

LIFE OF A GRIEVANCE

If you believe you may have a grievance the first thing to do is contact a steward who will arrange time to sit down and talk about it. The steward will determine if your rights have been violated, and what will be needed to prove your case.

For example, the boss insists you have to come to work on your holidays under threat of discipline. So you do. Your statement, those of any witnesses and a copy of the annual leave schedule will be needed. If you have submitted a leave form a copy of that will be helpful. The steward will also discuss with you what you want or can get as compensation. In such an instance you would be entitled to double time for the day worked and another day off.

Another step you can take is to complain to the boss about the situation. We are entitled to complaint meetings under Clause 9.07. The steward can arrange this with the supervisors or manager if the steward feels it would be helpful. You retain your right to grieve.

If for instance you are denied special leave, you and the steward can discuss it with management. That may resolve it. If not, the notes from that meeting will be useful for the grievance.

Once you and the steward have collected all the relevant info, it is turned over to the grievance officer who determines if there is a valid grievance. The more information you provide the easier it will be to understand just what part of the C/A the boss trampled all over.

Let's say the boss sent you out of your section and then had someone else do your job. If you only note that you were sent out, the grievance officer won't be able to determine what contract provision was breached. The grievance may die even before the boss sees it due to insufficient information. Putting all the facts down on paper makes it a lot easier to sort out.

If the grievance officer decides there is a breach of the contract, he submits a written complaint with the boss. This starts the ball rolling. The Union meets with the employer (1st level hearing) and discusses the violation. The boss can (1) reply they do not believe they violated the contract OR (2) sustain the grievance [admit they screwed up and pay you].

At the 1st level hearing, the Union fights hard to have the employer understand the problem and resolve it quickly. The information you provided plays a large part in what the employer's decision at this level. Most often the 1st level hearings are an exercise in frustration, however the chances of a grievance being sustained increases with the amount of information provided at the initial investigation with the steward.

The employer is obligated to reply to the grievance in writing. After the grievance is heard at the 1st level the boss will usually reply to it in writing with what they are willing to do to solve the problem. They include grievances that they have denied as well as grievances that are sustained. This is mailed to the member and the local union. When the grievance is sustained and the local agrees with the resolution then the boss will implement whatever the agreement was. When the grievance is denied the local will send the grievance along to the regional union so they can determine if the grievance can be arbitrated successfully or not. This is called referrals. If you have sent over enough information then the referral process is more or less a formality.

After your grievance is referred it is put on an arbitration list. This can take a very long time as these lists are long and only so many dates are arranged with arbitrators during the year. During this process the regional union will once again try to resolve the grievance before it has to be put in front of an arbitrator, this process is called pre-arb. If the regional union and the employer agree on a settlement then the grievance is resolved and the boss implements the agreed upon settlement.

If not the grievance is arbitrated in front of a third party. This means that the union and the boss argue in front of what amounts to a judge the facts that are in the grievance and the arbitrator decides what the outcome will be. This can include denying, partially sustaining or sustaining the grievance. When the union argues the grievance in front of the arbitrator it will only work out in our favor if you have included all the facts you can think of in the first place.

After the hearings the arbitrator will use case law and contract language as well as the labor code to make a determination as to what way he will rule. If you have given enough facts to support the grievance then the arbitrator will rule in our favor almost all of the time.

As you can see the grievance arbitration process hinges on what you include in the grievance form in the first place.

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