

## **Grievances, Part I - Is it a grievance?**

FROM THE "Did You Know?" E-MAIL SERIES PROVIDED BY THE NOVA SCOTIA UNION OF PUBLIC & PRIVATE EMPLOYEES

Got a problem at work? Call your union. The first thing your union rep. will do is try to figure out if you have a grievance, or a complaint that has to be handled another way. You have a grievance if you can answer yes to one of these four questions:

1. Is there a violation of the collective agreement? This is by far the most common grievance, and also happily enough the easiest to win. But it's not always clear cut. Sometimes the employer and the union will interpret the same words in different ways and then we need an arbitrator to decide which interpretation is right. Unjust discipline falls into this category.

2. Is there a violation of a federal or provincial law? Human rights cases and occupational health and safety violations are two of the most common grievances under this category. If you have this kind of grievance, you may also be able to seek redress from the appropriate government agency but check with a union rep. first because under some collective agreements you lose your right to grieve if you make a complaint to an outside body.

3. Is there a violation of past practice? This may be a basis for a grievance where the contract is silent or unclear. But to be considered as a past practice, the circumstances must be repeated over an extended period of time (usually several years and usually more than one contract), and

- known and accepted by both the employees and managers without either side formally objecting; or

- while being a violation of the contract, neither side has demanded that this part of the contract be enforced.

Quite often, even if the grievance is successfully won, an arbitrator will only grant relief until the next round of negotiations. It's always best to put a practice into the collective agreement.

4. Are employees being treated unequally? This is usually the hardest kind of grievance to win, and it requires clear, documented evidence. The union has to be careful about this kind of grievance because demanding that everyone be treated the same may mean taking away perks that other employees are gratuitously receiving. For example, by saying that one group is being treated unfairly because they don't have flexible working hours like the employees in

another department may only result in the flexible working hours being taken from the employees in that other department.

If you couldn't answer yes to one of these questions, then you don't have a grievance. But you should always check with a union rep. because she/he may know of some provision in the contract you haven't thought of.

And even if you don't have a grievance, don't despair – there may still be something the union can do....but to hear about that, you're going to have to wait for Part II of this series, coming soon to a computer near you.

NOTE: The Did You Know? series is general information only. For advice specific to your workplace or personal circumstances, please contact a union representative. Comments are welcome at [nsupe@ns.sympatico.ca](mailto:nsupe@ns.sympatico.ca). For back issues of Did You Know, look under "News" on the NSUPE website: [www.nsupe.ca](http://www.nsupe.ca).