Impact
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COMPENSATION EMPLOYEES' UNION

Message from the President October 2012

The more mature our relationship with the larger labour movement becomes, the more I realize how important it is that the CEU has a voice there. Our connection started when we affiliated with the BCGEU eight years ago.

Through our affiliation, we are also linked to the BC Federation of Labour, the Canadian Labour Congress, and of course, our national union, National Union of Public and Government Employees, NUPGE. This report will focus on some of the value I believe our labour connections bring to the table.

In September, I attended NUPGE's National Executive Board meeting where I met many Presidents of NUPGE affiliates from all across Canada.

I am very impressed with the work NUPGE does. They use their excellent research and communication expertise to develop solution orientated, national campaigns, on issues that face us every day – the assault on labour rights, the erosion of tax fairness, the attempt to roll back our pensions and the attack on public services are a few of the issues NUPGE has spearheaded national campaigns on.

Many of these campaigns fall under the All Together Now umbrella. I urge you to check this website out, and do what you can, to champion an issue near and dear to you http://alltogethernow.nupge.ca .

The meeting was also the perfect stage to raise the possibility of starting a NUPGE campaign on core values around workers' compensation. I drew on my past experience when, many years ago, the all WCB Union conferences started a smaller campaign. I started this lobby because I believe it's time to put publicly funded workers' compensation issues back onto the national agenda.

In BC, the timing is even more important because there is a strong potential we'll have a change in government. I spoke with Darryl Walker, BCGEU President, and suggested we have a prime opportunity at hand, one where labour can define what our WCB should look like. Through our BCGEU affiliation, I believe we can add CEU values and goals to the discussion. I will continue this discussion with Darryl, the BC Federation of Labour, and NUPGE during the coming months.

I also want to talk about the value of being affiliated to the BC Federation of Labour. The recent gainshare media debacle could have been much worse for all of us. But we had Jim Sinclair's backing. He worked hard to downplay the payment, confirmed it was legitimate under the PSEC mandate, and he did not allow the media to run with it. His efforts were successful. I am not sure that would have

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happened if we weren't affiliated, and I appreciate Jim's efforts on our behalf.

Lastly, I want to discuss the effect affiliation has on our bargaining. Because of our affiliation to the larger labour community, we have a role during the Federation's Broader Public Sector bargaining meetings. This year in particular, that participation is vitally important. By gaining insights into the government's positions at other bargaining tables, it helps us to position ourselves in a way that we hope will help us to achieve a better collective agreement for you.

In the lead-up to gaining a collective agreement, I encourage all CEU members to get involved in the bargaining process. Let management know you will not accept concessions! CEU members have worked very hard over the last several years, and it is more than time that that hard work is recognized. Raise your voice – it's time for a fair and reasonable collective agreement!

Bargaining in the face of government-mandated roadblocks

The first public-sector union to go to the bargaining table in 2012 was the BCGEU. After starting in January, they exercised a limited strike over the summer to try to achieve a fair and reasonable agreement. Finally in late September, they reached a tentative two year deal that includes job security and a four percent wage increase.

Now, here we are, in late October, and there is no sign of a new CEU contract. Some CEU members are wondering why. "Usually, at least one union has a collective agreement by the end of June. I've never seen a year of public-sector bargaining like this," said Susan Epp, CEU Business Manager.

As reported in an earlier *Impact*, the employer showed little appetite to hold meaningful discussions on important CEU proposals: including part-time care and nurturing, working conditions, workload and improved flexibility for A & S types. Bargaining with the Board occurred between April and July and resumed again on October 17th. The Board continues to say they are not interested in these important proposals and talks have broken off.

Historical strong-arm tactics

Over the last 30 years, unions have faced lots of government related problems when it comes to bargaining. In 1983, the Social Credit government introduced 26 bills stripping rights away from unions, community groups and activist organizations. But public resistance resulted in 25,000 people demonstrating at the BC Legislative Buildings, and almost resulted in a general strike before changes were made.

In the Gordon Campbell era, public sector unions once again found themselves on the wrong end of legislation when the Liberals won 75 of 77 seats. "After the 2001 election, several things happened. Some unions were targeted. Parts of their collective agreements were eliminated, especially the provisions relating to job security and reorganization. The resulting massive job losses were later found to be unconstitutional, but the damage was already done. Bargaining for the CEU was also difficult back then – the employer denied they planned to lay people off, but the ink wasn't even dry on the new agreement before they did exactly that," said Epp.

The Board tried to eliminate 500 plus employees in 2002/03 – that's a major loss of jobs. Those were the only two years, since 1995, that CEU members did not have some form of employment security in their collective agreement. Your 2012 bargaining team is very concerned that once again, the Board wants to get rid of employment security (Schedule F – Workforce Transition). The question is; why? We can't help but be distrustful of the employer's rationale for discontinuing Schedule F. They say they have no plans to eliminate jobs...

Protecting your rights

It's well known the Board is constantly changing; reorganizing, declaring redundancies and conducting various studies. Therefore, it's not in CEU members' best interests to bargain that provision out of the contract. In

fact, the Board is engaged in a number of these types of changes right now – excluded analysts are studying all kinds of things, including whether or not certain jobs should continue.

Theoretically, the 2012 version of the PSEC guidelines is better than previous versions because it allows for wage increases. However, many employers, including the WCB are insisting wage increases be paid for by giving something up.

A hypothetical example of giving something up could be an agreement to cap the maximum number of vacation days at 25 days per year. In this example, the union would agree to forgo vacation days for some employees to pay for a wage increase. Your bargaining team believes this approach is unfair and divisive. Collective agreement rights are difficult to achieve, so we will strongly resist giving them up - but we need your help, too!

The Board has many concessionary demands on the bargaining table, including an increase in the work week from five days to six, the deletion of seniority rights for temporary, and typically, young employees, and capping of the retirement payment. As noted previously, the employer also wants to eliminate Schedule F, the Workforce Transition Agreement.

CEU bargaining bulletins are posted on the website, www.ceu.bc.ca

"The employer also wants to eliminate the reorganization committee. In 2002, the CEU fought long and hard to make sure that if we had redundancies this committee would have teeth. Anyone that's been declared redundant will know what I mean. You want to make sure there's a high level of information exchanged, and that placements are not employer directed. We need a process where our members can be confident things are done right, and not just how the employer wants it," said Epp.

If the PSEC guidelines allow wage increases to be paid for by creating savings outside of the collective agreement, why does the Board continue to insist that CEU members give things up to pay for wage increases?

BC Auditor's financial outlook

According to figures released by BC Auditor John Doyle, the deficit for 2011/2012 is more than $2.3 billion. Doyle is concerned the provincial financial statements in 13 of the past 17 years, reflect a "long-standing trend of shortcomings" in government transparency. One specific concern is the $702 million liability created by the government giving tax breaks to the natural gas industry. Another factor adding to the deficit is the $1.6 billion owed to the Federal Government, in the aftermath of the HST debacle.

But the government's budget figures are not all doom and gloom. The provincial economy grew 2.9 per cent in 2011, slightly above the national average of 2.6 per cent. Total revenues also jumped by $1.05 billion, the result of stronger tax revenue arising from economic growth. This translates into a certain level of confidence about our economic future. In fact, a recent Hay Group survey of top employers shows BC's private-sector employees can expect an average salary increase of 2.7 per cent in 2013, slightly less than the national average of 2.9 per cent.

"While I'm not an auditor, it's striking that the government doesn't have any trouble giving industry breaks and ignoring a $702 million liability. We're starting to see some unions get a fair and reasonable collective agreement. Premier Clark says she wants labour peace – so why is the Board stuck on concessions?" said Epp.

CEU members have a long record of caring about their work, and the service they provide to the public. That dedication is the primary reason the union continues to fight for improvements to address working conditions and workload.

"It looks like our members need to flex their muscles if we're going to get a fair and reasonable collective agreement, one that makes the gains our members need. The bargaining pattern does not include concessions, so it is time for the employer to drop them. Address the changes our members need," said Epp.

Director Elections close November 1, 2012
Be sure to cast your ballot!

Prevention Officers get Ready backing

Trouble has been brewing in the officer community over the last year because of the way senior management conducted its investigation into unproven industry complaints. The complaints arose when an industry lobby group alleged a few officers conducted workplace inspections under a cloak of rudeness, name calling and angry and punitive approaches.

The officers involved, with the support of the CEU, took exception to practically everything senior management did in response to these unsubstantiated complaints. But senior management did not back down after the Level 1 grievance hearing, so the union took the cases to arbitration. In August, arbitrator Vince Ready not only found there were no grounds for discipline, he urged the parties to develop a proper mechanism for fair and open investigations into industry complaints.

"One of the glaring problems with all of this was management refused to believe their own staff. In fact, it looks like there was a bad batch of employers at play here. To make matters worse, the Board's investigation did not meet the rules of natural justice; particularly regarding the fair treatment of these officers. It was especially galling when management did not back the officers. They basically said if the customer complains, you are in the wrong. We all know that is wrong-headed thinking," said Sandra Wright, CEU President.

In this case, not only did industry complaints result in management's extreme and heavy-handed approach, but many officers across the province remain concerned lobby groups are having a negative effect on their collective ability to apply a holistic approach to enforcement. In the end, all of this could lead to higher workplace injuries if officers are not free to exercise judgement and discretion.

The Workers Compensation Act was never intended to tilt in one direction or the other. It was intended to ensure workers are safe while they are at work, and that industry and employers comply with the regulations. In a perfect world, inspections would not be necessary. This is not a perfect world. It's time for Board management to show our officers some respect. The detection and prevention of workplace hazards must trump the misplaced emphasis on customer service and industry lobbyists. And, if industry complaints do arise, the best way to deal with them is to follow Ready's recommendation to develop a transparent process for investigations.

"...the Board's investigation did not meet the rules of natural justice; particularly regarding the fair treatment of these officers..."

The officer community also believes other issues need to be dealt with, and a good starting point for getting things going in the right direction would be to re-examine the efficacy of separate divisions for investigations and inspection; the structure of prevention, should it be a separate division from WES or does the current management structure need to be bolstered with a greater level of hands-on prevention experience, to help ensure ongoing supports for training, mentoring and other core needs are addressed. Currently, many officers believe the opposite is true; core prevention needs lag far behind those of claims.

Arbitration ruling means past attendance can affect application process

If you have looked at job postings recently, you probably noticed a clause indicating the position requires "regular and punctual attendance". That means your past attendance record may now affect your application for a new position.

The union filed a policy grievance on this issue in 2009, and in June 2012, Arbitrator Judi Korbin found that "…the employer is entitled to consider attendance in awarding postings, but this must be carried out in a fair process." Following this ruling, the parties met with Arbitrator Korbin to identify and resolve the elements of a fair process. That process formed the basis for a new Letter of Understanding (LOU).

The employer may now review an employee's sick leave record during the selection process. Normally this will occur after the employee has been found to meet the KSAs/SAs required. The sick leave record includes all sick leave related absences including sick leave without pay.

Where the "regular and punctual" standard applies to a job posting, the Board may review an applicant's attendance records when the applicant's sick leave record, in either of the two twelve month blocks of time immediately prior to the date of review, is 50% above the Board-wide average, based on the previous year's average.

There may also be certain jobs posted, as an exception to the norm, which will require "better than average" attendance. The employer is required to provide the union with notice in advance of such postings.

Know your rights! If you are an applicant for a position, please note the following important clause in the LOU:

"In any case in which the applicant's sick leave record becomes an issue, the employer will in the normal course provide the employee an opportunity to discuss and explain his or her sick leave record and to provide any medical evidence that the employee believes is relevant to the discussion. The employee has the right to union representation upon request at such discussion. Where the employer rejects an application based on the applicant's sick leave record, it will advise the union."

The parties also established an expedited dispute process for any grievances arising under this LOU.

If you have any questions about this award, please see your Shop Steward for further information.

When is a lateral not a lateral?

For many CEU members, moving to a new work location during the pre-posting placement process is a long-anticipated event. There are some work locations that are seen to be very desirable, including the Okanagan and Vancouver Island. So imagine the distress that arose in a recent lateral opportunity.

The employer contacted eleven people before they found someone that wanted to go to the new work location. The job was advertised as an OSO – forestry position. While many on the lateral list wanted to go to the work location, it took eleven tries before someone said yes to the OSO – Forestry position.

Under the terms of the collective agreement, the CEU says an officer is an officer. So in this case, while the officer did not have a forestry background, it was expected he would receive the appropriate industry training. And in fact, that is precisely what has happened time and time again.

What complicated this story is that once the CEU member arrived, he expected to be trained for the forestry. Not so, he was assigned to construction, an area he was familiar with. Now some of you might wonder, what's wrong with all of this. The officer is doing the work he's familiar with right?

Well, not so fast. The employer advertised the job as an OSO – Forestry position. Then they canvassed the people on the lateral list. Ten people with more

seniority than the person who eventually accepted the position turned it down because they weren't interested in a forestry position. And now, the officer isn't even doing forestry. That means, there's a high probability at least one of those ten people, has been adversely affected by this unexpected turn of events.

The collective agreement has posting and pre-posting language to ensure there is a level playing field, one that is completely transparent so when vacancies are being filled, CEU members know what the vacancy is, and then they can make an informed decision about whether to apply, or in the case of a lateral, accept the lateral. That did not happen in this case.

Adding to the problems around transparency, there is also a renewed dispute between the union and the employer about training for officers in these types of situations. The union relies on past grievances, and an agreement between the parties that normally sees officers receiving training when they do not have industry experience. So in this case, the officer accepting this lateral would receive forestry training.

The union accepts people have different reasons for putting their name on the lateral list. Some do it because they want a certain type of experience, maybe they want to work for a certain manager, or perhaps they plan to buy a house and the real estate market is better in that area; but whatever their reason, if an opportunity comes up and management changes the specifics of the lateral after the fact, then that is unfair.

A grievance has been filed to address the different issues arising out of this situation and is scheduled to go to arbitration shortly.

Protect your confidentiality

The union recently discovered that an HR Advisor called the doctor's office of a member to find out if the office had received a form. The HR advisor also asked if the member had made an appointment with the doctor, and if the member attended the appointment. The doctor's office apparently provided this information to the HR Advisor. The Board does not have a right to this type of information.

The member had not signed a release of information form, nor did they know of the employer's actions. This is a violation of the right to doctor-patient confidentiality. In the union's opinion, this is a breach of your right to medical confidentiality, even if the reason for the call was related to your work.

After a call to a representative of the College of Physicians and Surgeons of B.C., the union learned the doctor has the responsibility to ensure that their office, and all staff, follows appropriate protocols to protect your right to privacy. This right covers the protection of anything related to your relationship with your doctor, including details about your appointments, and even whether or not you've made one.

It's one thing for a CEU member to follow up on issues relating to a claim by calling a doctor's office, but quite a different matter for the HR Advisor, or anyone else representing the Board to ask these types of questions about an employee. The difference is, if you are following up about a claim, you have authority under the Act, and the claimant has signed a release.

If you find out this has occurred to you, you can:

- Contact your doctor's office to make the physician aware of this breach, and ensure it doesn't occur again
- Contact the College of Physicians and Surgeons to register your concern
- Contact the Office of the Privacy Commissioner and make a complaint
- Contact the Union and file a grievance.

We take breaches of medical confidentiality very seriously. It's time to make sure your doctor does too.

Workplace bullying increases worker desire to quit

Nurses who are bullied and those who witness bullying report a similarly high desire to quit, according to a study conducted by University of British Columbia (UBC) researchers.

"We tend to assume that people experiencing bullying bear the full brunt," said Sandra Robinson, professor at UBC's School of Business and co-author of the study Escaping bullying: The simultaneous impact of individual and unit level bullying on turnover intention. "However, our findings show that people across an organization experience a moral indignation when others are bullied that can make them want to leave in protest."

In fact, the researchers reported that "when someone is not bullied directly, the impact of bullying within the work unit has a stronger impact on them than when they are the direct target of bullying." They report further "that working in an environment in which others are bullied will create a sense of moral uneasiness that will contribute to their own turnover intentions."

The findings of this study, published in July, 2012, were based on the survey results from more than 350 Canadian nurses across 41 hospital units. Nurses are not alone in their suffering though.

In a CBC news report published in December 2011, Jacqueline Power, an assistant professor of management at the University of Windsor and long-time workplace bullying researcher, said 40 per cent of Canadians have experienced one or more acts of workplace bullying at least once a week for the last six months.

Bullying, also commonly known as psychological harassment, includes unwanted conduct, comments or actions that can affect a worker's mental and/or physical health and well-being. It often involves repeated incidents or patterns of behaviour intended to humiliate, degrade, threaten, intimidate and/or offend the victim(s).

This recent study suggests WCB employees who witness bullying will suffer similar consequences. That's why it's so important to deal with bullying in the workplace. For the last number of years, the CEU has urged the employer to address mental health issues in the workplace so it shouldn't be a stretch for the employer to recognize this issue. With the Bill 14 legislation in place to protect employees from bullying, it will also be important to address the needs of employees who witness the bullying.

ALERT!!!

- Bargaining has broken down
- Check CEU website for <u>all</u> Bargaining Bulletins
- If you haven't signed up for the Members' Only section on the website, please do so

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