are underpaid and seeks millions in financial compensation.

The suit claims players have been paid less than the minimum wage required by law in their regions and asks for \$180 million in back wages, overtime and vacation pay, as well as punitive damages.

The CHL is the umbrella organization for the Western Hockey League, Ontario Hockey League and Quebec Major Junior Hockey League. It touts itself as the top development league for the NHL.

There are 60 teams in the CHL stretching from Victoria to Halifax as well as eight teams based in the United States. More than 1,300 players ranging from age 16 to 20 play in the CHL's leagues, which comprise both privately owned and community-owned clubs. Teams such as the Calgary Hitmen and Edmonton Oil Kings are owned by the NHL team in their respective cities.

The lawsuit is the latest labour shot across the major junior hockey's bow. An attempt to unionize major junior players stalled in 2012, but Canada's largest private sector union Unifor expressed interest in July in representing the players in the future.

A statement of claim filed last Friday in Ontario court alleges that if players want to participate in these leagues, they must sign contracts paying them a weekly fee between \$35 and \$125 per week with no set hourly wage, overtime, vacation or holiday pay.

The lawsuit cites OHL players as examples, saying they devote 35 to 40 hours to a team and receive \$50 a week on average.

None of the allegations have been proven in court.

The crux of the lawsuit isn't whether the players are professional or amateur, but whether they are employees of their teams or "independent contractors."

"The big question is whether the players are employees within the meaning of minimum-age legislation across the country versus an independent contractor," said Toronto lawyer Ted Charney, who is representing the players. "If the judge hearing the class action decides they're employees, in my opinion, there is a breach of legislation across the country."

CHL commissioner David Branch counters the players are neither employees nor independent contractors.

“They’re amateur student-athletes,” Branch said in an interview Monday. “We’ll certainly vigorously defend ourselves because this could not only in our view have a negative effect on hockey in Canada, but through all sports in which amateur student-athletes are involved.”

Charney disagrees with the Branch’s description of the players.

“It’s hardly an amateur league,” Charney said. “The league is in the business of making profits, which they do, significant profits off the services provided by the players who get basically zilch in terms of services.

“Normally an amateur athlete plays a sport for a university or a school and they have amateur standing and the school or university doesn’t compensate them for their services. Here they’re actually getting a fee. The problem with the fee is it’s not minimum wage.”

Branch says the CHL paid out more than \$6 million in post-secondary scholarships to 579 players last season.

“We have an education program unmatched in amateur sport,” he said. “We believe it’s the best scholarship program in North America. We’ve invested for the player in extensive health and safety programs, anti-doping and drug education.

“We are into developing and executing a mental health program in partnership with the Canadian Mental Health Association to support our players. In addition to that while playing in our league, all their expenses are covered — equipment, billeting, travel costs and so forth.”

Former OHL player Sam Berg is the one named plaintiff in the suit. The son of former Toronto Maple Leaf Bill Berg says the OHL’s Niagara IceDogs breached the player agreement he signed in August 2013.

Berg played eight games for the IceDogs. He was sent to a Junior B team in October 2013, was injured and quit hockey. Now a university student, Berg contends he is owed both back pay as well as a the post-secondary scholarship as set out in the contract.

Charney encouraged current and former players to register on a website to be part of the class action, but acknowledged current players may be afraid to do so.

“At the moment, current players have been very hesitant to come forward because they feel it will impact their ability to play on their team and their relationship with the league and their potential to be drafted into the professional hockey leagues,” he said. “They’ve been very reluctant to come forward as the lead plaintiffs in this class action.

“We anticipate now that the case has started, some of the players will register with us and give us their information which we will keep confidential.

“It’s very hard to participate in a lawsuit against your employer while you’re still working for them. That’s an element of this case that will be a challenge, but the way it works in class actions

is everybody who is in the class action gets the benefit of the result unless they opt out of the class action.”

Branch would not address the impact on CHL teams if they were required to pay players minimum wage.

“I wouldn’t even want to comment in that area,” he said.