

## **PRESENTING THE GRIEVANCE**

In presenting the grievance, remember, if you don't have the facts to back your case, you don't have a case. Plan your approach carefully by deciding the most important points and how you will present them to the supervisor. Have available any records which will help you from forgetting any point you plan to make.

Remember to abide carefully to all time limitations as set out in your collective agreement. The manager may ask for copies of your grievance files and it is important that you do not comply with this request. Never show management copies of our grievance forms, fact statements, or incident reports – they are strictly the property of the union. The company does require you to provide a filled out grievance form to the company containing the basic facts of the grievance, name, seniority, alleged violations, resolve sought etc. Check your collective agreement. If you are uncertain about what information to share with a manager contact your union councillor or business agent for advice.

### **Before you see the supervisor, ASK yourself the following questions:**

1. Do I have all the facts from the worker(s)?
2. Is there other information that I need? (e.g. from witnesses)
3. Have I checked all the facts by looking around the establishment, checking the seniority and other lists, talking to stewards and union officers?
4. Have I carefully checked the contract and labour legislation?
5. Have I made a clear record of all the facts gathered? (Fact Sheets)
6. Have I explained the case to the worker(s)?

You might try to set up an informal relationship with the supervisor that allows the two of you to settle grievances without management knowing about them, yet without bypassing the contract.

Why should the supervisor co-operate with you in this way? Because a supervisor's job is to see that work goes as scheduled and this informal arrangement will give a good working relationship with the workers – a relationship that results in high morale and constant efficiency among the workforce. Tell the supervisor that his/her biggest concern is keeping management happy – and the way to keep management happiest is by getting top production out of a department. Tell him/her that when grievances are settled fairly and quickly, the department will have high morale and production. But when grievances drag on and on, going up to higher levels, workers will be unhappy and unproductive. Remember to check with your Business Agent before accepting any negotiated resolve.

### **1. Know Your Facts – Be Confident**

Facts determine the outcome of a grievance; rarely does the presentation of the grievance win alone. Present your facts forcefully but not militantly. Be accurate and do not exaggerate.

### **2. Take a Positive Approach**

Don't be timid or convey the feeling to the supervisor that you are presenting the grievance because it is obligatory on your part.

### **3. Whenever Possible, Throw the Burden of Proof on the Management**

The most effective method of bargaining is to let the supervisor try to justify and prove the action management has taken is correct. Don't try to show them where they are all wrong from the very outset. Try to get them to carry the burden of proof. The supervisor may have information about a grievance that you don't have. Note, however, it is not wise to place supervisors in a position whereby they cannot retreat without a great deal of embarrassment. Leave the door open, that is, afford them a way out without embarrassment, if possible. Be clear in your own mind who will bear the burden of proof. In most cases (except for discipline) the Union does.

### **4. Stick to the point – Be Businesslike**

Always bear in mind that settling a grievance at the first step is the most desirable and advantageous aspect for all concerned. Avoid threats, insults, bluffs or unreasonable statements.

Control your temper even if the supervisor does not. The steward has a right to expect decent treatment from the supervisor, but if you don't get it, do not hesitate to talk back. However, open anger and name-calling should be avoided. It is best to be calm, straightforward, but firm and self-assured as well.

### **5. Maintain a United Position**

You are required take the aggrieved employee with you, make sure you are both in accord on the issues and the facts, size up the situation carefully.

The excitable person, in a good number of cases, will antagonize the situation and negatively impact your complaint. A timid worker may cave in. The supervisor may try to intimidate the grievor or lay a guilt trip on them. Be sure to brief the grievor before going into a meeting. As Steward, you "carry the ball". That's your job. Call upon the grievor for factual data that only he/she can provide since he/she was directly involved.

## 6. Settle the Grievance on the Spot Whenever Possible

Your ability to settle grievances at your level is dependent largely upon your ability to get along with the supervisor and upon the relations you have established yourself. Press for a settlement whenever you can and if it is desirable to do so. (Check with your Business Agent for advice about the proper resolve for your grievance.) If you are successful in getting a favourable decision at the first stage, you should not rub it in, as it is wise to remain on good terms with the supervisor. This can make the next grievance proceeding easier. It should be borne in mind that such meetings are part of the ongoing collective bargaining relationship. Avoid creating tensions which may have a more lasting impact on the relationship than warrants the minor victory of scoring a point over someone else.

## 7. Disagree with Dignity

Declare your intention of pursuing the grievance to a satisfactory settlement. Supervisors, as a rule, do not like to be exposed to their higher-ups when this concerns their ability to maintain good relations with the union. This, however, is not always the case. Your ability to study and know how to handle your supervisor is a very important factor at this stage of the game – use it to your advantage. Regardless of what the disposition is, report back to the people in the department; they want to know. Keep them informed of all your cases and their dispositions.

## 8. If the Supervisor Wants to Trade

If the supervisor wants to trade grievances – you take one, they take one – consider the matter very carefully before making a decision. Your first instinct should be to say “NO”. There is a certain strategy involved in grievance processing and often posturing on both sides. Sometimes a grievance may be filed to force discussion on the matter and you may have no intention of taking the matter to arbitration. If management wants you to forego a particular grievance in favour of one that is important for your members to win, your local might consider bargaining. Consult your staff representative when in doubt; you might be able to solve some of your more serious items by giving up a “losing” or frivolous grievance. Remember, however, the rights of your members. **Each grievance stands on the merits and justice of its case.** In addition, failure to represent all employees in the bargaining unit by trading away grievances (or not acting upon them) could result in charges being laid against the union under the law. Taking up grievances and representing members is not only a union function but a legal requirement.

## 9. Strategy of Presentation

When writing up the grievance it is wise to keep the written grievance brief and to the point. Under the WANT section or the section dealing with remedy, we recommend that you be more precise and more detailed in seeking FULL REDRESS. Why? It gives the union more flexibility in arguing the grievance. A second reason – sometimes more important than the first – is that the union is in a stronger position if it keeps its case under wraps until the right moment. If the union discloses its battle plan before it has to,

this simply gives management more time to analyze the union's position and come up with a strong counter-argument.

At the first step of the grievance procedure the union may know that the supervisor cannot settle the case and, even before you file the grievance, you know it will be going up to the second step. If you disclose all the facts to the supervisor at the first step, all you may be doing is giving management advance notice of the union's strategy for the Stage Two meeting.

This technique of withholding information is not confined to the first step. It can also be used at the second step, or even higher, if management representatives at these levels are not authorized to settle the particular type of grievance that has been filed. Either or both sides may be reluctant to disclose certain facts of which they have knowledge and which they intend to use as evidence at the arbitration hearing. On the other hand, of course, there may be grievances which can be settled at the first step. In that event, argue the case at the first step.

Analyze the situation. Supporting information should not be revealed until the grievance reaches a management representative who the union thinks can settle the case. Don't play your hand too early. You want to discover the employer's case against the grievor, do not reveal the strengths and weaknesses of your case.

However, if the supervisor does not have authority to settle the grievance, do not bypass Stage One in favour of Stage Two. If the grievance ends up at arbitration, management can easily claim it should be dismissed because the correct procedure was not followed.

#### **10. Don't Allow Workers to Take up Their Own Grievance Grievors at a Grievance Meeting**

Normally it is the TWU policy not to bring in the grievor to a grievance for the following reasons:

When the workers handle their own grievances, they are at a disadvantage for several reasons:

- a. They are amateurs at handling grievances, while the supervisor is more experienced. They don't have the experience you do; they don't know how to handle the supervisor; they don't know the proper procedures to follow.
- b. Since the grievance is very important to the worker, he worker is likely to use an emotional approach rather than a logical, well-reasoned argument.
- c. Workers do not have the protection of being a union representative as you do. They are simply employees of the employer and thus are subject to pressure from

management. Management may hint that the workers may be in trouble unless they drop the grievances.

- d. Management may counter the grievance by bringing up some unfavourable fact about the worker although it has nothing to do with the grievance. Not realizing that it is beside the point, the worker will agree to drop the grievance.

If the management rejects the grievance and then the worker comes to you and asks you to try, you are at a disadvantage for two reasons:

- i. You can't start from scratch and build what you feel will be the best argument. Instead, you must pick up the pieces of the worker's broken grievance, try to patch them up, and go back with the same argument that was already rejected.
- ii. It is harder to get management to reverse itself. They have already said no. It's like arguing with a baseball umpire; once the umpire calls you out, you're out – and an umpire is not going to change a decision no matter what you say.

Obviously, then, it weakens the grievance procedure when workers handle their own complaints. This is why many employers encourage employees to go directly to the supervisor with a complaint – ignoring the steward. Management benefits when the procedure and the steward are weakened.

However, if your collective agreement requires the grievor to attend first step grievance meetings, as does the TELUS contract, the grievor should be assigned the role of note taker and not participate in the meeting or answer any questions unless directed to by the shop steward. The shop steward should instruct the management side that they are the grievors representative and the grievor has been instructed not to answer any questions. All questions and should be directed to the shop steward and the shop steward will be the only person responding. The grievor should be made aware of the opportunity to call a caucus if they want to make a point with the steward.

To start the ball rolling, management may give a favourable settlement to the first worker who brings a grievance to the supervisor, if it is a matter of managerial discretion. In effect, management is hinting that if all workers handle their own complaints, the settlements will be in the workers' favour. But, of course, when other workers do bring in their own, the results are far more favourable. Most workers are simply not capable of handling a grievance.