

Grievances, Part III - I've got a grievance. Now what?

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

In the previous two installments on grievances, we've talked about what is and what isn't a grievance. In this installment, we're going to talk about how NSUPE decides whether a grievance should be filed. To make it a little easier to follow – not to mention more interesting – let's use an example where you have been disciplined by your manager.

1. You and your union rep. have a meeting with your manager where you are suspended for three days without pay for taking two-hour lunches three times last week when you only get a half hour for lunch. You feel unfairly treated and want to grieve.

2. After the meeting, your union rep. finds out that you feel entitled to take long lunches. In your three years with the employer, you have often come in early and stayed late to get your work done and never claimed any overtime. You've never been disciplined before. You think your manager has it in for you because during a recent staff meeting, you pointed out a mistake he made and he was embarrassed. But there's no proof of that.

3. The union rep. calls a NSUPE business agent/lawyer and finds out that, based on the facts above, it is likely that an arbitrator would find there were grounds for some discipline. The employer gets to set the hours of work (subject to the provisions of the collective agreement) and you need permission to deviate from those hours. The fact that you voluntarily put in extra time doesn't change that, although it would be a factor in the amount of discipline. But a three day suspension for a first offence? That sounds a bit excessive. The business agent suggests that we try to have the suspension reduced to a verbal or written warning.

4. The business agent says she will contact the Local Executive to explain the situation and get their input. Meanwhile, the union rep. goes back to you to explain the legal aspects and find out if you would agree with a compromise. All are consulted and, while there is one Executive member who thinks that a grievance should be filed immediately and another who thinks you deserve the full suspension, the general consensus is that we should try to work out an early resolution.

5. The business agent writes the manager(s) involved and points out that management failed to take into account all the extra time you put in and how reliable and conscientious an employee you are. She winds up her letter by proposing, on a non-precedent setting basis, that if the employer agrees to reduce the discipline to a verbal warning, then the union won't file a grievance.

6. The manager writes back and says that all employees in the department had been

reminded of the hours of work just a few weeks ago. Other employees complained about your long lunches. He's totally unaware of you having put in even one minute extra of your own time. And so, he says, the discipline will stand.

7. You still think you didn't deserve any discipline at all and after losing your three days' pay and seeing those nasty things your manager wrote, you definitely want to go ahead with a grievance and an arbitration. The business agent consults the Local Executive and they all agree that a three-day suspension is excessive and that a grievance should be filed. And so one is.

So what should we take away from the above example?

– It's up to the union, and more particularly to the Local executive, whether a grievance and arbitration goes ahead. (NSUPE's Executive Council could actually overrule a Local executive decision, but that hasn't happened to date.)

– A lot of consultation happens between the employee involved and the executive and the business agent before a grievance is filed.

– NSUPE will quite often try to resolve an issue informally before filing a grievance. This is because a formal grievance often has the effect of making those involved more entrenched in their positions.

Our series on grievances isn't over yet. In fact, not even our example is over. Part IV will talk about what happens to our grievance next.

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. For back issues of Did You Know, look under "News" on the NSUPE website: www.nsupe.ca.