



WE SHOULDN'T BE THE SCAPEGOATS



WAGE ROLLBACK\$\$

Bill C-10, An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 has passed.

HARPER'S BUDGET LEGISLATES WAGE INCREASES AND RATES OF PAY FOR FEDERAL AGENCIES AND TREASURY BOARD EMPLOYEES. The bill legislates wage increases of 2.5%, 2.3%, 1.5%, 1.5% and 1.5% from 2006-2011.

For UTE Members:

- Our November 2009 negotiated increase of 2.5% will be rolled back to 1.5%.
- Members soon to retire, it will impact on your monthly pension as the 1% rollback affects your best 5 years.
- When our contract expires in 2010 we are then limited to 1.5% for the first year.

Your union is confident that the roll back is illegal and the PSAC will be filing a court challenge.

WE MUST NOT FORGET THE ACTIONS OF THE GOVERNMENT.

SI VOUS PRÉFÉREZ AVOIR CE COMMUNIQUÉ EN FRANÇAIS, VEUILLEZ VOUS ADRESSER À VOTRE PRÉSIDENT- E DE SECTION LOCALE

REJECTION ON PROBATION

The *Canada Revenue Agency's (CRA) Staffing Program* states that initial full and part-time employment contracts are subject to a twelve (12) month probationary period.

During the probationary period, the employee's performance and actions will be scrutinized by the CRA.

Rejection on probation is the final measure taken by CRA to terminate an employee's employment, and should only be utilized after all other measures have been exhausted and have failed.

If an employee is rejected on probation, the former can avail herself/himself of two (2) administrative measures: individual feedback followed by decision review.

The individual feedback form (RC136) must be submitted within seven (7) calendar days subsequent to the date of notification to the employee.

The decision review form (RC135) must be submitted within seven (7) calendar days of having completed the individual feedback. However, the individual feedback and decision review are limited to whether or not the employee was treated in an arbitrary manner. *

Although CRA has stated that an employee is limited to individual feedback and decision review, the *Union of Taxation Employees' (UTE)* position is that an employee may also avail herself/himself of the grievance process.

The case of *Lundin v. Canada Customs and Revenue Agency*, 2004 PSSRB 167 reads in part at paragraph sixty-seven (67), "...I have concluded that rejection on probation is a matter that can be grieved.." Furthermore, adjudicator Ian R. Mackenzie writes at paragraph seventy-seven (77), "The CCRA staffing program (Exhibit E-8) sets out the employer's policy on probation (at section P8.0) and states that employees rejected on probation have access to individual feedback followed by decision review, in accordance with the CCRA directive on Recourse for Staffing. The policy statement on probation does not state that an employee cannot file a grievance against a rejection on probation; it merely states that employees rejected on probation "have access to" individual feedback followed by decision review. If the right to grieve were intended to be removed, the policy would have made this explicit."

Therefore, the *Public Service Labour Relations Board* can exercise jurisdiction when hearing arguments related to rejection on probation. Conversely, unless the employee via her/his local union representative can argue that she/he was rejected on probation for disciplinary reasons, the *Board* will be without jurisdiction to hear the merits of the grievance.

IF YOU ARE QUESTIONING CRA'S ACTIONS, SPEAK TO YOUR LOCAL UNION REPRESENTATIVE.

For an overview of UTE's structure and to obtain your local's contact information, consult our Website: www.ute-sei.org

Erik Gagné
Labour Relations Officer

*Defined in the *Directive on Recourse for Assessment and Staffing, Annex L*: ...an unreasonable manner, done capriciously; not done or acting according to reason or judgment; not based on rationale or established policy; not the result of a reasoning applied to relevant considerations; discriminatory, i.e., as listed as the prohibited grounds for discrimination in the *Canadian Human Rights Act*, R.S., 1985, c. H-6.

UTE UPCOMING EVENTS

**March 31 - April 5th
2009**

Executive Council
(Ottawa)

April 2 - 4th, 2009

Presidents
Conference
(Ottawa)

**April 26 - May 1st
2009**

PSAC Convention
(Vancouver)

June 15-18th, 2009

Executive Council
(Ottawa)

June 18th, 2009

National UMC
(Ottawa)

June 26-28th, 2009

Reg EO Conference
(Edmonton)

**August 28 - 30th,
2009**

Reg EO Conference
(Halifax)

**September 15-20th,
2009**

Executive Council
(Ottawa)

**September 17-19th,
2009**

Presidents
Conference
(Ottawa)

**September 25-27th,
2009**

National Grievance
Course
(Ottawa)

**September 25-27th,
2009**

Reg EO Conference
(Niagara Falls)

BARGAINING

The National Bargaining Committee met on March 3 and 4, 2009. Our collective agreement will end on October 31, 2010; and yes, we are preparing for 2010.

I know that some of you are questioning the credibility of “**bargaining in good faith**” with the CRA; when the government does not adhere to the agreement anyway, (Bill C-10). Remember; not bargaining would be to give up and side with that government that does not respect workers’ rights (Bargaining), human rights or natural justice (Pay Equity). The PSAC is challenging this bill, but in the meantime the PSAC/UTE will be ready to bargain.

A bargaining process is not just the period the bargaining teams spend face to face. The parties must agree on a host of administrative details. While UTE solicits, then prioritizes demands received from the membership, the CRA will develop their own demands. I must take this opportunity to remind you all that it is important to talk about bargaining and demands in your local, at your annual general meeting, or at special meetings.

As I have often said, bargaining involves all UTE members. It is your business. We need your involvement and support all along the way.

In solidarity

Denis Lalancette

2nd National Vice-President

the president's corner

UTE Questionnaire

The UTE Questionnaire was in the mail in February and it wasn't long before members started to fill them out and return them. The survey company has been compiling the results and Executive Council will receive a preliminary report during the June Executive Council meeting.

The final results will be presented during the September Presidents' Conference. We expect to have discussions on relevant points brought up by the survey with a view to making improvements wherever possible.

We would like to take this opportunity to thank all those who completed the questionnaire and sent it in. Your responses and comments are important to us.

Betty Bannon



From left to right: Francine St-Pierre, Jean-Pierre Fraser, France Guérin, Monique Déry, Sabri Khayat and Monique Leclair

For her tremendous involvement in the Union-Management Initiative (UMI) since 2004, Sister Monique Déry was presented the **Award of Excellence of the Assistant Commissioner in Partnership with the Unions.**

We see her here with her fellow recipients Francine St-Pierre and France Guérin along with Quebec Assistant Commissioner Monique Leclair and our two Quebec RVPs Jean-Pierre Fraser and Sabri Khayat.

Our hearty congratulations, Monique.

HONOURS AND AWARDS DEADLINE REMINDERS

UTE SCHOLARSHIPS

JUNE 15, 2009

INTERNATIONAL CHILDREN'S AWARENESS

SEPTEMBER 15, 2009

UTE HUMANITARIAN AWARD

DECEMBER 07, 2009

CHECK THE UTE WEB SITE FOR DETAILS WWW.UTE-SEI.ORG

LEAVE WITH INCOME AVERAGING (LWIA) KNOW THE FACTS

WHAT IS LEAVE WITH INCOME AVERAGING (LWIA)?

LWIA is a "**CRA Policy**" that enables *indeterminate employees* to voluntarily reduce the number of weeks worked in a specific 12-month period, by taking leave without pay for a period of between five weeks and 12 weeks, ***while having the reduced income averaged over a period of one year.***

You can take a maximum number of two blocks within a 12-month period. Each block must be a minimum of 5 weeks, the total of which cannot exceed 12 weeks. The 12-month leave arrangement period must commence prior to leave without pay being taken.

IMPACT ON BENEFITS

- **CANADA/QUEBEC PENSION PLAN CONTRIBUTIONS:**
will be based on reduced salary; therefore, future CPP/QPP benefits could be affected.
- **EMPLOYMENT INSURANCE CONTRIBUTIONS**
will be based on full salary; however, no deductions are taken while on leave without pay. During the actual periods of leave without pay, employees are not entitled to receive EI benefits.
- **PUBLIC SERVICE SUPERANNUATION PENSION AND BENEFIT COVERAGE**
will be based on full salary with contributions continuing at pre-arrangement levels.
- **LIMITATIONS TO PENSIONABLE LWOP**
The *Income Tax Act* places certain maximums on the total amount of LWOP, exclusive of sick leave without pay, which can be treated as pensionable service under a Registered Pension Plan (RPP), such as Superannuation.
- **THE TOTAL MAXIMUM LWOP** (effective January 1st, 1996)
permitted is five years plus up to three years of child care leave (one year per child) for a total of up to eight years for all types of LWOP.

IN SUMMARY

Weigh the options.

You know why you want to take LWIA. Whatever the reason, at least you now also know all the potential economic impacts other than just the reduced wage.

Inspired by the submission of Randy McKeown and Betty McDowall, Local 00051

CHANGE OF ADDRESS

Please note that all address changes should be done via e-mail to Sylvie Bastien (basties@ute-sei.org) or via the national web site. If you do not have access to an e-mail, please pass it on (with your PSAC ID) to a local representative or mail it directly to the National Office at 233 Gilmour Street, Suite 800, Ottawa ON K2P 0P2.



CRA STAFFING PROGRAM ENTERING ITS 10TH YEAR

Although we are making some progress with the employer in improving the staffing process, for the most part, concerns raised by UTE on behalf of our members are largely ignored. Although the CRA continues to tout its Staffing Program as a huge success, complaints from members remain constant concerning most components of the Program. UTE continues to view the current staffing program as being severely deficient and ineffective in recruiting and maintaining a highly qualified workforce while at the same time being fair and accountable to its employees and the public.

In the December 2008 Report of the Auditor General (AG), the AG had this, amongst other things, to say about the CRA Staffing Program:

- "...employees indicated that the process is confusing and frustrating, in part due to the many changes that have been and continue to be made."
- "Our review of human resources management literature reveals that organizations usually introduce CBHRM [Competency Based Human Resources Management] through training and performance management before moving to staffing. Given these factors, the Agency now recognizes that introducing CBHRM through internal staffing was a risky strategy."
- Although the Agency is implementing the staffing component of CBHRM and has several initiatives to address problems that have arisen along the way, there is still no overall plan with projected costs, milestones and expected results."
- "We expected to find that this short-term measure [the introduction of base competencies] had been well planned and then communicated to staff. In fact, we found it had been put together without fully considering the impact it would have on the vision for staffing."
- "Furthermore, the temporary shift to BCP [Base Competency Profile] for staffing was not clearly communicated to employees."
- "Furthermore, the Agency has not clearly stated how it expects to achieve its ultimate goal of a workforce pre-qualified on all of the competencies needed for current and possible future jobs."
- "The Agency was unable to tell us how much it has spent to date on the new staffing program."
- "...we found that, in general, employees have a poor understanding of how PQP works, in part because of the many changes that have been and continue to be made."

(Continued from page 1)

- “We also found that the staffing process is frustrating for employees. An employee survey by an external consultant in 2005 showed a high level of dissatisfaction with PQP.”
- “...the Agency needs to strengthen the link between performance management ...and the formal assessment of competencies. In a fully integrated CBHRM environment, these two functions would be strongly linked.”
- “...60 percent of employees who were part of a PQP spent more than 30 hours preparing for the assessment stage. The Agency has allocated 7.5 hours during an employee’s career to complete this task and expects employees to invest some of their own time.”
- “Before the Agency was created, it took 166 days on average to staff a position internally. “
- Since the creation of the Agency, “...the Agency has calculated that it takes an average of 173 days to staff a position... However, this number does not give the full picture because the Agency does not track how much time it takes to appoint candidates from the pool to a position.”
- “However, using the Agency’s indicator for time to staff, we conclude that the staffing process is not yet efficient.”
- “CBHRM is a sound foundation for human resources management, but the Agency has had great difficulty implementing the staffing component of it.”

The CRA is now into its tenth year of attempting to implement a fair and efficient staffing program and UTE gives these efforts a failing grade. We view the findings of the AG to be critical of the program to date and echo many of the concerns that we have raised over the years.



If these criticisms were not enough, the Federal Court, in recently allowing an application for judicial review and awarding costs to the applicant, had this to say in a decision rendered by Justice Roger T. Hughes on January 21, 2009:

“The issues in this [another] case have no bearing on the issues in the case presently before me ***save to illustrate that the Program, including the recourse provisions, are in need of serious reform, especially with legal considerations in mind [emphasis added].***”

Notwithstanding these criticisms from the Auditor General, the Courts, the Union of Taxation Employees and the Agency’s own employees, we are confident that the Agency will continue to ignore all cautions and proceed with its ill-fated program and its band-aid solutions. Nonetheless, UTE will continue our persistent efforts to advance the issues raised by our members and advocate the rights and interests of our members.

D. Shane O’Brien
Senior Labour Relations Officer



MEMBERS SPEAK OUT

(Letter From Sister Val Grundy Local 30025, to her MP)

Sent: Friday, January 30, 2009 1:38 AM

To: goldrp1@parl.gc.ca

Rollbacks to signed contracts with employees

I live in your constituency. My name is Val Grundy and I live at xxxxxxxx Edmonton AB. I am also a federal employee with a signed union contract with an agency of your government. I remind you that many of your constituents are as well.

In light of your proposed budget in the fall, members of my union have tried to find out what plans your government, which unfortunately also happens to be my government for the time being, plans to do about honouring an agreement that was signed in good faith by both parties. Your budget was unclear on this issue. Considering your party's recent actions, I have to believe that was deliberate.

While your party waffles about how to handle legally enforceable agreements, I would like you and your fellow caucus members to consider the following:

If the "roll back" is in the legislation:

- The savings would be minimal;
- It is taking spending money out of the hands of our members thus serving no purpose to the economy;
- We have a legal, signed Collective Agreement;
- It will impact Union/Management relations in the workplace, which both the union and the employer have made great attempts to improve;
- It will have a very negative impact on others with whom you have legal, signed agreements both within Canada and in the international community;
- The cost of the resulting court case will be much more in dollar cost, not to mention the cost to your credibility, than you could ever save; and
- I will be spending almost all of my free time campaigning against you personally in the next election.

Please think very carefully before you decide to renege on your word to people who work hard every day keeping this country running.

Sincerely, very sincerely,

Val Grundy



BILL C-10

I am reporting to you that Bill C-10 has passed through the House of Commons and the Senate and received Royal Assent.

What this now means is that the implications of the Expenditure Restraint Act contained in Bill C-10 are now law and will be implemented as well as the implications of the Public Sector Equitable Compensation Act dealing with pay equity.

Therefore, as of November 1, 2009, your negotiated wage increase of 2.5% will be rolled back to 1.5%. As well, when we return to the bargaining table to negotiate a new collective agreement that will take effect on November 1, 2010 the wage increase will be limited to 1.5% for the first year of that agreement.

On behalf of the UTE Political Action Committee I would like to THANK the membership, the activists and the executive of all locals for their efforts in our lobbying campaign. I would ask that you not consider our efforts a loss or a failure. You all should feel proud of your efforts, considering that for many of you this is the first time getting actively involved in political action and lobbying of Members of Parliament and Senators.

UTE will learn from this effort, review and analyze the good and bad of our campaign and we will be better prepared the next time we go down this road.

With THANKS,

Nick Stein

Chair

UTE Political Action Committee





DUTY TO ACCOMMODATE

The duty to accommodate is a fundamental principle of Canadian human rights.

Initially recognized in the case of *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, [1999] 3 S.C.R. 3 (commonly referred to the *Meiorin* case), Madam Justice Beverley McLachlin concluded that the employee must establish a *prima facie* case of discrimination. Once completed, the burden of proof is transferred to the employer to establish that the discrimination is based on a *bona fide* occupational requirement.

Subsequent decisions clarified and developed the duty to accommodate. Professor Michael Lynk wrote in part:

1. Accommodation measures must be taken unless it is impossible to do so without imposing undue hardship and;
2. The undue hardship threshold is high and;
3. Employers and unions must be sensitive to the various ways that individual capabilities may be accommodated and;
4. Workplace standards that unintentionally distinguish among employees on a protected human rights ground may be struck down or modified and;
5. Exceptions are permitted only where they are reasonably necessary to the achievement of legitimate business-related objectives.

From a union perspective and to determine if an employee requires accommodation, three (3) procedures must be followed by said employee and her/his union representative:

1. Obtain a medical certificate from the employee's treating physician that explicitly reads of a **medical diagnosis** without disclosing confidential information such as a course of treatment and;
2. The medical certificate must accurately **detail** the **accommodation requirement(s)** of the employee;
3. Provide the medical certificate to the **employer**.

The medical certificate must clarify ambiguities that may direct the employer to seek a medical assessment from *Health Canada* (HC). In the case of *Attorney General of Canada v. Chander P. Grover*, 2007 FC 28, Mr. Justice Shore wrote in part at paragraph sixty-four (64): "The foundational principle is that employees have a strong right to privacy with respect to their bodily integrity and a medical practitioner; therefore, a trespass is committed if an employee is examined against his or her will. Consequently, the employer cannot order an employee to submit to a medical examination by a doctor chosen by the employer unless there is some express contractual obligation or statutory authority." Consequently, the employer must first seek clarification from the employee's treating physician and only if the employee consents, seek the medical assessment from HC. In an effort to educate yourself, it is imperative to remain informed of recent and past cases related to the duty to accommodate. *Public Service Labour Relations Board* decisions, such as the case of [Lloyd v. Canada Revenue Agency](#), 2009 PSLRB 15, are an excellent source of jurisprudence. Moreover, your local union representative will be able to provide you with guidance, valuable information and resources.

Note that the above provides a synopsis of the duty to accommodate. Open communication with management via your local union representative is the first step to resolving accommodation issues.

Also, the aforementioned three (3) procedures must be respected prior to filing a grievance. The *Public Service Alliance of Canada* published a booklet revised September 2007 titled *Duty to Accommodate, a PSAC Guide for Local Representatives*. The booklet also offers cautionary tips. A copy can be obtained via the following Web link: http://www.psalc.com/documents/what/duty_to_accommodate2007-e.pdf For an overview of the UTE's structure and to obtain your local's contact information, consult our Website.

PUBLIC SERVICE HEALTH CARE PLAN

CRA Compensation has provided clarification on information found in the December Issue UTE "Members Speak Out" document.

In the document issued by UTE "Members Speak Out" reference was made to the Supplementary Death Benefit, the Public Service Health Care Plan (PSCHP) and the Dental Care Plan. In reading this document, we noticed that the information regarding the PSCHP may be a bit misleading. The following is how the eligibility rules work for PSHCP.

Public Service Health Care Plan

The employee's (whether full-time or part-time) date of eligibility is as follows:

- The date of hire if employed for an indeterminate period or term of more than 6 months.
- If hired for less than six months and then hired for another term of six months, once the employee completes six months of continuous employment.

For the purposes of the Public Service Health Care Plan, continuous employment means employment for six months with no break in employment of seven working days or more. For the purpose of calculating a period of seven working days, a statutory holiday will not count as a working day.

Bonnie Lehman
Human Resources Corporate Project Consultant

NATIONAL DAY OF MOURNING — APRIL 28

Commemorating workers whose lives have been lost or who have been injured in the workplace.

The National Day of Mourning, held annually on April 28, was officially recognized by the federal government in 1991, eight years after the day of remembrance was launched by the Canadian Labour Congress. The Day of Mourning has since spread to about 80 countries around the world and has been adopted by the AFL-CIO and the International Confederation of Free Trade.

The Canadian flag on Parliament Hill will fly at half-mast. Workers will light candles, don ribbons and black armbands and observe moments of silence. Businesses are asked to participate by declaring April 28 a Day of Mourning and to strive to prevent workplace deaths, illnesses and injuries.



April 28 National
Day of Mourning
is also known as
Workers
Memorial Day.



MEMBERS SPEAK OUT

\$5,000 IN PSAC LIFE INSURANCE

The PSAC, in partnership with Coughlin and Associates Ltd. Life Insurance Company, is offering \$5,000 in life insurance free to all PSAC members in good standing.

This offer has existed for several years, and I feel it is important to recall the conditions and how to obtain it, given that we now have many new members in our union.

The main condition for obtaining payment of this insurance is to be a member in good standing. If you pay union dues and have filled out the union membership card, you are a member in good standing.

However, if you are on unpaid leave such as disability, maternity, paternity or adoption leave etc. and you are not required to pay dues, **you are not a member in good standing if you have not informed the National President in writing that you are on unpaid leave, (so don't forget to email our National President if you are in this situation).**

Now that this important issue is settled, here is what you need to do to have this free insurance:

- Go to the UTE website:
<http://www.ute-sei.org/English/home.cfm>
- In the left column, click **PSAC**.
- English
- In the left column, click **Coughlin**
- In the left column, click **PSAC FREE \$5,000**.
- In the text, click the link called

PSAC FREE \$5,000 member information card

- Print the form, fill it out and send it to
- PSAC FREE \$5,000
c/o Coughlin and Associates Ltd.
Box 3518, Station C
Ottawa ON K1Y 4G1

The insurance company will then send you confirmation of your application to the life insurance plan.

Note that if you have already completed this form in the past, it is not necessary to fill it out again.

Daniel Gagnon
President, Local 10004

HEALTH CARD UPDATE

(EXCERPTS OF AN EMAIL RESPONSE FROM PATTY DURCHARME PSAC NATIONAL EXECUTIVE VICE-PRESIDENT TO A REQUEST FOR A STATUS UPDATE FROM UTE RVP TERRY DUPUIS)

Like it or not, the process is complex and is, as a result, slow moving. However, as repeatedly reported at the National Board of Directors, the PSHCP is the largest employer-sponsored health care plan in Canada. The process to implement a card in a plan which covers over 1.2 million people is multifaceted and the scope unprecedented.

I do not believe that mounting a large scale political campaign would have significantly influenced the card implementation, nor was there a broad-based call to do so.

I admit that the communications about the delay could have been better. I expect that there will be communication on the card posted on the PSHCP website shortly – either as a stand alone piece or in the PSHCP Bulletin.

There have been two Requests for Information issued to the Health Care Plan Industry. As a result of the feedback **A Request for Proposal** was issued to the Health Care Industry in December 2008 with a closing of March 2009.

The Bid Evaluation Process is expected to be completed by early May and will be followed by a recommendation to Treasury Board Ministers.

UTE Vice-President Bob Campbell did raise the issue of the card at the National Board of Directors meeting in February 2009 and Sister Bannon has raised it consistently at these meetings in the past as well. Given that most of the correspondence received on this issue has been from UTE members, I've initiated discussions with many of the other Component Presidents to see what they are hearing from their members. They've acknowledged that there have been questions about the implementation date but that the delay has not been identified or framed by their members as a political priority that they would like the union to mount a campaign on.

The drug card will be welcomed by Plan members for its convenience and to limit being out of pocket while waiting for their claim reimbursement, which we know is a very real hardship for some. I do want to remind you though that the assignment of benefits available to Plan members was established to specifically assist those who face financial hardship due to their high prescription drug costs. The assignment of benefits option will be phased out as soon as the card is implemented.

In Solidarity

Patty Ducharme
PSAC National Executive
Vice-President