



Impact

MAY 2007 COMPENSATION EMPLOYEES' UNION

Tele-work issues are challenging

In 2006 bargaining, the parties finally agreed to set down the working conditions that apply to CEU members working from home. At first glance, this may look like a simple activity. But when you look closer, you begin to see the complexities of work-at-home issues.

Article 73 (Work at Home) was negotiated in 1994. It says that the Board will not expand the scope of work from home beyond the 1994 level until the parties negotiate "the terms and conditions of employment applicable to those employees who may carry out regularly assigned duties from home".

This is an important point: Bargaining unit employees do not have the right to work from home. To have this right, we would have to negotiate it in the next round of bargaining.

In 1993, the employer and the union jointly developed the report, "Tele-work Issues". It describes the issues to be addressed before work from home should be permitted. This document can be viewed on the CEU website at <http://ceu.bc.ca/123>.

In the 1993 report, the Tele-work Committee correctly stated: "The question is not whether the WCB should be involved in what has been described as a 'revolution'...it already is". At that time, more than 180 employees had been given dial-up capability. The Board already had satellite offices and home offices. The Prevention Division was piloting its mobile office project.

Technology has come a long way since then. But, the issues are the same today – and others have popped up. About 1,430 bargaining unit members have remote access in a variety of ways. Clearly, the Board is

violating Article 73. And that's why the current Tele-work Committee is attempting to resolve this issue. Once we set down the terms and conditions of working from home, then the Board must apply them to everyone working from home.

Tele-work issues

What is tele-work? The 1993 report defined it as "the concept of having employees perform their regular job from a remote location". This was still a new concept then.

The pros and cons identified in the 1993 report remain today. These include:

Pros

- Could improve business effectiveness and efficiency
- Less commuting time

Cons

- Costs for proper equipment for use in the home
- Employees may feel isolated and opportunities for promotions and training could be affected
- Supervisors could have difficulty monitoring productivity

The report also raised many questions that still need to

to be resolved. Here are some examples:

- How would sick and other leaves of absence function when the work is at home?
- What preventive measures should be taken to control occupational diseases?
- Would employees have the right to choose to work at home or does the employer have the right to require that employees work from home?
- How is it determined whether it's the position that is designated a work-at-home position, or whether it's the person who works at home? If a person working from home terminates employment, is the position posted to fill the vacancy, or does this become an opportunity for someone else in the same job classification to now work at home? If a person working at home is the successful candidate for a different position, does that person revert to working at the employer's office, or does that person automatically retain the right to work at home?
- What would be the hours of work and how are they monitored? When is overtime paid?
- Who is responsible for additional costs such as:
 - o The costs of additional telephone lines and long distance calls

- o Increased overhead at home (e.g., heat and light)
- o Increased insurance costs
- o Supply and maintenance of required equipment, furniture, and office supplies

These and many more questions were raised in the report. If the Board chooses to have employees work from home, these questions need to be answered before the parties can set down terms and conditions.

New questions have also emerged. Since 1994, we have had new FIPP (Freedom of Information and Protection of Privacy) legislation and the 2003 Amendment to the Criminal Code (commonly known as Bill C-45). This bill makes organizations and individuals criminally liable when they fail to take reasonable steps to prevent workplace accidents. It places the Board and the CEU at risk if we knowingly fail to ensure current OHS regulations are being met in a home office. The question is – how would this be done?

Deadline extended

In bargaining 2006, the parties agreed to an April 1, 2007 deadline for negotiating a letter of agreement on tele-work issues. Due to the complexity of the issues, the parties have agreed to extend this deadline. The CEU is hoping that the work will be done by summer.

Stewards focus on mental illness and conflict resolution skills

Forty-five CEU shop stewards, executive members, and staff attended the annual CEU shop steward school in Whistler, from April 20 to 23, 2007.

On Saturday morning, the group heard from Margaret Tebbutt, a representative of Mental Health Works, a program of the Canadian Mental Health Association (CMHA). Saturday afternoon and Sunday focused on conflict resolution skills, i.e., active listening, assertiveness, anger styles, and anger management.

The evaluation forms completed by the stewards showed that it was a very positive experience. Here's what shop steward chair, Cheryl Rimer, said about the event: "I was pleased to see that all the stewards – 'old' and new alike – participated enthusiastically in the conflict resolution small group exercises and role plays." This part of the school was particularly well-received by stewards. It was facilitated by Betty Baxter who has many years of experience working on conflict resolution issues.

Mental Health Works provides workshops and presentations about mental health in the workplace. They are delivered by trainers certified by the CMHA. Margaret Tebbutt's presentation was on how unions can help their members through workplace conflict, accommodation, and disability issues. Participants found that it increased their awareness of mental health issues in the workplace. For example, they learned that one in five people have mental health issues, and two out of three will not seek help. Those two facts alone show why it was a good idea to include the presentation on the shop steward school agenda.

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Historic conference rated highly by participants

About 96 percent of union activists at a health and safety conference on March 11 and 12, 2007 rated it as "excellent" or "good".

The conference was an historic occasion. It's the first time that the BCGEU (BC Government and Service Employees' Union) and CEU have co-hosted an event. It's also only the second time that the CEU has undertaken such a venture. The first was the February 2004 conference with the BC Federation of Labour which looked at the post 2001 changes at the WCB.

The conference was attended by about 100 representatives of the BCGEU and its affiliate unions:

- CEU
- BC Ferry & Marine Workers' Union
- Brewery, Winery & Distillery Workers' Union
- Grainworkers' Union
- Union of Psychiatric Nurses

CEU President Sandra Wright and BCGEU President George Heyman welcomed participants to the conference. In his remarks, George said that he had always hoped that the BCGEU's relationship with affiliates would be more than just a means for them to join the CLC (Canadian Labour Congress). He said the conference was a way the two unions could "make a difference together". In her remarks, Sandra said the CEU was pleased to have the opportunity to build a stronger relationship with the BCGEU and its affiliates.

CEU Director David Clarabut represented the CEU on the conference planning committee. In commenting on the conference David said: "I'm very proud to be part of a union that demonstrates leadership, sincerity, and a commitment to health and safety through a conference like this."

The BCGEU representatives on the planning committee were Vice-President Mike Clarke and Health and Safety Officer Mona Sykes. Mike, who is also the Chair of the BCGEU's provincial Occupational Health and Safety Committee, said the conference was a great opportunity for their health and safety activists to learn from the "experts". "CEU members work as board officers and in many other positions behind the scenes. We value this opportunity to learn from and

network with you."

The following topics were on the conference agenda:

- Right to refuse unsafe work
- Occupational diseases and cancer
- Duty to accommodate
- Public Compensation Coalition (PCC)
- Discriminatory action
- Young workers

Mike Clarke and David Clarabut were co-hosts of the conference. The CEU contributed to the conference in a number of ways:

- Sandra Wright gave the presentation on the PCC
- Doug MacDonald and Elaine Murray, both Case Officers in the WCB Investigations Division, and David Clarabut spoke about the types of discrimination complaints that can be filed under the *Workers Compensation Act*
- CEU Directors Janice Hanna-Peters and Jane Player paired up with BCGEU Health and Safety Committee members to co-facilitate two of the four workshops that followed a plenary session on the right to refuse unsafe work

The CEU contingent of more than 20 included CEU representatives on local health and safety committees from many area offices and the CEU members of the Corporate Health and Safety Committee. The conference was the first union-sponsored educational session many of these members had attended. This educational opportunity was provided by the CEU. It is in addition to the annual educational leave that employers are required to provide under the *Workers Compensation Act*.

Here's what Kevin Bennett, a local health and safety committee member in the Richmond Complex, had to say about the event: "I found the content offerings on Sunday and Monday to be entirely applicable to my work situation and committee responsibilities." Kevin's view was similar to other participants who gave high marks to the plenary sessions and facilitators. On average, 87 percent of participants rated the six plenary sessions as "excellent" or "good". About 90 percent rated the workshop facilitators as "excellent" or "good".

"B" type employees may flex time for personal reasons



The collective agreement says that: "In scheduling their own work... ["B" type] employees will ensure that the primary consideration is the effective and efficient performance of their duties." To the CEU, this means "B" type employees may flex their time for personal reasons as long as

flexing doesn't interfere with the performance of their jobs. The employer, however, has sometimes had a narrow view of the issue. This column reviews two arbitration decisions from December 2003 and January 2007.

What is a "B" type employee?

Article 26.02 of the collective agreement states: "Employees not working under direct supervision and who organize their own work schedules within the normal work week are "B" type employees." They are different from "A" and "S" (shift) type employees who work under direct supervision and don't organize their own work schedules.

What was the outcome of the arbitrations?

The union prevailed in both arbitrations. In the first, the arbitrator issued a consent award -- a mediated settlement which both parties agreed to and are expected to abide by. It included these statements:

- "... 'B' type employees will schedule their work for both business and personal reasons..."
- When scheduling their work, "B" type employees will primarily consider the effective and efficient performance of their duties but are also entitled to consider other factors including personal factors.
- Managers have a right to obtain information on employees work schedules retrospectively...
- Employees do not work in isolation and scheduling should take into account their network of colleagues and clients.
- The parties recognize and are committed to providing to every extent possible superior service to clients..."

The second arbitration stemmed from a grievance over the employer's decision not to allow "B" type employees to make up time they lost as result of honouring the picket line Telus workers set up at the Victoria office in October 2005. This was in support of the teachers' day of protest.

The CEU argued that "B" type employees could make up

time missed due to the work stoppage by flexing their hours. Among other things, the employer argued that the reason for the picket line was political not personal. This is what the arbitrator concluded:

"The ...2003 Consent Award clearly recognizes Type "B" employees can flex due to personal reasons ...this includes the personal decisions made in regards to the October 17, 2005 picket line. In real life the distinction between what is political and what is personal is not so clear ... there are few matters more personal than one's politics. The fact a picket line may be respected en masse does not, in itself, mean the reasons behind such actions are not personal ones... Neither the Collective Agreement nor the 2003 Consent Award preclude a Type "B" employee from making adjustments to her or his schedule after it has been set."

If a "B" type employee's workday can vary in length, how is overtime paid?

One of the major differences between "B" type employees and "A" and "S" types is how overtime is paid:

- With "B" types, overtime is defined as work performed beyond the time that makes up a work week, or on a Saturday, Sunday, or ETO.
- For "A" types, overtime is defined as work performed beyond the time that makes up a work day, and work performed on Saturday, Sunday, or ETO.
- For "S" types, it's work performed beyond the time that makes up a work day or on the first or second day of rest, or while on ETO.

Is the "B" type designation a "perk" of the job?

No. Most "B" type employees appreciate the ability to flex, but this is not a "perk" of the job. The employer clearly benefits from these "B" type provisions -- and that's why they have been in the collective agreement for the past 20 years. Without "B" type employees, the Board's overtime costs would be astronomical. "B" type employees regularly work outside "normal" working hours because that's the way to get their jobs done, efficiently, effectively, and with "superior service to clients". Given the January 2007 decision, we hope the employer will stop trying to manage "B" types as if they are "A" types. After all, that's what the employer agreed to do in the 2003 consent award.

