



Impact

APRIL 2015

COMPENSATION EMPLOYEES' UNION



Message from the President April 2015

We are well into 2015, and still without a collective agreement! Many members are asking “what’s going on” – here’s the plan. On April 21st we held exploratory discussions with the

employer to see if there’s enough common ground to resume bargaining. Part of that common ground will mean the employer drops their concessionary demands and listens to your bargaining needs.

We are also holding meetings around the province to answer your questions. If you haven’t attended one yet, or missed it, please speak to your steward to see if another one can be set up for your area.

The short answer to questions about bargaining is that last year, the employer seemed hell bent on taking away your collective agreement rights. When PSEC wage controls “give” a 5.5% wage increase over 5 years, removing current collective agreement rights shouldn’t be on a fair employer’s agenda.

Senior management, from the WES Division, recently completed a provincial tour. They told you what a great job you were doing, how they had the “best stats ever” and that they were in a great financial position. Gee, if that’s the case, why don’t we have a fair collective agreement?

Bargaining Bulletin #7 talked about the need for action now; saying a fair collective agreement is a good place to start progressive change, not only with the labour relations climate, but with how CEU members are recognized for their hard work.

All this talk about “what a great job” everyone is doing won’t seem like much of a thank you if the employer doesn’t move to resume bargaining, remove the concessions from the table and settle a fair collective agreement.

I can assure you we are doing everything in our power to get the employer back to the bargaining table, and off their concessions. But, we can’t do it alone. Sometimes the employer needs to see a visible push from our membership

to make them do the right thing.

To start that push, we need CEU members to act. The first step is putting up your “Make A Difference, Respect My Rights” flag in your work area. Every flag sends a message to the employer – you stand behind your union and those speaking for you at the bargaining table. You want to be treated fairly.

The second step is coming to an information meeting. Come. Ask questions. Learn about the issues. Remember your union, and your collective agreement, were built on fairness for all. We need to stand together, more than ever before, to protect all of our rights!

I mentioned earlier that we’re trying to get bargaining going again. We’re cautiously optimistic that will happen. That’s the easy part. The hard part is achieving a fair settlement. To get there, more action will be needed, including a strike vote.

We’d take a strike vote to give the employer further incentive to do the right thing – settle a fair collective agreement. Remember a positive strike vote allows us to take job action; it doesn’t mean your union would go on strike. Job action can be many things; wearing buttons with slogans, taking your breaks on time, focusing on quality work, a ban on overtime etcetera.

I encourage every CEU member to join our campaign. Come to an information meeting to learn about the issues, fly your flag and stay connected to your union by checking www.ceu.bc.ca for bargaining updates. Go to the member sign-in area, and after entering your credentials, click on the Bargaining 2015 icon.

I hope to see you soon.

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Managers of Disability Health – Do they really have your best interests at heart?

The new Managers, Disability Health (MDH) have been adjudicating sick leave, for the employer, for a long enough period of time for us to challenge whether or not they really do have your best interests at heart.

The rationale behind the creation of these two MDH management positions was the Board said it had to stop abuses of the sick leave program, and get employees back to work as soon as possible. The Board's underlying viewpoint is medical notes are only a reflection of employee self-reporting, and as such, the medical notes are insufficient. The subtext of this is; your attending physician doesn't know what's really going on, and therefore, the treatment they're giving you is inadequate, at best, and potentially improper.

Your union has written earlier articles about steps to take when you are contacted by the MDH. Recent experience shows the need for greater awareness about the ways the MDH may intrude into areas of personal privacy remains. Although some employees may have interacted with the MDH without difficulties, there are many other employees who have approached your union with concerns.

For example, we are seeing more and more requests for medical notes or for certificate of fitness forms to be filled out. In many cases, we believe the information the MDH is seeking is both irrelevant, to the issue at hand, and constitutes a violation of your privacy rights. The Board does have the right to ask for medical information to adjudicate sick leave entitlement but that right is very constrained in law.

Employers do not have the right to know the diagnosis. So when the MDH asks you, or your physician, for diagnostic tests, or asks for details about the medication you are taking, they are using a tactic which is really a back door way of finding out about your diagnosis. By doing these types of things, the MDH is breaching your privacy. The collective agreement and the law have protections in place to safeguard your privacy from these types of unnecessary intrusions.

Article 34 sets out when and why the MDH can ask for medical evidence if you are away from work due to illness. Requests for medical evidence can be made if there is a pattern of consistent or frequent absence; or for absences of more than five consecutive work days; or when more than thirty calendar days have elapsed since the last medical information was obtained. The Board does not have to seek medical information in the above cases – the decision is discretionary and must be based upon the circumstances of each case.

Based on the calls we're getting from CEU members about the actions of the MDH, your union believes the Board is starting to ask for medical information as a matter of routine. Your union recommends you take the following action to protect your privacy rights:

1. Do not meet with the MDH on your own. Go to any meeting with a shop steward.
2. If you do meet alone, do not disclose any personal medical information.
3. Ask the MDH to put in writing the information they want, why they want it, and who the information will be shared with.
4. Do not have any detailed discussions with the MDH over the phone. Again, ask the MDH to put any information they want in writing, why they want the information and who the information will be shared with.
5. Do not allow the MDH to contact your physician directly. Once permission is granted, it becomes very difficult to limit the scope of the discussion.
6. If you do not understand the relevance of any question in the certificate of fitness or in a letter or in any other type of form; or if you think the question is a violation of your privacy rights, contact a shop steward for advice before forwarding questions to your physician.
7. If you think the MDH is treating you unfairly, contact your steward to explore what actions should be taken to protect your rights.

The major issue for CEU members is the protection of your privacy – once that bell has been rung, it is impossible to un-ring it. People at the Board will have knowledge of medical or personal issues that they should not have.

The MDH should have no trouble with you asking them for full disclosure – after all, what have they got to hide? Why should they worry that you are seeking advice on their requests if their actions are purely in your best interests? Why should they be concerned if you are worried about your privacy rights? Surely they have the same interests as you.

Or could it be they are more interested in getting you back to work as soon as possible even if that means over-riding your physician's treatment plan? Is it possible that they think the medical community simply relies on an employee's self-reporting and physicians don't act within the bounds of their oath? Are they sceptical of physician return to work dates? Do they think they know better?

You decide.

Complaint procedure – A search for procedural fairness

Most of you will remember the fiasco surrounding the allegations made against some North Island Officers arising out of a third party complaint. A grievance was filed and the matter was heard by Vince Ready. A satisfactory settlement resulted.

The whole issue of a complaint process was addressed between the Board and the CEU. Your union wanted to ensure an open, transparent and objective process that allowed a full investigation to occur. Further, closure of the loop was to happen to ensure that any unfounded complaint was indicated to the complainant.

This process was intended to protect against a complainant feeling their complaint was justified even though an investigation did not support that conclusion – your union did not want officers to face possible bias or even violence when dealing with the same complainant again in the future. Also, we did not want an officer's reputation tarnished by a complaint loop that was not closed.

Both Parties were in agreement with the concept.

Did the concept actually get put in to practice?

Your union asked the Board how long it stores data about a complaint. In an email dated April 1, 2014, the Board responded, "Indefinitely, although the complainant and employee are advised if the complaint is unfounded."

In an email dated October 30, 2014, the Board wrote, "I am advised that Complaint Handlers (Managers or Fair Practices Office) follows up with the complainant, even if it is found the complaint is not substantiated. The exception is demeanor complaints."

Your union never agreed to this new exception. We believe the Board would classify the majority of complaints as demeanor complaints; this exception is simply a finesse to avoid closing the loop.

Two recent complaints seem to suggest the Board has not learned the lessons arising out of the North Island situation. One complaint went directly to the Minister of Labour but was referred back to the Board. The complaint alleged an officer had acted inappropriately. An extensive investigation occurred, and the officer was not only exonerated, but the officer's handling of the file was found to be exemplary. The behaviour of the complainant

involved yelling, swearing and lunging towards the officer. A decision letter was drafted indicating the complaint was unfounded. That letter was never sent to the complainant. Instead, the Board sent a final decision letter that did not support the officer.

The first paragraph of the Board's letter indicated the complainant raised a number of serious concerns. The second paragraph indicated the Board valued positive relationships with employers. The third paragraph said an enquiry was done and the complaint gave the Board an opportunity to reflect with officers about the importance of developing and maintaining constructive relationships with employers and contractors. But the fourth paragraph stated, we will attempt "to renew our relationship by assigning another Prevention Officer..."

No mention was made that the complaint was unfounded.

No mention was made of the complainant's offensive and threatening behaviour.

Any reasonable reading of the Board's response letter, would lead the complainant to think the complaint was upheld and the officer was removed as a result of the complaint. Your union and the officer involved

are not satisfied with the Board's actions.

The complainant's behaviour will never be dealt with if the Board fails to address it; this will only subject other officers to the same abuse. How is the officer supposed to deal with any allegations against their character in the employer community? And what happens the next time the officer has to deal with this employer? Will the officer face another complaint; or possible anger or bias from that person?

We have no problem with the investigation – it was done well. But the Board failed to tell the complainant the complaint was unfounded. This flies in the face of the spirit and intent of the complaint process. By ducking the real issue – the employer's aggression towards an officer, the Board has reinforced a culture of abuse. In other words, it's part of the job.

Similarly, in a second situation, a complaint was filed against an officer. A complete investigation found no basis for the complaint. The first decision letter indicated the complaint was unfounded, but, once again that letter was never sent. Instead a letter was sent acknowledging the



complainant's concerns about the officer's conduct. Again, the Board's letter failed to tell the complainant the complaint was unfounded. And again, no doubt the complainant thinks their complaint was upheld. As in the previous case, the officer is wondering how their reputation in the employer community will be impacted. The officer is unsure if, in dealing with the same employer, they will be met by a biased or angry person.

The whole point to closing the loop with the complainant on unfounded complaints was to ensure an officer's integrity and reputation is not unfairly tarnished. It also serves to ensure the officer does not unknowingly face an angry employer.

So you decide—does it feel to you like the Board has

your back? Do you feel supported? Do you believe the Board has lived up to the spirit and intent of the complaint procedure?

If not, either individually or in a group, approach your manager and ask them what steps the employer is going to take to ensure this does not happen again. Make your views known to your manager.

Your union plans to have further discussions with the Board about this major flaw in the complaints process. We have already advised the Board it's time to change the culture in Prevention – officers should not have to put up with rude, threatening or abusive stakeholders. That type of behaviour is not acceptable, it is not part of any job and behavioural expectations for stakeholders must be changed.

Survey Says?

Many of you may have personal experience with completing client surveys when dealing with CEU members who work at the Help Desk in IT. You may be filling out these surveys with the understanding they could be used as kudos when the feedback is positive, and coaching when not so positive. You may also think these surveys are somewhat anonymous. That is what the Board would have you believe.

If you knew the Board might use these surveys as a basis for disciplining fellow members, and that you could be called as a witness in regards to such discipline, would that change how you view them? You need not wonder any longer.

The Board has recently begun using these client surveys as a basis for disciplining your fellow members. You need to know that if you fill out a client survey, and that survey is used as a basis for disciplining one of our members, you will not remain anonymous. You will be called upon to confirm the contents of the survey, and potentially be a witness for the Board during the grievance procedure. Please keep this in mind the next time you fill out a client survey.



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