



## JOB STEWARD 1



## **What is a Job Steward?**

The position of a job steward is the most important position in the union. The work is challenging and rewarding. A job steward is the first point of contact most members have to the union. You stand with and speak for your fellow members in the day-to-day relations between the union and management in your workplace. You speak for the union to your fellow members and help them understand the union's policies and purposes. You also help mobilize for collective action in the worksite and the community on issues that matter to working people.

Through your work engaging members in the work of their union, you help build solidarity, which is what lets MoveUP work to protect workers' rights and improve the quality of work and life for members.

MoveUP wants to make sure you have all the tools at your fingertips to use the role of job steward to make a difference in your workplace and community. Specifically, MoveUP has found how important it is for stewards to be given the tools and training necessary to confidently file grievances and present the grievances at stages one and two.

As an organization which strongly promotes the education and organizing of its membership, we believe that this manual will become a valuable asset as you perform your duties as a job steward.

## **Learning Objectives:**

- ⌘ Broaden your understanding of the labour movement.
  - ⌘ You will be able to see where unions deal with similar issues, regardless of the differences in the types of work we do, or whether we come from the public, private or trades sectors.
- ⌘ See how your role as a steward is broader than filing grievances and dealing with complaints, while still having the skills to deal effectively with both of these things.
- ⌘ Develop skills to file grievances and present stage I and stage II grievances.
- ⌘ Increase investigative, communication and presentation skills, which are key to being an effective steward.
- ⌘ Become a better leader because through understanding of a steward's roles, rights, and responsibilities.

## Introduction through Interview

**Name:** \_\_\_\_\_

**Employer:** \_\_\_\_\_

**What do you do as a job?**

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**How long have you been a steward?**

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**Have you ever filed a grievance?**

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**Have you ever presented a grievance?**

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**At a stage I grievance hearing what do you think is the steward's most important role?**

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## Key Expectations for the Course:

Think of the key skill or knowledge you want to get from this course. Write your expectation in a “headline” using five words or less.

My expectation is:

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## **MOVEUP STRUCTURE**

### **Unions are a Democracy**

MoveUP members run our union. All union officers are elected by the members in their workplace. The MoveUP president, executive board and executive council members stand for election every three years. Job stewards are also elected from their work areas.

#### **Executive Council**

This is the senior policy making body of the union. Executive council members are responsible for policy issues, the annual budget and all major financial decisions. There is one executive councillor for every 80-100 members. There are a minimum of five council meetings each year.

Councillors bring forward suggestions from stewards and members on the ways the union can improve its policies and services to the members. These issues are debated at council meetings. Councillors also act as chief job stewards, recruiting and advising job stewards in their constituency.

#### **Executive Board**

The executive board is made up of 20 members. The board is the executive management body of the union and meets monthly to discuss administrative and operational issues. The board reports to council on policy and financial matters.

The executive board suggests ways the union can improve its policies and services to members. Board members must represent the interest of all members in their respective workplaces. They also sit on the union negotiating committee during bargaining and hold workplace membership meetings.

#### **The President and Table Officers**

The president assigns all staff responsibilities, manages the union office, chairs meetings and acts as the union's representative to all outside organizations.

The president, the three vice-presidents and secretary-treasurer are the Table Officers. They represent the interests of all union members in discussions at executive board and council meetings on matters regarding administration, policies and financial decisions of the union.

#### **Union Representatives**

Union Reps are full-time employees in the union office who provide technical advice to stewards and executive councillors and teach new stewards how to handle complaints and stage one grievances. Reps handle more complex grievances, keep members up-to-date

on grievance status, take members' cases to arbitration and act as coordinators of bargaining teams during contract negotiations.

### **Administrative Support Staff**

The Administrative Support Staff are responsible for ensuring membership, steward and councillor address and phone lists are up-to-date, recording information on grievance files, advising members about meetings, ensuring that union officers have appropriate forms, bulletins and union booklets to perform their duties. Professional and administrative support staff are employed in the union office.

## YOU ARE PART OF A LABOUR MOVEMENT



The “union” starts at your local but you are part of a much bigger labour movement, which spans from the community your workplace is located in, to provincial, national, and international unions, and central labour bodies.

### **Regional, National or International Unions**

Most local unions belong to a larger regional, national, or international union. They help local unions get unionized and assist them in getting and maintaining a collective agreement. Larger unions have staff and resources to assist in the day to day running of the locals. Regional, national, and international unions hold conventions where their members decide the policies and priorities of the union. The delegates to these conventions also elect the officers of their union to provide leadership between conventions.

### **Did you know?**

7.4 million Canadian workers (nearly half the country's workforce) live in households where there is at least one union member.

### **Three Levels of Central Labour Bodies in Canada**



- ◆ **Canadian Labour Congress**
- ◆ **Federations of Labour**
- ◆ **Labour Councils**

Central labour bodies are another set of structures that bring union members from different unions together. At the community level, different unions come together through labour councils, the provincial level through federations of labour, and at the national level, through the “union of unions”, the Canadian Labour Congress (CLC). Local unions can participate in all three levels of the labour movement.



Central labour bodies bring union members from different unions together, at the community, provincial, and national level because they are active in every aspect of the economic, social, and political life of Canadians. They work together to push forward on issues like increasing the minimum wage, safe working conditions, equality rights, a sustainable environment, and much, much more.

If you think about it, union members work at just about every type of job. You can find them in offices, supermarkets, factories, forests, the media, construction sites, hospitals, schools, transportation systems, and even the corner coffee shop. Why wouldn't we work collectively to improve the lives and working conditions for all workers?

## **International Solidarity**



There are several hundred million trade union members in the world. But this represents just over 1 in 20 of the world's 3 billion plus workers. We have work to do.

- Over 250 million child labourers are exploited for profit or forced to work to survive. It's estimated that every day, 80,000 children are added to the global workforce.
- There are at least 17 countries in Africa, Latin America, and Asia where the informal economy accounts for at least 50% of employment and in several countries, it's 70% or more.

Strong unions are the best defense against the race to the bottom. We need to work together inside and outside of Canada to promote fair trade and end poverty. We push hard for purchasing policies from governments and employers that will demand fair trade policies for goods purchased outside Canada. We say, "Buy Union" to support worker's rights.

The Canadian Labour Congress is an active member of many international networks of workers and community groups. The CLC is a member of the International Trade Union Confederation (ITUC). The ITUC is an international federation of unions that has 311 national labour centers affiliated in 155 countries, representing 175 million workers around the world.

The CLC is also a member of the Trade Union Confederation of the Americas (TUCA), a regional body of the ITUC, which brings workers together in North and South America. Also part of the ITUC are International Trade Secretariats (ITS) which bring together unions in the same sectors or industries in many countries to work against the actions by multinational corporations.

The CLC is also a member of the Commonwealth Trade Union Council (CTUC), which brings together unions in countries that are part of the British Commonwealth.

So that worker's voices are heard in economic trade and policy forums with governments and employers, the CLC sits on the Trade Union Advisory Council (TUAC) of the Organization of Economic Cooperation Development (OECD). This group advises the OECD on workers' rights.

Finally, the CLC also represents Canadian workers interests at the International Labour Organization (ILO). The ILO is a body of the United Nations where workers, employers, and governments come together to set the rules for workers' rights internationally.

# MODULE A

## Dealing With Information:

### Key Skills and Tools a Steward Will Use - Task Sheet

Read the short scenario below. From this information, determine as a group: what you know, what you don't know, and what you need to know before you proceed as a steward. Choose a reporter for your group.

*Meagan is very upset and wants to talk to her steward. She has just received a letter which she shows you. The letter states that she is being suspended for three days without pay for being absent without permission from the employer. Meagan insists that she called in to reception after hours and left a message advising the employer that she had the flu last week. She returned to work today (Monday) and she was off for 3 days.*

1. What do you know?
2. What don't you know?
3. What additional tools (i.e. collective agreement, legislation, files) do you need to deal with this issue as a steward?
4. What would be your next steps?

## **THE TOOLS TO DO THE JOB**

### **BECOME FAMILIAR WITH:**

- 1) The Collective Agreement
- 2) The Employer's Policies and Workplace Rules
- 3) Important Labour Laws
- 4) Working Conditions
- 5) Employer Representative
- 6) The Membership
- 7) Your Union
- 8) Yourself

### **YOU NEED:**

- 1) The Collective Agreement
- 2) Employer's Rules and Regulations
- 3) A List of all Departmental Members
- 4) Grievance Forms
- 5) Fact Sheets
- 6) The Provincial or Federal Health & Safety Act
- 7) Union Constitution and Bylaws
- 8) Member Orientation Handbook
- 9) Pencil and Paper

The first thing a steward should know or begin to get acquainted with is the **collective agreement** or **contract**.

The contract is a set of rules that says “this is the way things should be.”

Like traffic laws, the contract isn’t always followed. The point is that the contract doesn’t enforce itself. It requires people to make sure that it is followed. That’s where the steward comes in. Like a police officer, it’s your job to watch for violation of the contract and to speak on behalf of workers who are affected by those violations. If the contract is not enforced, then it becomes a mere piece of paper.

It is also important to remember that contracts aren’t copied out of some textbook and signed after a casual reading. They are hammered out the union committee and representatives of the employer, usually after weeks of negotiations. The elected union committee doing the fighting is helped by union staff experts who know how to negotiate and know current bargaining trends. Employers use a whole battery of experts to negotiate on their behalf.

Realize that the contract is a compromise agreement between the employer and the union. The stronger party during negotiations tries to make the contract as specifically favourable to its interests as it can. The other side hopes to make favourable inroads with general and limiting language.

One thing cannot be said too often. There are no unimportant clauses in the contract. If there were, unions wouldn’t bother fighting so hard to put them in. If you disregard one clause, let the employer break it at will, you will have a much tougher job trying to enforce the sections you want enforced.

The steward should know all of its provisions and, since no contract is perfect, you must also understand its limitations. Discuss the contract with fellow stewards and union officers. Understand how its provisions apply to special departmental conditions. You don’t have to memorize it word for word, but you must know where to look for the provisions which apply to any particular type of grievance.

Get familiar with the grievance procedure, its steps and time limits. Know where to get seniority lists and, if possible, keep a copy with you. Know something of the wage and classification structure in your workplace.

In addition to the collective agreement, the steward should keep handy the booklets and letters referring to the **employer’s policies and regulations**, and be reasonably familiar with them, especially those sections dealing with disciplinary action. Watch the bulletin boards and read all the notices. Read the employer’s newsletters and financial reports.

You don’t have to be a lawyer, but knowing something about the important labour laws which affect the union and your members will help you do your job to protect your members, build your union and even settle grievances.

You need to know whether you work under federal or provincial jurisdiction with regard to labour laws. You should become familiar with health & safety, human rights, and labour standards laws.

As you become familiar with labour legislation, you will see that most of them could stand a lot of improvement. Many laws which are intended to be helpful may, nevertheless, be weak because of loopholes, inadequate benefits, or poor enforcement. Minimum standards, health and safety, labour relations, Employment Insurance, Workers' Compensation, and Old Age Pension legislation generally fit this description.

There is only one way to make major improvements in the laws - elect pro-worker/pro-union governments through political action. You can make a tremendous contribution if you know what is wrong with the labour and social legislation in this country. Discuss some of these laws with your members and get them interested in your union's political action programme.

You should have a general knowledge of the working conditions and all operations performed in your area. Know which machines are always out of order and which ones run well; which workers are sprinters and which work at a steady pace.

You should know the jobs in the department, the equipment used, and the rates of pay. If there is an incentive system, understand its workings. Be sure you have a copy of the seniority list.

Be businesslike. Put in a folder or notebook all the material on rates, seniority lists, past grievances, and any other information, and keep the file handy. The more you know about the operations, the easier it will be for you to handle grievances.

You should know all of the employer representatives with whom you have dealings, who is who, what is the extent of each one's responsibility and authority, and their personal traits. This doesn't mean that you have to be a graduate in psychology. The information comes to you gradually and quite unconsciously in your day-to-day relationships with the workers you represent and with the employer representatives.

You should know all the members you represent and their personal characteristics. People are not all alike; therefore, different people need to be handled differently. For example, some people will give you the full story on a grievance, others won't. Some members have a good steady work record that you can use as an argument when talking to a employer representative; others don't. If you get to know the people you represent, you can take these differences into account.

Also, if the members in your department feel that you are a friend, they will let you know when they have "gripes" against the union and you can help clarify. Being a friend is important because stewards first have to know about complaints before they can take steps to work with the union to correct them.

One of your key jobs is to help build the union. The more support a union has in the workplace the more power behind your union committee when you go into bargaining, which means it's more possible to negotiate a better agreement. To do this, you have got to know your union - what it's all about, what it's doing, and why. To do this effectively, you have to be informed. Read the MoveUP website and follow the union on social media, read the Local Voice magazine, and attend union meetings. Finally, keep in touch with your local union officers.

Know yourself - your strengths and limitations. No one expects you to learn all this information today, or even tomorrow. A basic understanding of the issues at hand and with it, a growing expertise as you perform your jobs is what is required. If you don't know - seek advice.

In order to perform your job well, you should have a place by your work station or desk where you have ready access to:

**The Collective Agreement**

Keep it nearby. Having a general knowledge of the agreement is necessary, but when answering a question about the agreement, you must look at all of the relevant clauses from the first to the last word of each, word by word, their relation to other clauses in the contract and their relation to the contract as a whole.

**A List of Department Members**

Keep a list of workers' names, addresses, phone numbers and classification rates. Update your records and add new names as new employees join in.

**Grievance Forms plus Fact Sheets**, and any other forms the union expects to use.

**A copy of the provincial or federal Occupational Health & Safety Act and a copy of the Human Rights Act**

**A Copy of the Employer's Rules and Regulations**

**Union Constitution and Bylaws**

**Member Orientation Handbook/Resources**

Go to <http://www.moveuptogether.ca/member-services> and download a copy of the Member Orientation Handbook to help introduce new members to the union. Also make sure new members know about the online member orientation videos.

**Pencil and Paper**

When you are approached with a request, complaint, or grievance, get the information down immediately. Always put in the date and time. Don't rely on your memory or the member's memory for details.



# KNOWING YOUR COLLECTIVE AGREEMENT

It is not necessary to know every word in your collective agreement but it is important that you are familiar with the language and know how to find the information you need. In this exercise you will practice looking for key information in your collective agreement.

For each of the sections below identify the relevant article in your collective agreement and provide a brief summary of the language.

## Grievance Procedure Timelines

### Step 1

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### Step 2

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### Step 3

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## Arbitration

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## Just Cause

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**Annual Vacation**

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**Overtime**

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# **MODULE B**

## **GRIEVANCE BRAIN TEASER**

1. What makes a problem in the workplace a grievance?
  
2. What does submitting a grievance do for you?
  
3. Who owns the grievance?
  
4. Can you identify some types of grievances and their characteristics?
  
5. What about time limits for submitting a grievance? Are there any and do they matter?

## REVIEW OF COLLECTIVE AGREEMENT GRIEVANCE PROCEDURES

### Sample Grievance Procedure (Example)

**Note:** This grievance procedure has been taken out of an existing collective agreement. It has not been selected because it is perfect but rather as an example.

### GRIEVANCE PROCEDURE

#### 3.01 DEFINITION OF GRIEVANCE

"Grievance" means any difference, disagreement or dispute between the Parties concerning the interpretation, application, operation or any alleged violation of any provision of this Agreement, including any questions as to whether or not any matter is arbitrable.

#### 3.02 RIGHT TO GRIEVE

- (a) Any Employee who considers himself/herself aggrieved shall have the right to initiate and to process a grievance under this Agreement, subject to the consent of the Union.
- (b) The Union shall have the right to initiate and to process a policy grievance under this Agreement on behalf of itself, or an individual grievance on behalf of any Employee, or a group grievance on behalf of any group of Employees. The Parties specifically agree that a policy grievance may seek financial redress.
- (c) The Employer shall have the right to initiate and to process a grievance under this Agreement with respect to the Union's actions.

#### 3.03 COMPLAINTS

Should an Employee have a complaint, the Employee and/or a Union representative shall discuss the complaint with the appropriate immediate employer representative or manager. A Union representative may discuss the complaint with other management personnel and/or employees as he or she may deem appropriate in the circumstances. Failing a resolution of an Employee's complaint, the matter may be initiated and processed as a grievance under this Article.

#### 3.04 GRIEVANCE PROCESS

All grievances shall be processed in accordance with the following:

- (a) All grievances must be submitted in writing at the appropriate stage by:
  - (i) setting out the nature of the grievance and the circumstances from which it arose;
  - (ii) stating the provision(s) of the Agreement at issue or alleged to have been violated;

- (iii) stating the redress or other action required to resolve the matter;
- (iv) transmitting the grievance to the other Party.
- (b) Throughout the grievance procedure, in attempting to effect resolution, the Parties may fashion such settlements as they deem appropriate and mutually acceptable.
- (c) All grievances shall be resolved without stoppage of work.

### 3.05 **STAGES OF APPEAL**

- (a) **Stages**  
A grievance may be appealed in writing by the union or the employer through the following stages:
  - (i) **Stage I**  
immediate employer representative or manager and a Union representative or their respective alternate(s);
  - (ii) **Stage II**  
appropriate manager and a union representative or their respective alternate(s);
  - (iii) **Stage III**  
appropriate Vice-President and Manager, Employee Relations, and a full-time union representative or their respective alternate(s);
- (b) **Dismissal and Termination Grievances**  
A grievance concerning the dismissal or termination of any Employee shall be initiated at Stage III of the grievance procedure.
- (c) **Job Selection Grievances**
  - 1. A job selection grievance shall be initiated at Stage II of the grievance procedure.
  - 2. In the event a senior applicant is selected a job selection grievance will not be initiated on behalf of a junior candidate.
- (d) **Policy Grievances**  
A Policy Grievance shall be initiated at Stage III. Policy Grievances shall be heard between the President of the Union and the Manager of Employee Relations, or their respective alternates. The Parties specifically agree that a policy grievance may seek financial redress.
- (e) **Group Grievance**  
A Group Grievance which involves more than one employee in the same headquarters shall be initiated at Stage I. Where a Group Grievance includes employees from more than one headquarters it shall be initiated at Stage II.

- (f) **Bypassing Stages**  
By mutual agreement between the Employer and the Union, any stage of the grievance procedure may be bypassed with respect to any grievance.

3.06

**TIME LIMITS**

(a) **Initiating a Grievance**

- (i) Individual grievances under this Article must be initiated within 45 calendar days of the Employee's awareness of the circumstances giving rise to the grievance.
- (ii) Group or policy grievances under this Article must be initiated within 60 calendar days of the Employee, the Union, or the Employer becoming aware of the occurrence or circumstances giving rise to the grievance.
- (iii) In the case of a job selection grievance, the grievance must be initiated within 15 full calendar days from the date of receipt of the written notification of the employee's unsuccessful candidacy. An extension to this limit shall be given where an employee wishing to raise a job selection grievance is absent on approved leave of absence, sick leave or vacation.

(b) **Convening a Grievance Hearing**

A grievance hearing under this Article must in each case be convened within 20 calendar days following the date of receipt of the written grievance or written notice of appeal of the grievance to the next stage of the grievance procedure.

(c) **Grievance Hearing Response**

The grieving Party shall be provided with a written response by the other Party within 20 calendar days following the date of the conclusion of the grievance hearing.

(d) **Appealing a Grievance Denial**

A grievance which is denied at Stage I or II of the grievance procedure must be appealed to the next stage of the grievance procedure within 20 calendar days following the date of receipt of the written denial of the grievance.

- (e) **Referral to Arbitration**  
A grievance, which is denied at Stage III of the grievance procedure, must be referred to arbitration within 30 calendar days following the date of receipt of the written denial of the grievance.
- (f) **Amendment of Time Limits**  
The time limits referred to in this Article may be changed at any time by mutual agreement between the Employer and the Union. Requests by either Party for extension of applicable time limits shall not be unreasonably denied.

### 3.07 **COMPLIANCE WITH TIME LIMITS**

Both Parties will undertake to adhere to and comply with the time limits set out in this Article.

### 3.08 **TIME OFF WORK**

Employees required by either the Employer or the Union to attend or participate in any investigation, discussion, meeting or hearing arising pursuant to this Article with respect to any grievance shall be granted reasonable time off work by the Employer and this time shall be deemed to be time worked. Such time off work shall not be unreasonably denied by the Employer and the Employer shall only be required to pay the Employee's straight-time wages up to a maximum of 7 1/2 hours per day. Where the presence of the Employee is required by the Union, and travel is involved, the cost for transportation and expenses, including board and lodging, shall be borne by the Union.

### 3.09 **EFFECTS OF SETTLEMENT**

(a) Where the Employer and the Union agree to the settlement of a grievance, such settlement shall be in writing and shall be final and binding on both Parties and each Employee in the bargaining unit affected by the settlement.

(b) The grieving party may at its discretion by written notice withdraw any grievance at any time without prejudice to its position on the same or any matter.

### 3.10 **REFERENCE TO ARBITRATION**

A grievance not resolved at Stage III may be submitted by the grieving party to arbitration by written notice to the other Party.



### 3.11 **SELECTION OF ARBITRATOR**

- (a) The following list of Arbitrators shall be appointed, for the term of this Agreement, to hear and resolve any matter referred to arbitration in accordance with the provisions of this Agreement:
  - i) Dave McPhillips
  - ii) Judi Korbin
  - iii) Colin Taylor
  - iv) John Kinzie
  - v) Wayne Moore
  - vi) John Steves
  - vii) Rod Germaine
- (b) The Parties shall agree to an Arbitrator from the above list or failing an agreement select an Arbitrator by a method of random draw to be agreed upon between the Parties. If the Arbitrator to be appointed is not available within an acceptable time period, another Arbitrator shall be selected.
- (c) If none of the above listed Arbitrators is available within an acceptable time period, the Parties may agree upon an alternate Arbitrator or, failing such agreement, either Party may request the Minister of Labour to appoint an Arbitrator to hear the matter in dispute.

### 3.12 **JURISDICTION OF ARBITRATOR**

Arbitrators shall be vested with all powers that are necessary for the complete, final and binding resolution of any matter in dispute. The Arbitrator shall not, however, have the power to add to, subtract from, alter, amend, or otherwise change or modify any part of this Agreement.

### 3.13 **DECISION OF ARBITRATOR**

The arbitrator shall proceed as soon as practical to examine the grievance and render judgment, and his/her decision shall be final and binding on the Parties and upon any employee affected by it.

### 3.14 **ARBITRATION EXPENSES**

Each Party shall pay one-half of the fees and expenses of the Arbitrator including any disbursements incurred by the arbitration proceedings.

## TIME LIMITS

Time limits for grievances must be strictly adhered to. Breach of a time limit does not always result in dismissal of the grievance because some labour legislation allows arbitrators to extend the time limits. However, we run the risk that even the best grievances could be lost or delayed because of lateness.

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Time limits can be extended by mutual consent. This must always be done in writing.

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When the employer does not respond within a time limit to a grievance, it means “No” to the union’s request for remedy.

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When the union does not reply within the time limits set in the agreement, it means the employer’s reply is accepted.

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# MODULE C

## **GRIEVANCE CRITERIA**

When a member comes to you with a problem, and wants to know if he/she has a grievance, the first thing to ask yourself is:

### **DOES IT VIOLATE**

- The collective agreement?
- A federal or provincial law?
- A past practice in the workplace?
- Employees' rights? (Was the employee treated in an unjust or discriminatory manner?)

If you can answer yes to the above criteria, chances are you have a grievance! If not, you probably have a complaint that requires other union action.

### **Types of Grievances:**

- Individual Grievances: claim violation of individual rights under the collective agreement.
- Group Grievances: claim violations affecting a group of workers in the same way.
- Policy Grievances: claim violations relating to interpretations of the contract which affect all workers.
- Union Grievances: involve disputes arising between the two parties - union and management - about rights.

### **How to tell the difference:**

A good way to decide which type of grievance to file is to look at who is affected and who seeks the remedy or redress.

### **Grievances and Arbitration are Structured by Law**

Every labour code, labour relations act, or trade union act in Canada contains a provision for final and binding third-party arbitration which gives the union the right to process a grievance in cases where the union deems it necessary to do so. If the employer ignores the grievance by not giving an answer as required by the collective agreement, then the union may advance the grievance to the next stage, and the next, until the issue is before an arbitration board. The arbitration board will then make the determination whether the grievance is properly before the board. It is important to note that undermining or violating the agreed grievance procedure is itself a grievance and should be filed.

## COMPLAINTS or GRIEVANCE?

### HOW TO TELL THE DIFFERENCE

**Activity Sheet Instructions:** As a group, decide if each scenario is a grievance or a complaint and how you would handle it.

**Working time:** 10 minutes. Choose a reporter from your group.

1. What if a new member came to you stating that he/she was being harassed by racist jokes about people of colour? What would you do?
2. You have a member come to you stating that they were dispatched to a job incorrectly. The collective agreement doesn't clearly provide a process and leaves assigning jobs to the discretion of the dispatcher. The member wants to refuse the next job to teach the dispatcher and the employer a lesson about respecting the rights of workers who have been there longer. What do you do?
3. A small group of members are upset that they are being asked at work to support a financial donation to the United Way. They want to file a grievance.
4. What if you don't know for sure if it is a grievance or a complaint – who do you go to for help?
5. A member comes to you and tells you that he/she has been given a one-day suspension without pay for being late for work. He/she has never been late for work before. What do you do?

## THE 4 TYPES OF GRIEVANCES ACTIVITY SHEET

**For each scenario, check the box(es) that indicate the type of grievance your group thinks could be filed. Working time: 10 minutes. Choose a reporter for your group.**

1. A member was given a 2-day suspension for filing a workers' compensation claim for a violent incident he was involved in as a driver of a public transit bus.
  - ☐ Individual Grievance
  - ☐ Group Grievance
  - ☐ Policy Grievance
  - ☐ Union Grievance
  
2. Several members of your department have been laid off without being given the required notice period of two weeks.
  - ☐ Individual Grievance
  - ☐ Group Grievance
  - ☐ Policy Grievance
  - ☐ Union Grievance
  
3. The employer decides to change drug plan coverage, adding a \$25 deductible for each plan member, effective two months from now. The contract cites the existing policy.
  - ☐ Individual Grievance
  - ☐ Group Grievance
  - ☐ Policy Grievance
  - ☐ Union Grievance
  
4. The employer has disciplined the shop steward for being insubordinate at a meeting where the steward was representing a member.
  - ☐ Individual Grievance
  - ☐ Group Grievance
  - ☐ Policy Grievance
  - ☐ Union Grievance
  
5. The employer puts out a memo stating that their policy is to suspend anyone who exercises their right to refuse unsafe work. So far no one has exercised this right in the workplace.
  - ☐ Individual Grievance
  - ☐ Group Grievance
  - ☐ Policy Grievance
  - ☐ Union Grievance

## INVESTIGATING THE GRIEVANCE

When a worker comes to you with a complaint, the first thing to do is get the facts. Only then can you decide whether or not it's a grievance.

The first place to look for facts is from the worker. Listen to the worker's story patiently, then ask specific questions. Don't be satisfied with glib statements like, "the employer representative is picking on me" or "they're giving us too much work."

Sometimes workers take it for granted that you understand their jobs and forget to give you vital facts. Sometimes they skip the part of the story that might weaken their case. If you are to resolve the issue, you must ask questions that will give you all the necessary information.

Most workers assume that stewards know more about what is going on at work than they probably do. This assumption is based on the fact that they regard the steward as a leader and as someone who takes an interest in what is happening at work. They also assume that stewards know their work routines and how their machinery runs - if they run machines. Stewards should make it a point to find out the work routines, what machines there are, and how they operate. This knowledge will assist greatly in any grievance hearing.

Once you have heard what the worker has to say, you've got some of the facts. But you have to check further. Make sure to use your union **Fact Sheets**.

**Remember, if your agreement requires that you ask permission of the employer representative to leave your job in order to investigate a grievance, do so!** It is your duty to uphold the agreement. Undermining your employer representative's authority is not going to help you win grievances.

Investigate promptly. Have grievors write down the full story themselves, giving names, dates and places.

Advise the grievor to use actual quotes in relating things they have heard or were told. The actual words may be important. Have the grievor sign and date the statement. It will be useful for refreshing his/her memory before the hearing.

Collect statements from all available witnesses. If you can, get statements in the employee's own handwriting which are signed and dated. If not, write out the statement yourself and have the witness sign.

Interview not only those witnesses who support the grievor, but also those who don't. You will need to do this in order to find out what really happened. You also need to know what you are up against. It will also be helpful in the event a witness should change his/her story

The information obtained in these statements can be used to test the grievor's version against the version of others and is also useful in attempts to settle a grievance with management. The statements can later be used to advantage at an arbitration hearing in order to refresh a witness' memory if he/she testifies for the grievor or to undermine a witness' testimony if he/she testifies against the grievor and changes or embellishes earlier statements.

Check other stewards' and the union grievance file also. This type of grievance may have already been settled in another department. If the grievance involves seniority, check the seniority list. Review the contract; what does it say?

A grievance is like a detective story - you must sift through all the evidence before you know who did what. It is very important to treat every investigation and every grievance as if it were going to arbitration. If it ever does, you'll be prepared!

Once you have completed your investigation, you should make a written record to ensure that key points are not forgotten or distorted when passed from one person to another.

Remember that several months may elapse between the events giving rise to a grievance and its final settlement at arbitration. Several people will also be involved in assisting the grievor's presentation of his/her case, each with a slightly different point of view. Therefore, it is only by committing the basic facts to writing at an early stage that you can guarantee that all the necessary information will be properly presented at the final arbitration stage.

Even if the matter is not taken to arbitration, a statement of the facts may be useful when preparing demands for subsequent negotiations. The written record may enable you to justify a new clause in a collective agreement to resolve a problem that could not be adequately handled through a grievance procedure at the time it first arose.

One test to ensure that you have done a thorough investigation is to check your six "W's". These are the facts that should be included in your written records.



## INVESTIGATIONS

### Those Six Important “W’s” in every Grievance

#### **WHO is involved in the grievance?**

Name(s), department, seniority date, job classification and rate, and shift. Don’t forget the grievor’s personnel file and the employer representative or management representative who made this a grievance.

#### **WHAT happened?**

What is the grievance about? What happened that caused the violation? What is involved?

#### **WHEN did the grievance occur?**

On what day and at what time did the act or omission take place which created the grievance?

#### **WHERE did the grievance occur?**

Exact location - department, machine, aisle, building, etc.

#### **WHY is this a grievance?**

What has been violated - collective agreement, past practice, law, rights, rulings or awards, etc.?

In order to have a legitimate grievance, there must be a violation of something - this “W” directs your attention to that specific something that has been violated.

#### **WANT grievance settled and redress in full.**

What adjustments are necessary to completely correct the situation?

### EMPLOYER CONTENTIONS

#### **Employer Record of Conduct**

- Warnings and/or penalties for lateness, absenteeism, quantity and quality of work, etc.

#### **Additional Information**

- Information given by witnesses
- Documentary evidence: seniority list, wage schedule, work tickets, record of similar grievance, union files, experienced stewards or officers of local, union representative.

#### **Signatures**

- Steward
- Aggrieved employee

## **THE SIX W'S**

- **WHO** is involved in the grievance? Name(s), address(es), telephone number(s), work location, department, date of appointment, Social Insurance Number, classification, the grievor's record - including absenteeism record, production record, disciplinary record and lateness record - age, family status, name of employer representative involved, employer representative's position and witnesses.
- **WHEN** did the grievance occur? Date and time.
- **WHERE** did the grievance occur? Exact location, department, machine, aisle, etc.
- **WHY** is this a grievance? What has been violated - contract? past practice? law? personal rights? etc. This "W" directs your attention to that something which has been violated.
- **WHAT** has happened that caused the violation? What is involved? What is management's contention?
- **WANT** - What adjustments are necessary to completely correct the injustice and place the aggrieved in the same position they would have been in had the grievance not occurred? **ASK FOR FULL REDRESS.**

## **ADDITIONAL DOCUMENTATION**

When interviewing a grievor, don't forget to obtain copies of any relevant letters, memos, etc. No grievance record would be complete unless copies of all relevant documents are attached. The documents most commonly required in preparing a case for arbitration are:

**1. ANY LETTER FROM MANAGEMENT IMPOSING DISCIPLINARY MEASURES.** This letter should give specific reasons for the discipline and, if it does not, a further letter may be demanded from the employer. Arbitrators have generally granted adjournments in those cases where such a letter was not provided in advance of the hearing since it has been ruled that grievors are entitled to know the case against them in a disciplinary grievance.

The specification of the offence at the time of discipline also prevents management from subsequently enlarging on the reasons for dismissal once the case reaches the arbitration hearing.

**2. REPLIES AT EACH STAGE OF THE GRIEVANCE PROCEDURE.** The need for such documents should be self-evident in that they may provide important clues that will help the grievance officer preparing the case for arbitration, to understand why the employer has not resolved the grievance at the earlier stages and to help him/her recognize some of the key arguments that may have to be addressed in the hearing itself.

**3. POSITION SPECIFICATIONS,** more commonly known as **JOB DESCRIPTIONS** are important in grievances dealing with classification, performance appraisals, demotion for incompetence, or job competitions. It should be noted that, although position specifications may be useful, they should not be treated with undue reverence. For example, if an employee disagrees with the position specification prepared by his/her employer, that employee may testify before a board of arbitration that the specification is incorrect and that he/she has been assigned additional duties not contained in the specification and which would justify reclassification.

**4. PAY STUBS.** All employees should be encouraged to maintain a careful file of their pay stubs as these contain a great deal of useful information that may be helpful in proving a wide variety of grievances on such issues as retro-activity, disputes about overtime or call backs, payment of shift premiums, etc.

**5. COPIES OF EMPLOYER POLICIES OR RULES.** Since many disciplinary grievances deal with the application of employer policies or rules, a copy of such policies becomes an important part of the documentation in any such grievance. A study of the policy may help the grievance committee or union representative to determine whether it is clear and unambiguous, whether things are properly posted, whether employer actions have been discriminatory in this application, and other useful information on which a defense in any discipline grievance concerning the policy may be raised.

If an employer refuses to provide copies of any document which appears to be relevant to a grievance, the steward should advise a senior steward or the union representative.

## **WHEN GATHERING FACTS**

### **Don't Try to Be a Hero**

Don't promise the worker the moon. If it looks like a legitimate grievance, tell the worker you'll do your best to settle it. But promises like "*We're sure to win*," may be irresponsible.

### **Be Tactful and Understanding**

If you have to tell a worker he/she doesn't have a grievance when he/she thinks he/she has one, be diplomatic. He/she is going to be disappointed anyway, but you can help by giving him/her a full explanation of why this complaint isn't a grievance. Show him/her what the agreement says. If you give him/her the brushoff, he/she will lose faith in the union. When you can't convince the worker that it's not a grievance, tell him/her that he/she can talk to the other union officers about it. You may be wrong, after all, and it is his/her democratic right to have a further hearing.

### **When in Doubt**

Whenever there is a doubt in your mind, take the complaint up with the senior steward. Sometimes you won't know whether it's a grievance until you have some additional facts.

Also, there are going to be grievances you don't know how to tackle. When this happens, don't be ashamed to ask for advice. Talk to the senior steward or union representative. When they have told you how to handle the grievance, go back and take it up yourself. If you don't handle your own grievances, you'll lose the respect of the workers and the employer representative.

DATE \_\_\_\_\_

# MoveUP UNION FACT SHEET

**FOR THE UNION ONLY**

To be filled out by the steward and attached to the UNION COPY of Grievance Form Only  
**Management should never be given access to fact sheets or your records of meetings with them.**  
**Please Print**

## WHO is involved in the grievance?

GRIEVOR

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Job and Class: \_\_\_\_\_ Rate: \_\_\_\_\_

Seniority: -      Date last started with Employer \_\_\_\_\_

                            Date started in current department \_\_\_\_\_

                            Date started current job: \_\_\_\_\_

**EMPLOYER REPRESENTATIVE** or other manager involved

|             |       |
|-------------|-------|
| Name:       | _____ |
| Department: | _____ |
| Job Title:  | _____ |

**WITNESS** or other persons involved

|               |       |
|---------------|-------|
| Name:         | _____ |
| Department:   | _____ |
| Job:          | _____ |
| Phone Number: | _____ |
| Name:         | _____ |
| Department:   | _____ |
| Job:          | _____ |
| Phone Number: | _____ |

[illegible]

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**EMPLOYER CONTENDS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Employer record of Conduct** (Warnings and/or penalties for lateness, absenteeism, quantity or quality of work, etc.)

Reasons

Dates

Verbal warnings issued: \_\_\_\_\_

Written warnings issued: \_\_\_\_\_

Penalties imposed: \_\_\_\_\_

Any related information: \_\_\_\_\_

**ADDITIONAL INFORMATION**

Information given by witnesses (print the name of each witness followed by a summary of what each saw and heard; get a signed statement if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Documentary Evidence (Seniority List, Wage Schedule, Record of similar grievance, etc.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Job steward Name

\_\_\_\_\_  
Job steward Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Grievor's Name

\_\_\_\_\_  
Grievor's Signature

\_\_\_\_\_  
Date

## Checklist for Grievance Investigation

### Discharge and Penalties

- ☐ 1. Just cause.
- ☐ 2. Complete statement of events leading to discipline.
- ☐ 3. Dates and times (important to document).
- ☐ 4. Employer representative's name.
- ☐ 5. Name, address, phone and statement of witness (if any).
- ☐ 6. Employee's record.
- ☐ 7. Print or diagram of area (if applicable).

### Job Posting

- ☐ 1. Grievor's classification and seniority.
- ☐ 2. Grievor's previous classifications.
- ☐ 3. What grievor was temporarily promoted to.
- ☐ 4. Date of promotions (if any).
- ☐ 5. Pay stubs, if possible.
- ☐ 6. Grievor's experience in vacancy requested.
- ☐ 7. Name and seniority of employee awarded job.
- ☐ 8. Number of posting and grievor's application.
- ☐ 9. Articles violated.

### Job Postings (Improper or Non-Posting)

- ☐ 1. Classification of vacancy.
- ☐ 2. Area vacancy existed.
- ☐ 3. Name of employee who held vacancy.
- ☐ 4. Name of employee promoted to fill vacancy.
- ☐ 5. Article violated.
- ☐ 6. Grievor's classification and seniority.
- ☐ 7. Number of employees affected.
- ☐ 8. Grievor's qualifications.
- ☐ 9. Shift at time of posting.

### Improper Pay (Work Assignment)

- ☐ 1. Grievor's regular posted classification.
- ☐ 2. Grievor's regular work assignment.
- ☐ 3. Grievor's assignment on day in question.
- ☐ 4. Name of employees who worked in grievor's place (if any).
- ☐ 5. Name of employee available (junior to grievor).
- ☐ 6. Date of grievor's last posting.
- ☐ 7. Safety involved (if any).

- ☐ 8. Rate of pay applicable to assignment.
- ☐ 9. Exact work performed by grievor and instructions from employer representative.
- ☐ 10. Articles violated.

### Removed From Posting

- ☐ 1. Grievor's posted classification.
- ☐ 2. Date of last posting.
- ☐ 3. Grievor's qualifications.
- ☐ 4. Reasons for removal.
- ☐ 5. Classification assigned to.
- ☐ 6. Name of employees junior and not affected.

### Temporary Promotion

- ☐ 1. Grievor's seniority and classification.
- ☐ 2. Grievor's qualification.
- ☐ 3. Classification promotion was made.
- ☐ 4. Time of promotion.
- ☐ 5. Availability of grievor at time of promotion.
- ☐ 6. Name of employer representative involved.
- ☐ 7. Name of employee promoted.
- ☐ 8. Location promotion made.
- ☐ 9. Instructions to grievor (if any).
- ☐ 10. Exact work performed by grievor.
- ☐ 11. Articles violated.

### Statutory Holiday

- ☐ 1. Same as overtime.
- ☐ 2. Seniority of grievor.
- ☐ 3. Seniority of employees who did work.

### Vacations

- ☐ 1. Seniority.
- ☐ 2. Time requested.
- ☐ 3. Time allotted.
- ☐ 4. Grievor's qualification.
- ☐ 5. Name and classification of junior employees.
- ☐ 6. Employees in work group.

### Supervision Working

- ☐ 1. Name of personnel doing the work.
- ☐ 2. Type of work performed.
- ☐ 3. Amount of time worked.
- ☐ 4. Area where work done.
- ☐ 5. Grievor's classification.
- ☐ 6. Availability of grievor.



|  |  |
|--|--|
| <p><b>Demotion</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 1. Grievor's classification and seniority.</li> <li><input type="checkbox"/> 2. Number of employees affected.</li> <li><input type="checkbox"/> 3. Grievor's qualifications.</li> <li><input type="checkbox"/> 4. Classification demoted to.</li> <li><input type="checkbox"/> 5. Names of junior employees holding higher rated jobs (if any).</li> <li><input type="checkbox"/> 6. Name of employee performing grievor's regular work (if any).</li> <li><input type="checkbox"/> 7. Articles violated.</li> </ul> <p><b>Overtime</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 1. Grievor's classification.</li> <li><input type="checkbox"/> 2. Shift work group.</li> <li><input type="checkbox"/> 3. Date and shift overtime was scheduled.</li> <li><input type="checkbox"/> 4. Classification scheduled for overtime.</li> <li><input type="checkbox"/> 5. Name and classification of employee who worked.</li> </ul> |  |
|--|--|

**\*\* Notes:**

***If this is a Discharge or Discipline Case: -***

- Did the steward ask about personal problems of the grievor?
- Did the steward ask about previous record, good or bad, long or short?
- Did the steward probe any extenuating circumstances in this case?
- Did the steward ask about the personal character of all people involved?
- Did the steward discuss the consequences of the penalty?
- Did the steward consider whether or not the "punishment fits the crime"?
- Did the steward advise the grievor to seek employment while waiting?

**Transfers**

- 1. Seniority
- 2. Department requested
- 3. Name of new employees
- 4. Grievor's classifications
- 5. Employees available to replace grievor
- 6. Date of grievor's request for transfer.



#301 – 4501 Kingsway, Burnaby, BC V5H 0E5  
604-299-0378 | toll free 1-800-665-6838 | fax 604-299-8211

**GRIEVOR'S  
STATEMENT**  
(PLEASE PRINT)

**FOR THE UNION ONLY**

**To be completed and signed by the grievor and submitted to the job steward or union representative**

**GRIEVOR**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Home Email: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_

Employer: \_\_\_\_\_ Department: \_\_\_\_\_

Job Title or Classification: \_\_\_\_\_ Rate: \_\_\_\_\_

Status: FT/PT/Casual \_\_\_\_\_ Seniority - Date of Hire: \_\_\_\_\_

Member ID: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

## GRIEVOR'S STATEMENT

Please describe the incident, including what happened, how and where it happened, all members involved and what you would like as a resolution.

[illegible]



**SUPERVISOR** or other manager involved

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Job Title: \_\_\_\_\_

**WITNESS** or other persons involved

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Job: \_\_\_\_\_

Phone Number: \_\_\_\_\_

-----

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Job: \_\_\_\_\_

Phone Number: \_\_\_\_\_

-----

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Job: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**Please sign below and forward all of the relevant documentation to your job steward or union representative.**

\_\_\_\_\_  
**Grievor's Name**

\_\_\_\_\_  
**Grievor's Signature**

\_\_\_\_\_  
**Date**

## INVESTIGATING GRIEVANCES

Participants in the Role of Stewards: Use the Grievance Checklist and Grievance Investigation Fact Sheet and Resource Note to help you with this assignment.

First, as a group, determine if the Case Study your group has been assigned should be dealt with as a complaint or grievance. Define what you believe is the theory of your case. List the theory/s on paper and be prepared to argue them later. **Write out a plan of action** you would follow if presented with this situation, as a steward. Determine what you know, what you don't know, and what you need to proceed, as part of that plan. Be prepared to report back as a group.

### Case Scenario 1: I Beg Your Pardon?

A member comes to you frustrated that they have been denied a promotional position they had applied for. The letter that the member provides reads as follows:

*Your application for the position has been denied on the basis that the position requires a person of good moral behaviour and a clear criminal record. During your interview, you stated that you had obtained a pardon for your record, which automatically came into effect five years after your offense. Human Resources have determined that an automatic pardon and a clear criminal record do not obligate the employer to determine that you have the "good moral character" required for the position.*

The member had a criminal record for shoplifting when she was 21 years of age. After five years, the criminal record was to be cleared. The member swears she has never done anything crazy like that since and it was just silly kid stuff.

Unless she stays in the position she holds now, she cannot advance any further without running into this same roadblock. The collective agreement prohibits discrimination on the basis of criminal record as well as discrimination under Human Rights.

## INVESTIGATING GRIEVANCES

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### Case Scenario 2: Aqua Man goes Techie.

You have been advised by a member that he has just been fired for blogging in violation of the Company employment policy. The manager showed you a copy of the blog site on his computer in his office. He printed off a part of the page for you to see.

*Aqua Man: "SNAFU – Situation Normal, All F .... Up" "I work in a lunatic asylum. Nurse Ratchet (aka, the employer representative) just sent the following e-mail to her staff."*

*Attention All Staff: Please wipe your shoes before entering the lunch room. Some employees who work outside are dragging leaves and dirt into the lunch room which creates a visually displeasing appearance. If you make a mess, use the broom and dustpan to clean up after yourself. Remember, cleanliness is next to goodliness.*

*Your cooperation is appreciated. The Management.*

*"Does anyone else out there live in a world like mine with imbeciles and idiot savants (no offense to them) running the ship and is anyone else's ship being sailed down the highway to hell?"*

You see other postings on the blog print out and they are similar, complaining about or mocking co-workers and employer representatives, and sometimes discussing inner workings of his department.

The manager was informed of the blog by union members who are complaining.

As a steward you are not aware of the Company policy on internet usage but that does not mean it does not exist.

## INVESTIGATING GRIEVANCES

Participants in the Role of Stewards: Use the Grievance Checklist and Grievance Investigation Fact Sheet and Resource Note to help you with this assignment.

First, as a group, determine if the Case Study your group has been assigned should be dealt with as a complaint or grievance. Define what you believe is the theory of your case. List the theory/s on paper and be prepared to argue them later. **Write out a plan of action** you would follow if presented with this situation, as a steward. Determine what you know, what you don't know, and what you need to proceed, as part of that plan. Be prepared to report back as a group.

### Case Scenario 3: Is that a microphone in your pocket?

A member comes to you and explains the following: She works in the sales department for a telecommunications company. She noticed a lump under the carpet near her work station that wasn't there before the weekend. With the help of a couple of co-workers they quietly rolled back the carpet and found a microphone and wire. They realize that they are being electronically monitored and until now, didn't know about it. They are really angry and freaked out.

The union was not advised of any specific plans by the employer to do electronic monitoring, although they did mention it in the last union management meeting as an issue they were considering for the future.

You have heard rumors that the sales department was sharing intellectual secrets to their clients.

The collective agreement does not have any language on electronic monitoring but has an established practice clause that reads:

#### *Established Practices:*

*13.01 The rights, benefits, privileges, and working conditions which members of the union now enjoy, continue in effect insofar as they are consistent with the terms of this agreement.*

## **INVESTIGATING GRIEVANCES**

Participants in the Role of Stewards: Use the Grievance Checklist and Grievance Investigation Fact Sheet and Resource Note to help you with this assignment.

First, as a group, determine if the Case Study your group has been assigned should be dealt with as a complaint or grievance. Define what you believe is the theory of your case. List the theory/s on paper and be prepared to argue them later. **Write out a plan of action** you would follow if presented with this situation, as a steward. Determine what you know, what you don't know, and what you need to proceed, as part of that plan. Be prepared to report back as a group.

### **Case Scenario 4: A harassing situation**

David John, Frank Sousa and Lori James work in the office of a large Crown Corporation. All three are classified as office clerks. David has 8 years seniority, Lori has 7 years and Frank has worked for the company for 5 years.

For the last 3 years David and Frank have been embroiled in a workplace rivalry with both individuals not providing a respectful workplace for each other. Lori has been caught in the middle of things but has tried to stay neutral and out of the arguments.

On Friday the issues came to a head and Frank yelled at David and called him a useless fat pig. This happened while Frank, David and Lori were in the lunch room having lunch together. There was discussion between the three people and Lori who was extremely stressed over the matter was being pursued by Frank to agree with him. Lori said to Frank that he was a hothead and people of his race tended to jump to conclusions and were prone to getting angry easy. A manager happened to hear what was going on and separated the parties and reported the incident to Human Recourses.

## INVESTIGATING GRIEVANCES

Participants in the Role of Stewards: Use the Grievance Checklist and Grievance Investigation Fact Sheet and Resource Note to help you with this assignment.

First, as a group, determine if the Case Study your group has been assigned should be dealt with as a complaint or grievance. Define what you believe is the theory of your case. List the theory/s on paper and be prepared to argue them later. **Write out a plan of action** you would follow if presented with this situation, as a steward. Determine what you know, what you don't know, and what you need to proceed, as part of that plan. Be prepared to report back as a group.

### **Case Scenario 5: Perform for me if you can**

Jim has been having performance issues with the employer and while not formally has been talked to a couple of times. Jim is also upset because Tom who has less seniority than him was approved holidays in the first two weeks of August while Jim who applied for those two weeks was denied. Jim and Tom have been arguing over Tom being approved for holidays while Jim was not. Their arguments have been getting nasty.

The collective agreement says holidays shall be awarded by seniority

Tom has been mad at Jim because he feels he has to do extra work because Jim is slow and lazy. Tom has talked to his manager about this and was awarded the two weeks holidays in August over Jim as a reward for picking up the extra work.

On Monday Human Recourses called the two individuals into separate meetings.

The first meeting was with Jim. The employer demoted Jim to the reception position. The employer explains the demotion was performance based and non-disciplinary. There was no Union representative as the meeting was non-disciplinary.

The second meeting was Tom. The employer gave Tom an expectation letter about his behavior in the workplace. There was no Union representation.

Since the meeting other employees come to the Union and have expressed to the Union that Tom is a bully and has been disrespectful to a number of employees. The employer is aware of the ongoing behaviors but has done nothing about it.



# MODULE D

## The 3-Step Note Taking Process: Pre-Writing, Writing and Post-Writing

Taking notes involves so much more than simply jotting down a few points from a meeting or a conversation – it's an entire process!

Taking notes involves a delicate balance between listening and writing. When you listen, you must actively fill in missing information, predict words and organization, and evaluate what is important.

Taking notes is part of a process that starts before the meeting, goes on during the meeting, and continues after the meeting. It is generally a 3-step process that involves pre-writing, writing, and post-writing.

### Here is a breakdown of the 3-step process:

- 1. Pre-Writing:** This part of the process happens before you even start writing notes during a meeting. Pre-writing helps you to be prepared and organized during the meeting. This step involves things like:
  - Reviewing previous notes
  - Getting your mind ready to listen at the meeting
  - Reviewing any relevant documents to help you prepare for the meeting
  - Writing down any questions or important details/information that you want to remember at the meeting
  - Reviewing your purpose for attending the meeting and your role
- 2. Writing:** This part of the process involves taking notes during the actual meeting or occasion where notetaking is required. This step involves things like:
  - Actively listening to grasp key points
  - Evaluating what is important to write down
  - Noting tone, body language, and other observations from the people in the meeting
  - Recording what people are saying. Sometimes it is necessary to record things exactly as they are stated e.g. in a disciplinary meeting.
  - Jotting down the date, time, names and titles of everyone at the meeting
- 3. Post-Writing:** This part of the process involves cleaning up your notes and ensuring that they can be understood by you and by other people who may need to read them. Keep in mind that most information is forgotten within 24 hours, unless you take the time to process it. This step involves things like:
  - Writing out abbreviations
  - Adding in missing information
  - Checking information from other sources
  - Highlighting important ideas

## Notetaking Tips

**1. Use common abbreviations and symbols.**

Don't waste time adding periods after abbreviations.

**2. Call attention to important words.**

Use underlining, **bold**, CAPITAL LETTERS, circles, boxes, \*, !!!, etc.

**3. Develop your own form of shorthand.**

Make sure you can read it later. Check it and fill in blanks right away. Be consistent, use the same shorthand all the time. Use the first few letters in a word, for example: "rep" for representatives. Vowels can usually be left out, and you can still read the message.

"If u cn rd ths, u cn gt a gd jb."

**4. Omit extra words like "a" "an" "the."**

They don't provide meaning, and you can add them later.

**5. Leave white space.**

This is a simple technique that will help you group information. For example, every time a new person speaks, leave a space or start a new line.

J: I didn't see anything happen.

P: I arrived just after the altercation took place

You can use the white space to fill in details later.

**6. Use dashes (-----) for missed words.**

This is useful if someone is speaking very fast and you don't want to interrupt their story.

Using dashes allows you to keep taking notes up until you can ask them to slow down or repeat information.

**7. Record key statements exactly as they are stated.**

Use quotation marks for exact quotes only: "We are suspending Andre for three days for cashing third party cheques."

**8. Don't erase a mistake, and don't black it or white it out completely.**

Draw a single line through a mistake. This saves time and you may need the information later. As well, if someone reads your notes, they can't accuse you of altering information.

**9. A picture is worth a thousand words.**

Draw a diagram if it will make the information clearer.

## Useful Abbreviations

|          |                                 |       |                              |
|----------|---------------------------------|-------|------------------------------|
| approx   | approximately                   | LDW   | last day worked              |
| arbtn    | arbitration                     | LO    | lay off                      |
| assump   | assumption                      | LT    | lost time                    |
| b/c      | because                         | LW    | light work                   |
| b4       | before                          | mgmt  | management                   |
| CBA      | collective bargaining agreement | medtn | mediation                    |
| C/O      | complain of                     | mgr   | manager                      |
| commun   | communication                   | neg   | negotiation                  |
| comp     | compensation                    | nite  | night                        |
| concil   | conciliation                    | Q & A | question and answer          |
| conf     | conference                      | p     | page                         |
| con res  | conflict resolution             | pp    | pages                        |
| diff     | different                       | re    | about, regarding, concerning |
| disp mtg | disciplinary meeting            | recon | reconciliation               |
| disc     | discrimination                  | rep   | representative               |
| diss     | discussion                      | resp  | responsibility               |
| eg, ex   | for example                     | RMI   | repetitive movement injury   |
| EI       | employment insurance            | ROM   | range of motion              |
| EE       | employee                        | RTLW  | return to light work         |
| ER       | employer                        | sec   | section                      |
| esp      | especially                      | s/b   | should be                    |
| eval     | evaluation                      | sft   | shift                        |
| govt     | government                      | super | employer representative      |
| grp      | group                           | susp  | suspension                   |
| grv prd  | grievance procedure             | thru  | through                      |
| HR       | human resources                 | vs    | versus, as opposed to        |
| ie       | that is                         | WCB   | Workers' Compensation Board  |
| I-O      | instead of                      | w/    | with                         |
| insub    | insubordination                 | w/o   | without                      |
| IW       | injured worker                  | wkpl  | workplace                    |
| JLM      | joint labour management         | wkr   | worker                       |

## Useful Symbols

|     |                            |        |                                     |
|-----|----------------------------|--------|-------------------------------------|
| & + | and                        | ?      | question, unclear, need more info   |
| @   | at                         | ↑      | rising, increasing                  |
| *!  | most importantly           | ↓      | falling, decreasing                 |
| =   | equal, same as, similar to | "      | ditto, same as what's written above |
| ≠   | not equal to, not same as  | X      | number of times, for example, 3X    |
| →   | forward, leads to, causes  | ( )    | placed around examples              |
| ←   | Back                       | "...." | direct quotes                       |
| □   | approximately, about       | #      | number                              |
| >   | greater than, more than    | \$     | money, wages                        |
| <   | less than                  | %      | percent                             |

## File No:\_\_\_\_\_

Stewards Name:\_\_\_\_\_

**Member name:**\_\_\_\_\_

**Date:** \_\_\_\_\_

**Contact:**\_\_\_\_\_

**Time:** \_\_\_\_\_

**Action Req'd:**

## **Background Information: Disciplinary Meeting Scenario**

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### **Facts**

Person A, a planner in a Crown corporation began reporting to a new manager in the fall of 2004. Several employees reported concerns about the manager's work habits, including his tendency to fall asleep at his desk and during meetings. Worried about possible reprisals if they approached senior management directly, Person A and some of her co-workers met with Human Resources, who recommended that they speak with the manager's employer representative.

On the afternoon of January 4, 2005, a colleague of Person A told her that the manager was asleep at his desk and suggested that a photograph be taken. Person A had an electronic personal organizer device with a camera on it that she used to take the manager's picture. Person A and her manager were working on an urgent project at a generation site. At around 4:30 that afternoon, she sent the manager an email marked as high-priority and asking for his comments on her proposed amendments to the generation site. After sending the email, Person A walked by the manager's office and saw him playing a card game on his computer. At around 5:00, she checked his office again, but he had left for the day.

That evening, Person A checked her email from home, and saw that her manager had not replied. At around 10:30 p.m., after taking medication for a chronic medical condition she had, she sent an email to four co-workers and attached the picture of her manager sleeping. The email's subject line stated: "Warning: This is what happens if you work too hard!!" In the body of the email, Person A wrote: "Well, at least he made up for the time he slept by playing cards at 4:30! No joke!"

On June 6, Person A's manager notified his employer representative of Person A's January 4, 2005 email, which had been forwarded to the manager by one of her co-workers.

A disciplinary meeting has been scheduled with Person A, the steward, Person A's manager, and the manager's employer representative. The management team intends to discipline Person A for the email she circulated.

You will be taking notes during this meeting as the steward. Prepare your pre-notes based on the information you have.

# **MODULE E**



## THE ART OF GRIEVANCE WRITING

The ideal grievance should be written in such a way that it is short, simple, and specific. It should highlight who is involved, the issue being protested, and the request for full redress. It is not necessary to go into all the details and arguments on the grievance form. You present your details in meetings with employer representatives through evidence and arguments. That is what such meetings are for.

It is also important to note that the phrase *“and/or any other clause in the collective agreement which may be applicable”* must be included after the original protest statement. This is done so that we can be specific to the problem and have the whole contract to protect us and not just one clause.

The request or demand is easily written by the phrase *“I request that I be fully compensated and my record made whole.”* This enables the steward to get full redress for the grievor without having to be specific and risking leaving something out. Alternatively, you can simply write your demand and the words “full redress.”

Assuming that you’ve investigated and obtained all the facts and have decided that you have a grievance, practice writing grievances for these scenarios. How would you write them?

### **Situation #1.**

On January 5, Fred Lozenge had laryngitis and could not talk over the telephone. He asked his wife to call and notify the employer representative that he was sick and was unable to report to work. She talked to a receptionist and asked her to advise the employer representative as soon as possible. The receptionist did not transmit the message. When Fred returned to work two days later, he was informed by his employer representative that he would lose two days’ pay and that he would receive a “written warning.”

### **Situation #2.**

Article 6:07 states that *“unpaid leave from work for employees shall not be unreasonably withheld.”* Three weeks prior to a union convention, Jan Foster applied for leave to attend. Permission had never been withheld in the local before, but two days prior to Jan’s departure permission was refused on the grounds that Jan was needed at her post. Jan wanted to go to the convention but you, as steward, advised her of the *“work now, grieve later”* rule. Jan was so angry that she left for the convention. Upon her return to work she was suspended 30 days for insubordination.

### **Situation #3.**

Frank Wall, an estimator, comes in 15 minutes late for work one morning and the new employer representative gives him a three-day suspension. Upon investigation, you find out that there has always been an unwritten understanding of flexible starting times in the estimating department. The new employer representative declares now everyone will start at 8:00 a.m., and he wants to use Frank as an example.

**Situation #4.**

The ABC Employer has been hitting peak production lately and hired some temporary workers. Recently the employer, in compliance with the collective agreement, gave notice to the union that it intended to subcontract some “new” work to new employees who would be outside the bargaining unit because it would only be for one month’s work. There are currently seven of your union members on layoff and Article 23 *“prohibits contracting out bargaining unit work if subcontract work can be performed by employees presently at work or by employees who might be on layoff, at the time such work is necessary.”* The new employees started work this morning.

# SAMPLE – BARGAINING UNIT WORK GRIEVANCE



## Grievance Form (Please Print)

|   |               |                                       |  |
|---|---------------|---------------------------------------|--|
| Grievor's name(s)   |               | Phone numbers and e-mail address      |  |
| Grievor's mailing address and Postal Code   |               |                                       |  |
| Work Location and Bargaining Unit (Employer's Name)   |               | Job Title                             |  |
| Name of Manager   |               | Manager e-mail and phone number       |  |
| Job Steward or Union Officer name   |               | Grievance File No.                    |  |
| Phone numbers and e-mail address  |               |                                       |  |
| Details of the Grievance and Collective Agreement Articles Breached:  |               | Grievance Stage:                      |  |
| <p>The Union claims that management personnel of the Employer have performed bargaining unit work in violation of the Collective Agreement. The work in question involves (<u>specify the nature of the work</u>) being done by (<u>specify name(s) of management person(s) doing the work</u>). The Union alleges that the Employer has contravened Article ___ and all other applicable provisions of the Collective Agreement.</p>   |               |                                       |  |
| Remedy Sought:  |               |                                       |  |
| <p>The Union seeks redress in full which would involve, but is not limited to, a declaration that the Employer has acted improperly under the Collective Agreement in allowing management personnel to perform the work in question and a cease and desist order enjoining the Employer to stop such misconduct. The Union also seeks to have the Union and any person adversely affected, be made whole in all respects which would involve, but is not limited to, payment of full compensation for any and all lost income, benefits and other entitlements, monetary or otherwise.</p> <p>All such redress is to be applied on a fully retroactive basis and is to include, without limitation, the payment of interest in accordance with the Bank of Canada prime rate. The Union further reserves the right to seek any other damages or corrective action it deems appropriate under the circumstances.</p> |               |                                       |  |
| Date submitted to the Employer  | Member's name | Job Steward's/<br>Representative name |  |
|   | Signature     | Signature                             |  |

# SAMPLE – OVERTIME GRIEVANCE



## Grievance Form (Please Print)

|  |               |                                       |  |
|--|---------------|---------------------------------------|--|
| Grievor's name(s)  |               | Phone numbers and e-mail address      |  |
|  |               |                                       |  |
| Grievor's mailing address and Postal Code  |               |                                       |  |
|  |               |                                       |  |
| Work Location and Bargaining Unit (Employer's Name)  |               | Job Title                             |  |
|  |               |                                       |  |
| Name of Manager  |               | Manager e-mail and phone number       |  |
|  |               |                                       |  |
| Job Steward or Union Officer name  |               | Phone numbers and e-mail address      |  |
|  |               |                                       |  |
| Details of the Grievance and Collective Agreement Articles Breached:   |               | Grievance Stage:                      |  |
|  |               |                                       |  |
| The Union claims that the Employer has violated the Collective Agreement by failing to pay overtime to the above named Employee, the grievor. The Union alleges that the Employer has contravened Article xx1 and all other applicable provisions of the Collective Agreement.   |               |                                       |  |
| Remedy Sought:   |               |                                       |  |
| The Union also seeks to have the Union and any person adversely affected, be made whole in all respects which would involve, but is not limited to, payment of full compensation for any and all lost income, benefits and other entitlements, monetary or otherwise. All such redress is to be applied on a fully retroactive basis and is to include, without limitation, the payment of interest in accordance with the Bank of Canada prime rate. The Union further reserves the right to seek any other damages or corrective action it deems appropriate under the circumstances |               |                                       |  |
| Date submitted to the Employer   | Member's name | Job Steward's/<br>Representative name |  |
|  |               |                                       |  |
|  | Signature     | Signature                             |  |
|  |               |                                       |  |

# SAMPLE – DISCIPLINE GRIEVANCE



## Grievance Form (Please Print)

|   |               |                                       |  |
|---|---------------|---------------------------------------|--|
| Grievor's name(s)   |               | Phone numbers and e-mail address      |  |
|   |               |                                       |  |
| Grievor's mailing address and Postal Code   |               |                                       |  |
|   |               |                                       |  |
| Work Location and Bargaining Unit (Employer's Name)   |               | Job Title                             |  |
|   |               |                                       |  |
| Name of Manager   |               | Manager e-mail and phone number       |  |
|   |               |                                       |  |
| Job Steward or Union Officer name   |               | Phone numbers and e-mail address      |  |
|   |               |                                       |  |
| Details of the Grievance and Collective Agreement Articles Breached:  |               | Grievance Stage:                      |  |
|   |               |                                       |  |
| <p>The Union claims that the Employer has disciplined the above named Employee, the grievor, without just and reasonable cause. The Union alleges that the Employer has contravened the Labour Relations Code of British Columbia as well as Article ___ and all other applicable provisions of the Collective Agreement.</p>   |               |                                       |  |
| Remedy Sought:  |               |                                       |  |
| <p>The Union seeks to have the discipline in question rescinded and the grievor to be made whole in all respects, as if the discipline had never occurred, which would involve, but is not limited to, the removal of all reference to the discipline from any and all records and/or files, electronic or otherwise, maintained by the Employer. The Union also seeks to have the Union and any person adversely affected, be made whole in all respects which would involve, but is not limited to, payment of full compensation for any and all lost income, benefits and other entitlements, monetary or otherwise. All such redress is to be applied on a fully retroactive basis and is to include, without limitation, the payment of interest in accordance with the Bank of Canada prime rate. The Union further reserves the right to seek any other damages or corrective action it deems appropriate under the circumstances.</p> |               |                                       |  |
| Date submitted to the Employer  | Member's name | Job Steward's/<br>Representative name |  |
|   |               |                                       |  |
|   | Signature     | Signature                             |  |
|   |               |                                       |  |

# SAMPLE – JOB SELECTION GRIEVANCE



## Grievance Form (Please Print)

|  |               |                                       |  |
|--|---------------|---------------------------------------|--|
| Grievor's name(s)  |               | Phone numbers and e-mail address      |  |
| Grievor's mailing address and Postal Code  |               |                                       |  |
| Work Location and Bargaining Unit (Employer's Name)  |               | Job Title                             |  |
| Name of Manager  |               | Manager e-mail and phone number       |  |
| Job Steward or Union Officer name  |               | Grievance File No.                    |  |
| Phone numbers and e-mail address   |               |                                       |  |
| Details of the Grievance and Collective Agreement Articles Breached:   |               | Grievance Stage:                      |  |
| <p>The Union claims that the Employer violated the Collective Agreement in respect of job posting number <u>XXXX</u> by giving the position to a person other than the above named Employee, the grievor. The Union contends that the grievor has the requisite abilities/qualifications to perform the job and has greater seniority than the selected candidate. The Union alleges that the Employer has contravened Articles <u>XXX</u> and all other applicable provisions of the Collective Agreement.</p>  |               |                                       |  |
| Remedy Sought:   |               |                                       |  |
| <p>The Union seeks to have the grievor made whole in all respects which would involve, but is not limited to, the grievor being given the job. The Union also seeks to have the Union and any person adversely affected, be made whole in all respects which would involve, but is not limited to, payment of full compensation for any and all lost income, benefits and other entitlements, monetary or otherwise. All such redress is to be applied on a fully retroactive basis and is to include, without limitation, the payment of interest in accordance with the Bank of Canada prime rate. The Union further reserves the right to seek any other damages or corrective action it deems appropriate under the circumstances.</p> |               |                                       |  |
| Date submitted to the Employer   | Member's name | Job Steward's/<br>Representative name |  |
|  | Signature     | Signature                             |  |

# MODULE F

# HANDLING THE GRIEVANCE PROCEDURE

## SUGGESTED GRIEVANCE HANDLING PROCEDURE

The grievance procedure is designed to give the parties multiple attempts to resolve an issue or grievance. At each stage careful record keeping is a must.

1. **Investigate:** A member approaches you with a problem. Almost all collective agreements negotiated by MoveUP contain a clause which allows you, the job steward, to investigate complaints and grievances on company time without loss of pay. Check your agreement under the clause titled “Union Recognition” to find out if you can investigate on company time. If your investigation time is covered under that clause, get authorization from the employer to leave their workstation and find a quiet place to meet with the member.

Tools required for the meeting with the member.

- Union fact sheet
- Collective agreement
- Pen
- Paper

Fill out the union fact sheet as part of the investigation. Complete all six W’s –Who, What, Where, When, Why and How – on the fact sheet.

Attach any written details from the member and any documentation provided by the employer. Include a statement from the member with the date, full name of the member and their signature. Be as detailed as possible.

**Keep the fact sheet and information in a secure place as this information is confidential and is for the union’s use only.**

2. Review the information from the member and check the collective agreement to see if a violation of the agreement has taken place.

If you identify a violation of the agreement **first try resolving the issue informally with the employer.** If you cannot resolve the violation informally, file a grievance. You may need to contact the assigned union representative or a senior steward for advice.

Also, if the issue is resolved during this preliminary stage, inform the union representative.

**When filing the grievance, check the collective agreement to remind yourself of the appropriate steps and time limits. When dealing with a termination or serious discipline case, always file a grievance.**



### 3. **Filing the grievance**

The filing of grievances is coordinated through the union office.

Get the appropriate grievance form template from the MoveUP website here:

<http://www.moveuptogether.ca/job-steward-information>

Tools required:

- Union fact sheet
- MoveUP grievance form template
- Grievor's statement
- Grievance hearing outline
- Grievance hearing notes
- Witness statements (if necessary)
- Collective agreement.
- Grievance file number

#### ***Individual, group or policy grievance?***

Individual grievances affect a single member. Group grievances affect a group of members. These grievances are processed at stage 1 and stage 2 by the stewards.

Policy grievances are grievance that affects the union and its membership. If you think you have a policy grievance, contact the appropriate union representative. Forward all the information the union representative will need to file the policy grievance. Policy grievances require approval by one of MoveUP's senior union representatives.

Fill in the appropriate sections of the template and send a copy of the completed template and all other required information, such as the grievor's statement, union fact sheet and witness statements, to the union office via email [grievance@moveuptogether.ca](mailto:grievance@moveuptogether.ca).

**Important: complete all sections of the grievance template.**

Your administrative support person will open an electronic file in UnionWare, file a copy of the grievance with the employer and copy the steward and the grievor.

The grievance will be assigned a six digit file number (e.g. 14-0034) to the grievance form. You will need to reference this number when sending documents to your administrative support person.

4. **Stage 1:** Arrange a complaint/grievance stage meeting between yourself, the employer and, most times, the member. The collective agreement defines who is involved in the meetings. You will have to evaluate whether the grievor should or should not be in the meeting, depending on the circumstances.

This meeting could be at the complaint stage (informal) or the first stage of the grievance procedure.

Consult the collective agreement to review the stages of the grievance procedure.

You, the member, or both of you must take notes at the meeting. The notes of the meeting and the union fact sheet form part of the investigation. Copy the notes to the union office via your administrative support person with the case number in the subject line of your email.

5. The purpose of the meeting is to find a resolution to the complaint/grievance while protecting the member's rights under the collective agreement. It's important to collect as much information as possible to understand and record in your notes what the **employer's** case will be.

When resolving grievances it's important that you contact your union representative to discuss the settlement and receive approval on the resolution. **Only a union representative approves withdrawal or settlement of a grievance.**

6. The employer will send the complaint/stage 1 written reply to the union office.
7. **Stage 2:** If the answer to a grievance is not acceptable to one or both parties, contact your administrative support person, who, with the assistance of the union representative, will send a letter to the employer referring the grievance to stage 2 of the grievance procedure. You then schedule a stage 2 grievance meeting and usually bring the grievor along.
8. The purpose of the stage 2 meeting is to find a resolution to the grievance while protecting the member's rights under the collective agreement. It's important to collect as much information as possible to understand and record in your notes what the **employer's** case will be. The notes of the meeting form part of the case file and must be copied to the union office to your administrative support person.

When resolving grievances it's important that you contact your union representative to discuss the settlement and receive approval on the resolution.

9. The employer sends the written reply at stage 2 by email to the union office using the bargaining unit email address you've supplied to them. Your administrative support person will copy the stewards and other appropriate people on the reply.
10. **Stage 3:** If the answer to the grievance is not acceptable to one or both parties, contact your union representative to discuss moving the grievance to the final stage of the grievance procedure. The union representative will write a letter to refer the grievance to the final stage of the grievance procedure and convene the final stage meeting. The collective agreement defines who is involved in the meetings. The

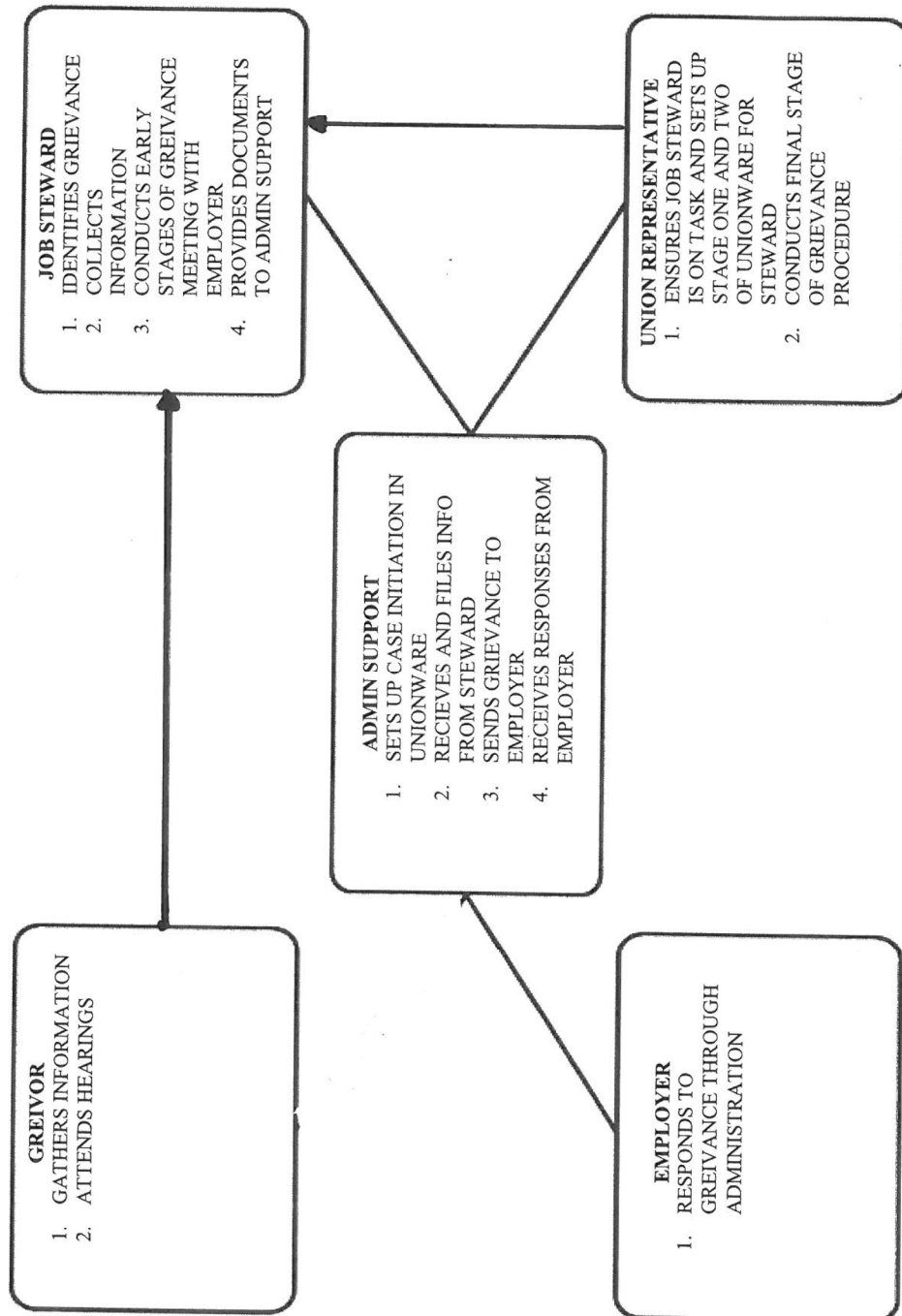
union representative will consult with you to evaluate whether the grievor should or should not be in the meeting, depending on the circumstances.

11. **A merit assessment** will be done on the grievance to determine whether to recommend proceeding or not proceeding or settling the grievance to the Arbitration Review committee (ARC).

If unsatisfied with the ARC's assessment, a grievor may appeal the decision. Instructions on how to appeal are provided to the grievor as part of the review process.

12. The grievance, and all associated material, belongs to the union. All information recorded by stewards and union representatives is protected by privacy laws. Release of this information is only by application to and approval of the privacy officer at MoveUP.
13. Signing authority to withdraw, settle or advance a grievance lies with the union, and the president designates this authority to union representatives. Stewards don't have this authority but are kept advised and are part of the decision making process. In some cases the union representative may ask the steward to withdraw the grievance.
14. As a job steward, you are integral to ensuring that hard fought collective agreement rights are upheld during the life of the agreement. Your role is also key to identifying language that needs strengthening in the next round of negotiations, and identifying areas where new language would solve problems that has not been addressed by existing language.

# GRIEVANCE HANDLING



## Representing the Union - Presenting a Grievance

There is no exact science on how you present a grievance. People use different strategies and sequences, with good results. Here is a straightforward process to help you present a grievance using a problem solving approach where you to move to a solution, with the employer.

Key questions that should be dealt with in a grievance meeting:

1. What is the key point to the grievance (**theory of your case**) – what has happened and why is it a violation of the collective agreement, the law, or established practice?
2. What are the key impacts: to the individual(s) and the union?
3. If it helps your case, has this same issue happened before and if so, how was it handled?
4. What do each of the key parties want? What is the solution? Is there one action to take or a logical sequence of actions that need to happen? Record each step.
5. What are the time lines for resolution? Are there time limits to be recognized, extended, or met?

# Representing Your Members: Dealing with Members and Management Scenarios

## Contract Administration and Enforcement

The key role of the steward is threefold: to identify contract violations, resolve clear violations, and alert the senior steward or business manager if a dispute is not easily resolved on the job, or if the issue is particularly difficult to understand.

Here are some problem solving situations you might experience as a steward. Your facilitator will assign you a number of the scenarios to deal with in your group. How would you handle these situations?

1. You go to a jobsite to investigate a complaint that the employer has refused to provide safety gloves for workers as required in the contract. The employer refuses to let you into the building. Is that allowed?
2. Jaffi, an administrative assistant, returns late to her work station after assisting a member who fainted in the lunch room. Without even asking for her excuse, the manager begins screaming at her in front of the entire workforce. Jaffi calls over her steward to represent her. During the ensuing debate the steward is angered by the manager's persistent refusal to listen to the reason for the administrative assistant's late return. In the heat of the moment, the steward calls the manager a "stubborn ass." Can the steward be disciplined for insubordination?
3. After a fight in the parking lot, one member who was involved is escorted into the manager's office. The steward demands to be present and the manager agrees but says that the steward is not allowed to say anything during the meeting.
4. You consider one of the workers in the office to be a jerk who always badmouths the local union leadership. One day this worker approaches you with a legitimate safety complaint and asks for your help in resolving it. Just then, another steward from your department responds, "If you want the union's support, why don't you support the union? When your attitude changes I'll help you. But not until then."
5. A woman worker complains to her steward that the office is covered with pin-ups and that other employees are constantly harassing her with so called "jokes" and innuendos. The steward talks to the workers and they respond that the pin-ups are harmless and the teasing is just good natured fun.
6. Jane is a member in your department. She has left you a message saying that she believes she has a grievance. You and Jane are not friends; in fact you dislike Jane a lot as a result of an incident several years ago. You take your breaks at a different time as a way to avoid being around Jane. You are not looking forward to this meeting.

7. Tony is a member in your local, but he regularly tells everyone that he wishes he didn't have to belong to the union. He thinks unions have outlived their usefulness and no matter how you try to persuade him otherwise, he won't change his mind. His views are being picked up by other union members who have in the past been supportive.
8. Jessie is the steward for the processing department and she has been trying to see her manager, Harry, about a grievance she filed two weeks ago. Harry is driving her crazy. Every time she tries to contact or set up a meeting, he either doesn't return her phone calls or cancels the meeting when "something comes up." Jessie is worried about keeping to the time limits for grievances in the contract. She is also tired of not being able to do her job effectively as a steward and she's tired of being treated this way by management. If you were the steward, what could you do to solve this problem?
9. Amalia comes to you in tears. She has just transferred into a new work area and her co-workers are upset that she won't work 10 minutes extra every day so they can leave work early on Fridays. Amalia has explained that she has to leave right at 3:00 p.m. every day to pick up her daughter from daycare, but that she is willing to work her regular work time on Fridays. The employer representative has said that either everyone works late or no one leaves early on Friday. All of Amalia's co-workers are in an uproar because their routine is changing. Some of them want to file grievances against Amalia. If you were the steward, what would you do?
10. Your department has a tremendous struggle with workload. All of the workers in the area refuse to be more involved in the union or take action to demand overtime pay (they work the time without recording it or getting approval ahead of time). A group approaches you and says that as the steward, you need to deal with the situation. If you were the steward, what would you do?
11. You are the steward in Financial Services and Susan is your employer representative. Susan does not like the union and makes it very difficult for you to do your job as a steward for the union. Every time you want to talk to Susan it takes forever to get a meeting set up and then she often cancels it. She will not agree to respond to written messages, but insists when you do get a hold of her, that you both should talk in person and work things out. You are tired of getting the run around. If you were the steward, what would you do?
12. Lucille is the manager in the production department and is very demanding of the workers there. She is constantly checking people's work and will not tolerate lateness or any variations from the work process schedule. The union regularly deals with the results of Lucille's inspections when she writes workers up for violating her department rules. In most cases the issues involved could have been resolved with a verbal warning. If you were the steward, what would you do?
13. Pierre is your employer representative and you work in a department that is always short-staffed because they won't replace people who are away. The stress in this

department is incredible. You have been the steward in this area for six months, but you are getting very frustrated. Many workers are working unpaid overtime on a regular basis because they are afraid to get permission for overtime ahead of time. Every time you ask for time off for union business, Pierre says it is not possible to let you leave work. You have missed several labour/ management meetings and a union conference and you do not have enough time to represent the members in your department on everyday issues. If you were the steward, what would you do?



# MODULE G

## KEY LEGAL PIECES STEWARDS NEED TO KNOW

### What is the Duty of Fair Representation?

In most jurisdictions in Canada, unions are obligated by labour law to provide what is known as the “duty of fair representation” which requires unions not to act toward a union member in a way that is:

**Arbitrary:** without reason or rationale;

**Discriminatory:** unequal or discriminatory treatment of a group or individual resulting in a distinction, preference, restriction, or exclusion that is based on improper grounds such as race, creed, religion, sex, ethnic or national origin, marital status, disability etc.

**Bad Faith:** dishonestly, with ill will, or with improper or ulterior motive.

### What is the Work Now, Grieve Later Rule?

A legal requirement contained in the federal Labour Code and provincial Labour Code is that during the term of the collective agreement, the union and the employer must resolve their differences without stopping work. Although this may seem unfair to employees because the fastest way to settling the grievance is to “shut the job down”, in the long term both the employer and the workers will benefit from the elimination of repeated disruptions of work. The basic rule therefore, becomes: Work Now, Grieve Later.

The basic Work Now, Grieve Later rule means that the employee should follow orders from his employer even though he/she believes that such orders violate the collective agreement, and then take his argument through the grievance procedure, and if necessary, to arbitration.

There are two exceptions to the Work Now, Grieve Later Rule. These have to do with situations where continuing work could have serious consequences for the worker that cannot be overcome later. These two exceptions are:

1. An Illegal Order – the employer cannot require any employee to commit an illegal act;
2. Safety & Health – the employer cannot require an employee to obey an order which puts him or her in danger of themselves or others.

When an employee takes it upon themselves to break the Work Now-Grieve Later rule, the employer will likely discipline or discharge the employee. If the worker then files a grievance, the onus will be on that worker to show that he was “justified” in breaking the Work Now-Grieve Later rule.

Arbitrators view a breach of the Work Now-Grieve Later rule as a serious action. An arbitrator will view the situation in terms of whether the worker can make a case that there was a “reasonable and honest belief” that either an illegal act order was received or that a danger existed. Unfortunately though, it is not as easy as it sounds to prove this honest belief and many arbitrators will uphold the employer's discipline.

Stewards should always advise workers of the “Work Now, Grieve Later” rule.

### **What is Insubordination?**

Hand and hand with the “Work Now, Grieve Later” rule is Insubordination. Insubordination is the most common type of disciplinary action found in labour arbitration and is also considered to be one of the most serious offenses.

Insubordination is the intentional refusal of a worker to follow the instructions of his/her employer.

An arbitrator will look at two key factors in an insubordination case. First, was the order clear? Second, was the employee aware or should have been aware that there would be consequences for not following the order?

The same defenses as in the “Work Now, Grieve Later” rule apply to insubordination.

### **What is Progressive Discipline?**

Arbitrators view the normal role of discipline to be one of correction and rehabilitation rather than being retributive. The normal progression of discipline is to have verbal warnings, written warnings, and suspension(s) before discharge can be initiated. Aside from progressive discipline measures, arbitrators have allowed depriving workers of seniority, loss of fringe benefits, and demotion as disciplinary measures.

Many collective agreements set out the stages and actions for progressive discipline that the employer can take. Most collective agreements also require that the employer must have “just cause” when meting out discipline. All acts of discipline can be grieved and if the union wishes to pursue the case, can be taken to arbitration.

### **What is a Management's Rights Clause in the Collective Agreement?**

Management rights clauses appear in almost every collective agreement and establish the right of the employer to control and direct the workplace. Unions often try to negotiate boundaries around management rights to protect the workers from arbitrary actions by the employer.

## **What is a Union Security Clause?**

Unions generally negotiate a union security clause which establishes the union as the sole bargaining agent for that group of workers and also establishes the right of that union and its representatives to act on behalf of the membership.

# **MODULE H**

## **Analyzing Communications: How Can Stewards Help?**

1. What strategies and tools for communication do you currently use for your union membership? For example, do you have regular emails, do you use a steward communication system, do you have a website, social media or phone tree system?
  - a) What kinds of communication tools and strategies do you use to get the members to do something or take some action?
2. What factors or issues do you think our membership view as important to hear or know about from their union? What types of communication get the membership involved or willing to take some sort of action?
3. What types of things (political, social, environmental) do unions compete with to get their member's attention on an issue?

## **Barriers & Challenges in Verbal Communication – Self Study**

How do you know when someone is really listening to you? What do they say or do that lets you know? How do you feel when someone has really been listening?

How do you know when someone is not really listening to you? What do they say or do that lets you know? How do you feel when someone has not really been listening?

What are the three most important elements for being a good listener?

## LISTENING WHEN THERE'S STATIC

**Self-Study or Class Discussion** What makes it easy or difficult to listen?

Discuss some of the factors listed below. Explain the ways they make listening easier or more difficult.

- Time of day
- Your physical state or mood
- Distractions
- The mood of the speaker
- How the message is delivered, the style of delivery
- Content of the message
- Liking or disliking the speaker
- Agreeing or disagreeing with the speaker

Are there power issues around speaking? Do some people/groups have more trouble being heard than others? Why? Under what circumstances?

## GOOD LISTENING

***A group can never become a community unless it develops the habit of deep, respectful listening to one another.***

*from Training for Transformation*

### **The nature of listening:**

- It is an art, a skill and a discipline. It requires discipline to be quiet and to focus attention on someone else, not on ourselves
- It means having a spirit of humility
- Listening consists of hearing and *understanding* what others have to say
- Hearing becomes listening when we pay attention and follow closely what is being communicated, not only verbally but also non-verbally

### **While listening, don't:**

- Be planning your response while the other person is speaking
- Argue while the other person is speaking
- Interrupt
- Pass judgment too quickly or in advance
- Give advice unless it is asked for
- Jump to conclusions
- Let the speaker's emotions completely dictate your own

### **While listening, do:**

- Pay attention and let the other person know through verbal or non-verbal messages
- Pay attention to both the verbal and non-verbal messages
- Try to understand the perspective of the speaker, even if you don't agree



## EFFECTIVE CROSS-CULTURAL COMMUNICATION

from *Teach Me to Thunder*

### To communicate effectively across cultures I try to be:

1. Sensitive to my own cultural reality.
2. Aware of my own values and biases and how they may affect other people.
3. Open to learning about each person's unique background without making assumptions based on the group to which they belong.
4. Comfortable with differences between myself and others.
5. Aware of factors that influence communication and able to generate and receive a wide variety of verbal and non-verbal messages.
6. Informed about the way the socio-political system operates in Canada with respect to minorities, and about the impact of racism and systemic discrimination.
7. Aware of my own limitations and able to make appropriate referrals.
8. Committed to principles of equity and fairness for all.
9. Able to recognize and learn from my own mistakes and start again.

## LISTENING TECHNIQUES

from *Training for Transformation*

### PURPOSE: To get at additional facts

- To help the person explore all sides of a problem
- To show that you are listening and that you understand what the other has said
- To convey that you are interested and listening
- To encourage the person to continue talking
- To show that you understand how the other feels about what she/he is saying
- To help the person to reflect on his or her own feelings as expressed by someone else
- To bring the discussion into focus in terms of a summary
- To serve as a springboard to discuss new aspects of the problem

### POSSIBLE RESPONSES:

- "Can you clarify this?"
- "Do you mean this?"
- "Is this the problem as you see it now?"
- "As I understand it, your plan is..."
- "Is this what you have decided to do... and the reasons are..."
- "I see."
- "I understand."
- "That is a good point"
- "You felt you didn't get a fair hearing."
- "These are the key ideas you have expressed..."
- "If I understand how you feel about the situation..."

## “Yes . . . And Yet . . .”

When you are talking with someone who questions you or has a position that differs from yours or the union, it is tempting to just discount what they are saying and come back with your counter-argument. “Yeah, yeah, but . . .” However, if you make the extra effort to really listen to the concern behind their position, speak to that concern and acknowledge the part of it you can agree with, they will feel respected and be more likely to hear what you have to say. This process adds information that may shine new light on their concern or how it can be addressed.

You can use phrases like:

*“And, did you know that . . .”*

*“And, you may be surprised to know that . . .”*

*“And, on top of that, . . .”*

### Four Steps You Might Try:

1. **Listen**
2. **Identify the concern behind their position.**  
*“Why is that important to you?”*  
*“What do you hope that would achieve?”*
3. **Acknowledge points of agreement; let them know you hear their concern.**  
*“Yes, I know what you mean about the crunch at tax time . . .”*  
*“Yes, that is a concern many workers share . . .”*  
*“Yes, I agree with you that the situation in emergency rooms is not acceptable.”*  
*“Yes, that worries me too . . .”*
4. **Then provide new information that will address their concern.**  
*“And yet we end up paying even more out-of-pocket with a private system. Did you know that . . .”*  
*“That is precisely why the provinces need to be more accountable for their spending.”*  
*“Another way of addressing that problem is to provide adequate staffing in the public system.”*  
*“And, at the same time, statistics show . . .”*

# MODULE I

## **Grievance Handling: Role Play**

You will use all of your skills learned up to this point in the course: grievance investigation, determining what type of a grievance to file, grievance writing, and representational skills for the next role play.

Instructions: Groups will be divided up into union and employer representatives. You will have time to do some basic investigation and write your grievance(s). You will attend a grievance presentation meeting (first stage grievance hearing). You will need to arrange this meeting on your own as it will not occur in front of the class.

Next, prepare your case for a second stage grievance hearing where you will argue the grievance in front of the class. Second stage meetings begin at \_\_\_\_\_  
\_\_\_\_\_.

## Grievance Handling: What's Cooking?

### Basic Facts:

The grievor was employed as a senior administration assistant in a Corporation for seven years and four months. She was initially hired as a receptionist, was promoted to administration assistant, and became senior administration assistant within less than three years.

A dismissal notice was issued to the employee on November 3, 2012 and read as follows:

*November 3, 2012*

*As you have chosen not to submit your resignation, you are now being dismissed – effective Friday November 7, 2012. 2008. Among the reasons for your dismissal are those outlined in the letters of August 25<sup>th</sup> and October 27<sup>th</sup> of this year. The monies owing to you will be mailed (and registered) to you not later than November 13, 2012.*

*Ellen Smith, Manager*

The following letter dated October 27, 2012, and referred to in the dismissal notice, contained the following:

*October 27, 2012*

*This is to inform you that your services are no longer required at the corporation.*

*The two reasons for this are:*

- [a] Specifically, the last incident, where by not completing your assigned duties the corporation was left with a liability.*
- [b] Added to this, the failure to properly complete you duties has resulted in the corporation losing an important client.*

*With this letter, I am requesting your resignation.*

*Please have it in the office at the earliest possible time. Should you choose not to resign, then we will have no other recourse but to dismiss you.*

*Ellen Smith, Manager*

The following letter of August 25, 2012 contained the following:

*We have a number of complaints regarding the quality and performance of your work. Specifically:*

- [a] Managers report the quality of your work is substandard..*
- [b] The timely completion of your work has not been forth coming.*
- [c] Your work is congested and scattered.*
- [d] You general appearance and demeanor has been questioned.*
- [e] Your report on the available equipment and supplies was inadequate and incorrect. We have investigated and found a good supply of glasses, bowls, small plates, cups, and silverware... In a meeting in June you reported to us that they were in poor supply.*
- [f] We found the storage rooms were badly organized and items were hidden behind the staple supplies.*
- [g] The inventory is up to date and we have been able to arrive at some real costs for food for the government inquiry.*
- [h] It has been brought to my attention that you are often away from your workstation...talking to other staff, and spending time in the staff room that is not break time or your lunch time.*

The collective agreement contains the following provision with respect to disciplinary matters:

Article IV Section 5 (e):

*Disciplinary action grievable by the employer shall include written warnings, letters of reprimand, and adverse reports of performance evaluation. An employee shall be given a copy of any such document placed on the employee's file which might be the basis of disciplinary action. Should an employee dispute any such entry in his/her file, he/she shall be entitled to recourse through the grievance procedure and the eventual resolution thereof shall become part of his/her personnel record. Upon the employee's request any such document, other than the official evaluation reports, shall be removed from the employee's file after the expiration of 18 months from the date it was issued provided there has not been a further infraction. The employer agrees not to introduce as evidence in any hearing, any document from the file of an employee, the existence of which the employee was not aware at the time of filing or within a reasonable period therefore. The employer shall not impose discipline without just cause. ‘*

## Grievance Handling: An Expensive Drink

### Basic Facts:

In October, you were called in to provide representation to a long term member who was employed at a credit union.

The member was to be interviewed by the employer representative over allegations of theft.

After the employer representative told the member that no criminal charges would be laid, the employee admitted to the theft and then surprised both you and the employer representative when he admitted to being an alcoholic. He stated that he signed up for and attended a rehabilitation program, at his own expense, and has abstained from alcohol since.

For two years, the member had begun to drink heavily. He also began to steal money from the charity collection box to buy alcohol. His pattern of theft, which occurred several times per week for approximately one year, was to go to the teller counter where the collection box was located and remove some of the money when he felt nobody was looking.

Other employees at the bank complained about the member's conduct. An investigation followed.

The member was suspended without pay on on October 24<sup>th</sup>. The suspension letter stated, in part:

*A preliminary investigation has revealed that you have engaged in extremely serious workplace misconduct. Specifically, you have admitted to removing money from collection box for the disabled on numerous occasions. Such misconduct is not only a gross violation of Branch policy, but constitutes theft. As an employee of a financial institution, you ought reasonably to have known that this behaviour cannot be tolerated.*

The member's employment was terminated on November 24<sup>th</sup>. The termination letter notified him as follows:

*The investigation has now been completed and, on the basis of the information made available to me, I am satisfied that you willfully committed the theft of money from the charity collection box. Honesty is vital to maintaining a viable employer-employee relationship. The form of misconduct to which you have admitted strikes at the fundamental trust placed in you by not only your employer, but also the public.*

## **Grievance Handling: The Good Ole Hockey Game**

### **Basic Facts:**

The grievor, worked as a meter reader at a Crown Corporation reading customer meters which determine what a member of the public will be charged on their bills. The grievor injured his elbow at work in July and was required to be placed on modified duties. He worked under the care of a doctor during this time. In November the grievor was deemed to have recovered the full use of his elbow. However, during the recovery time from his elbow injury, the grievor injured his back. Again his doctor ordered modified work.

The employer became suspicious as to the severity of the grievor's injury in early December, especially after another employee reported that the grievor had talked about playing hockey the night before.

The grievor was placed under video surveillance and tapes were made at various dates and locations between December 16 and 27. The tapes show the grievor walking in a residential neighborhood, bending over to pick up an object lying on the grass, lifting a BBQ off the back of a truck at a residential home, and playing two games of no contact ice hockey at an outdoor rink. The pace and the exhibited skills of the two hockey games appear to be at a relatively low level.

The grievor did not work during the employer's holiday shutdown between December 20 and January 6. The grievor visited his doctor on December 20<sup>th</sup> and again on January 6 and was cleared to return to work on January 15 with a return to unrestricted full duties.

The grievor was dismissed by letter on January 20 on the primary grounds that he misrepresented his capabilities.

As an aside the grievors doctor recommended exercise for both the elbow injury and the back injury.



1. What did you learn from the role play you did?

2. What did you learn from the role plays you watched?