

April 2019

CUPE CORNER

Local 386 is in your corner!

There is strength in numbers and besides that, there is also fun.

GENERAL MEMBERSHIP MEETING

Tuesday, April 16, 2019 at 5:15 pm
Dogwood Pavilion—Dogwood Room
1655 Winslow Avenue, Coquitlam, BC

Community Social Service Workers:

The heart and soul of our communities!

Community Social Service workers improve the quality of life in our communities by enabling people to go to work knowing that their loved ones' needs are met. This adds social and economic value to our communities. There are about 3,000 CUPE BC Community Service workers who live and work in our communities.

Annual Retirement Seminar

CUPE 386 hosts an in-house Retirement Seminar once per year. If you are nearing retirement and would like to attend, please contact the Union Office at (604) 936-1810 or email us at cupe386@shaw.ca to have your name added to the waitlist.

Town Hall Meeting

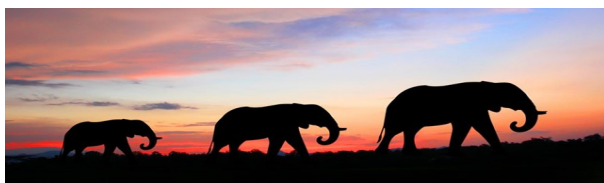
Do you have questions, ideas of feedback for Coquitlam City Council?

When? Thursday, April 11, 2019 7-10 p.m.

Where? Coquitlam City Hall or online at coquitlam.ca/webcasts

Who should attend? Anyone who lives, works, studies or plays in Coquitlam and is interested in the community.

Quote of the Month:



Alone we can do so little; together we can do so much.

- Hellen Keller

Did you know? April 21-27 is National Organ and Tissue Donation Awareness Week (NOTDAW)

Please send us your comments and / or ideas for future CUPE Corner topics at cupe386@shaw.ca

INSUBORDINATION – its meaning in today’s workplace.

One must acquaint oneself with Labour Law to understand the expectations of the workplace in the 21st Century. For workers today, this is sometimes difficult. It can be as difficult as time-travelling to the 19th Century where Servants doffed their caps and like Downton Abbey lived below stairs; where the working classes were seen but never heard, certainly never heard to have a thought of their own.

The most important rule one must remember when in the workplace; when one disagrees with one’s employer is “Work now Grieve later”. This rule still holds true today.

The most frequently cited rationale for the “work now, grieve later” rule is that articulated by Professor Harry Shulman in *Ford Motor Co. (1944)*, 3 L.A. 779:

Some men (sic) apparently think that, when a violation of contract seems clear, the employee may refuse to obey and thus resort to self-help rather than the grievance procedure. That is an erroneous point of view. In the first place, what appears to be a clear violation may not seem so at all to the other party. **Neither party can be the final judge as to whether the contract has been violated.** The determination of that issue rests in collective negotiation through the grievance procedure. But, in the second place, and more important, the grievance procedure is prescribed in the contract precisely because the parties anticipated that there would be claims of violations which would require adjustment. That procedure is prescribed for all grievances, not merely for doubtful ones ...

[A]n industrial plant is not a debating society. Its object is production. When a controversy arises, production cannot wait for exhaustion of the grievance procedure. While that procedure is being pursued, production must go on. And some one must have the authority to direct the manner in which it is to go on until the controversy is settled. That authority is vested in supervision. It must be vested there because the responsibility for production is also vested there; and responsibility must be accompanied by authority. **It is fairly vested there because the grievance procedure is capable of adequately recompensing employees for abuse of authority by supervision.**

13.1.1 Definition of Insubordination

Generally, to establish that an employee has been insubordinate, the employer must prove **three elements**:

- (1) there was a clear order which the grievor understood;
- (2) the order was given by a person in authority; and
- (3) the grievor disobeyed the order.

In some cases, arbitrators have also ruled that the definition of insubordination extends beyond outright disobedience, and also includes insolent or uncooperative behaviour which could reasonably be said to challenge the employers authority in a *meaningful way*.

CUPE Local 386 last newsletter described this in our article- **Discipline and your Employee file**. Was the employee aware of the employer’s expectations were they clearly communicated and did the employee then intentionally disregard the employers direction?

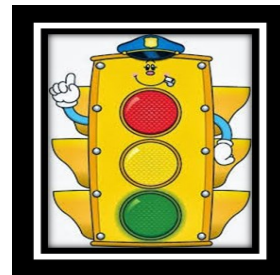
The quote below is from Palmer & Palmer in *Collective Agreement Arbitration in Canada*, Butterworths (3rd ed.) and includes the following comments in the introduction to the chapter on insubordination:

Unquestionably, insubordination is the most common type of disciplinary action found in the field of labour arbitration. Equally, it is considered by most arbitrators to be “one of the most serious industrial offences”. The reason for this is that it strikes at the heart of an employer’s prerogatives: the right to manage. It is felt that the right to order employees to carry out orders without extended debate and without a loss of respect is central to the role of management. Naturally there is much to commend this position; but it is also clear that Canadian society does not accept a blind, teutonic (sic) obedience to orders as being consistent with its basic assumptions of acceptable behaviour. Authority is not supreme; it must be based in reason. It is the continuing balancing of these two interests, then, which underlie this chapter.

There have been some recent changes in the “work now, grieve later rule” in acknowledging **reason** in recent years. These include Health and Safety laws which give workers the right to refuse work they believe is unsafe to themselves or their coworkers. Ultimately, the right to refuse is provided so that a worker never needs to choose between their health and safety and having a job.

The workplace in the 21st Century needs to be at its centre a place of mutual respect. And one must always remember that respect is something given and it is always something more easily given when it is reasonably earned rather than rashly demanded. The workplace today is more and more specialized and the talent that hiring practices have reached out to secure need to be maintained by mutual respect for the success of the enterprise. Today employers have huge resources in training their frontline management staff. What major business or corporation does not have its own Human Resources Department? It should be that today the need for discipline in the manner of suspensions and terminations are as a far removed from being the first answer in labour relations as the cat-o-nine tails is the first resort of a Ship’s Captain in dealing with their crew.

Working in the 21st Century need not be a passage into the darker ages. By working with respect, keeping our eye on the worker we all take pride in our workplaces can be a place you enjoy spending the day.



“Can they do that?”

This is a question the Shop Steward is always asked. **They** is usually referring to the employer and **that** is usually something the employee is sure the employer can not do. It is a question for the Steward on many levels.

With the cardinal rule of “**Work now Grieve later**” the answer is usually no, but until the Union can prove otherwise yes. The cardinal rule leaves the traffic signal always on caution. Because unlike the traffic cop, the Shop Steward can not stop the driver (employer) and issue a ticket. The Shop Steward must file a grievance and wait for the grievance to be settled before the light is switched to green or clearly indicates red. But with the light so often on yellow, the traffic can get quite fouled up.

Resentments in the workplace can fester. Relationships can sour and the feeling that the employee has little effect in the workplace can lead to a lack of cooperation and the feeling that work is more work than it’s worth; at its extreme the stalemate can lead to a toxic work environment. That is why the relationship of Employer and Union is always a work in progress.

Issues in the workplace can be rectified by a good working relationship between steward and manager. A mutual respect and a good understanding of the workplace can overcome problems before they appear. Understanding and communication can have the traffic light functioning and no one even notices it is there.

Because traffic is flowing in all directions; we are getting somewhere and everyone is safe. What a novel idea.

Day of Mourning—April 28, 2019

Last year, 131 B.C. workers died from a workplace injury or disease. When you lose a loved one, the pain never goes away. Across Canada, April 28 has been designated the Day of Mourning. A list of BC Ceremonies and additional information can be found at

www.dayofmourning.bc.ca