



Stewards' Action Bulletin

Canadian Union of Postal Workers

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And the Winner is... OUR UNION!

Everywhere we look these days, bad news is hitting us hard. It's easy to get discouraged when workers' struggles all over the world are being met with fierce resistance.



In times like these, let's remember the victories that union members can achieve by upholding our collective agreements in the workplace. Some of the recent grievances and arbitrations that CUPW has settled are big wins for workers. As union members, we often hear that "an injury to one is an injury to all." By the same logic, a victory on a grievance means we all win.

Grievances and arbitrations are a fundamental part of the union's daily business. It takes patience and time to learn and deal with the legalese, hearing dates, arguments and technicalities. But a collective agreement needs to be enforced. Without a strong collective agreement, we are all vulnerable to the whims of the boss. We need to keep resisting all violations of the collective agreements that we work so hard to negotiate. The daily vigilance of activists and stewards on the shop floor is essential to keep our Union strong.

Victories deserve to be celebrated. This issue of the SAB is dedicated to all members, nationally, regionally and locally, who have helped to protect and strengthen our union's collective agreements by bringing our grievances and arbitrations forward.

"We Are the Union!"

National Arbitrator Slams CPC's "Malicious Schemes," Upholds Union Rights, Imposes "Punitive and Preventative Damages" on Management

Grievance Numbers: R01-07-00006 (Atlantic Region) and N00-07-00025 Filed April 2009 (Atlantic) and July 2009 (Pacific), Decision Rendered April 2010 (Atlantic) and August 2010 (Pacific) (Urban Unit Collective Agreement)

In 2009, Canada Post conducted a series of regional forums across the country. These forums were designed to get workers to be more receptive to rollbacks and concessions in advance of negotiations. Upper management representatives, including former CEO Moya Greene, assembled our members in a carefully staged exercise, complete with official podium and photo-op. Among other things, members were threatened with job losses and the disappearance of the public post office.

Upper management also took the opportunity at these events to accuse our members of abusing their sick leave and injury-on-duty benefits. In spite of the fact that CPC had invited union representatives to the forums, the employer soon made it clear that the forum was a management monologue about how our members had things too good and how they should accept rollbacks.

In Vancouver, B.C., on June 25th, 2009, when indignant union representatives got up to speak to these accusations, Moya Greene cut them off. When other members spoke up in support and demanded that the representatives be heard, these members received disciplinary letters for "disruptive" behaviour.

On the following day, in Richmond, B.C., where another forum was taking place, the union reps found their invitation rescinded and the entrance blocked by hired security. Management then called the RCMP on the union, although the cops refused to make any arrests. One of our representatives Brother Ken Mooney (Regional Grievance Officer, Pacific Region), not only received a disciplinary letter, but also was barred from postal facilities by CPC for a period of five months.



Security guards and RCMP welcomed CUPW representatives to Canada Post's regional forums.

Similar outrages had already happened in Moncton, N.B., where three union officers, Jeff Callaghan (National Director, Atlantic Region), Toni McAfee (Regional Education and Organization Officer) and James Gallant (Union Representative) were kicked out of a regional forum in April 2009, and were subsequently banned by CPC from all its postal facilities for a period of one year.

In both of these cases, the Union filed grievances that were heard by a National Arbitrator. In the case of the Atlantic representatives, the ban was overturned and the arbitrator found that CPC was in flagrant violation of Article 3.04 of the urban collective agreement, which allows union access to the workplace.

In the case of the Pacific representatives, the same arbitrator went even further and declared that management's crying poor to CUPW members was "fallacious" – in other words, a lie – and that the forums were illegal "misguided attempts to intimidate members of the bargaining unit and impose a gag on union representatives." That's a pretty strong condemnation.

When filing the Pacific grievance, the Union requested as part of the corrective action that the arbitrator issue a statement stating that Canada Post had violated the provisions of the collective agreement and the *Canada Labour Code*. The Union also requested that the employer be ordered to stop interfering with the Union's right to represent its members, stop meeting with employees to discuss working conditions and benefits, and stop denying union representatives access to postal facilities.

Finally, the Union asked for compensatory and punitive damages for itself and its representatives. Arbitrator Dulude agreed that it was necessary to order punitive and preventive damages to ensure that the Corporation did not try the same thing in the future.

The arbitrator's orders are as follows:

ALLOWS the grievance;

DECLARES that the Corporation violated Section 94 of the Canada Labour Code, as well as numerous provisions of the collective

continued on page 4

The Notorious BUTTON versus the Bullying Bosses

*Grievance Number: N00-07-00016
Filed December 2008,
Decision Rendered March 2010
(Urban Unit Collective Agreement)*

You'd think "freedom of expression" would be one of the simpler rules for management to remember. After all, it applies to all citizens under the Canadian Charter of Human Rights and Freedoms, not only CUPW members. And yet Canada Post famously came cracking down on our members in 2008 for daring to wear union buttons and stickers promoting public postal service. The buttons were part of a CUPW national awareness campaign against privatization and deregulation. One button called for "Peace, joy and a universal public postal service" while the other warned customers that "Your public post office delivers... for now."

The Union's message gathered support from social, community, business and political organizations, as well as the general public, in an effort to preserve jobs and defend the members' interests. Canada Post reacted by trying to prohibit these messages on the uniform of employees serving the public. If our members refused to remove their buttons or stickers, they were harshly disciplined.

As you read in an earlier number of the *SAB* (March-April 2009), the union immediately asked a national arbitrator for an injunction to stop Canada Post's bully tactics. On December 5, 2008, the arbitrator ordered the employer to cease and desist. The employer could neither prohibit bargaining unit employees from wearing buttons or stickers nor impose disciplinary sanctions.

Once the injunction was issued, a hearing on the merits of the grievance could proceed. Its statement reads in part:



CPC's policy and actions:

- 1. constitute an illegal attack on the freedom of expression of employees and the Union;*
- 2. constitute a constraint upon a legitimate union activity;*
- 3. constitute an abusive exercise of management rights;*
- 4. violate the provisions of the collective agreement, and more specifically Articles 1, 2, 3 and 5.*

After reviewing clause 5.01 of the collective agreement, the national arbitrator concluded that the employer's gag order on buttons, as well as the threat and use of discipline, were discriminatory actions and constituted undue interference in the union members' right to participate in union activities.

Canada Post argued that its attempt to stop members wearing buttons was strictly "administrative" and was not subject to the Charter since the gag order didn't come directly from the government. But this excuse didn't fool the arbitrator, who called it "abusive and fallacious."

The arbitration board's final conclusion is as follows. The board:

DECLARES that the Corporation has infringed upon the freedom of expression of employees and the Union;

DECLARES more specifically that the Corporation has violated the provisions of the collective agreement (in particular clauses 5.01 and 9.103), the Canadian Charter of Rights and Freedoms and the decisions of arbitrators Outhouse and Christie;

ORDERS that the Corporation stop preventing employees in the bargaining unit from wearing buttons or other insignia in support of the public nature of the postal service or against its privatization or deregulation;

DECLARES that the wearing of such buttons or insignia in public, as well as on uniforms, must be tolerated at all times and under all circumstances insofar as the message conveyed falls within the Union's areas of responsibility and the working conditions of its members;

ORDERS that the Corporation stop imposing sanctions on employees who wear such buttons or insignia, and refrain from any other form of retaliation or harassment against them;

AND RESERVES JURISDICTION to rule on any dispute regarding the application and implementation of this award, as well as the pronouncement, if any, of compensation to be paid to employees whose freedom of expression was infringed upon by the Corporation's policy or actions, or those of its representatives.

Did you hear that, Canada Post?

This grievance was a resounding victory for CUPW members, upholding our freedom of expression as a right under the Charter and under the collective agreement.

Your Money's No Good Here... to bust our union, that is!

*Grievance Number: N00-06-R0007
Filed July 2008, Decision Rendered
February 5, 2010
(RSMC Collective Agreement)*

A cash incentive to get good co-workers hired? That sounds tempting, right? Well, obviously it does. But the problem is that this undermines Clause 3.01 of both the RSMC and the urban operations collective agreements, that both stipulate that the Union is the exclusive bargaining agent for these two units. So, in exchange for a one-time pay-off, members would reject the union's ability to act as their bargaining agent, which is exactly what employers like to see ("divide and conquer!").

In May 2008, Canada Post tried to implement an "Employee Recommendation Program" as a pilot program in British Columbia and Alberta for the RSMC bargaining unit. Employees who had recommended someone for a position would receive \$500.00 (before tax) once the recruit had completed 90 days of continuous service.

On July 1st 2008, the Employer sent its employees in Alberta and British Columbia a letter and documents explaining the terms of this program, without first obtaining the Union's consent. As a result, the Union filed a grievance against the unilateral implementation of the Employee Recommendation Program. The Union

argued that the employer should not be making individual agreements about wages and working conditions with union members and that any compensation should be fairly negotiated in the collective agreement.

This was a tough position for the Union to be put in, as the employer doubtless intended. After all, who wants to stand in the way of members getting money? Not the Union, that's for sure!

The arbitrator upheld the importance of the collective agreement and the right of the union to represent all workers in the bargaining unit. He agreed that individual agreements undermine the union's power of representation and harm all members in the long-term, no matter how good they might look in the short-term.

In conclusion, the arbitrator stated that the reason for this program and its implementation should have been subject to negotiation by the parties, which would have allowed the Union to fully exercise its power of representation and would have resulted in either a proper amendment to the collective agreement or the signing of a special agreement.

If CPC really wants to address its staffing issues for RSMCs and give the members a better deal, we ought to be seeing this intention at the negotiating table. So far, evidence of the employer's benevolence has not been forthcoming...

We Are the Union continued from page 2

agreement, including clauses 3.01, 3.04 and 5.01, during the regional forums it held in both Vancouver and Richmond, on June 25 and 26, 2009;

DECLARES to be unfounded, both in fact and in law, the Corporation's actions in denying full-time officers of the Union, and, more specifically Mr. Ken Mooney, access to the Corporation's facilities;

DECLARES the five-month exclusionary measures imposed on Mr. Mooney to be null and of no effect, and, consequently, ORDERS that the records of this disciplinary measure be withdrawn from his file;

ORDERS that the Corporation cease holding such regional forums with the members of the certified union for the purpose of discussing their working conditions and benefits;

ORDERS the Corporation to pay compensatory and punitive damages as follows: the payment of five hundred dollars (\$500.00) to each union officer, namely Robert Mulvin, Dennis Wright and Kim Evans; the payment of five thousand dollars (\$5,000.00) to Mr. Ken Mooney, and the payment of twenty-five thousand dollars (\$25,000.00) to the Union;

DECREEES that, except for the twenty (20) days that the Corporation is being given to pay the above-mentioned damages, this award is immediately enforceable, notwithstanding any remedy that may be sought, unless otherwise decided by higher courts;

REMAINS SEIZED of the matter to deal with any dispute regarding the implementation of this award, and requires the parties to show the utmost diligence in this matter.

Armed with such a massive victory, union stewards can be more confident that members' rights to union representation will be respected and that bad behaviour on the part of the employer will be punished.

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