



A BIG WIN FOR MEMBERS' RIGHTS

The September 2004, Shneidman decision, from the Public Service Staff Relations Board (PSSRB), has confirmed the Union of Taxation Employees (UTE) position: **the Internal Affairs Directorate (IAD) investigation process of our members is part of the disciplinary process.**

The PSSRB adjudicators were misled by the employer into believing that the IAD investigations were administrative, independent and objective. Finally, an adjudicator took the time to listen to our arguments, and concluded that IAD investigations are in fact disciplinary hearings, conducted by an agent of the manager who will be rendering the discipline.

The adjudicator has ruled the employer **must** release an unvetted copy of the IAD investigation to the investigated employee and the union representative. This means that if you are accused of any misconduct, you have the right to be represented by your union during the complete investigative process. You and your union representative have a right to an unvetted copy of the investigation report.

Now, when you are summoned to **any** meeting that **may** result in you being disciplined, you should be accompanied by



SEASONS GREETINGS

From the Executive and Staff of the Union of Taxation Employees, we wish you and yours a warm and prosperous holiday season.

your union representative who can now represent you and not be limited to the role of observer. Be very aware that should you choose to attend such meetings without union representation, you do so at your own peril.

A copy of the decision is available on the UTE website and is recommended reading material. Please note the employer has appealed this decision to the Federal Court to have it reversed.

Pierre Mulvihill
Labour Relation Officer

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

A few words on Convention

Every three years, the Union of Taxation Employees holds a Triennial Convention. At these conventions we elect our National and Regional Officers, pass a budget, discuss and vote on Policy Papers and resolutions that set the direction of our union. The next convention will be held July 12 –16, 2005 in Saint John, New Brunswick.



The National Office will be issuing a series of convention bulletins covering a wide range of convention information: Why we have conventions, how they are run, what are the duties of a delegate. These are but a few of the topics covered.

A "Convention Call" which is the formal announcement of the convention is issued, stating the date, place and deadlines for resolutions and requesting names of delegates and observers. The locals are responsible for putting forward the names of their delegates and observers and to write and submit resolutions (*) that they wish to have debated at convention.

Convention Committees are formed and meet to review resolutions that have been submitted either by the Executive Council or locals. The committees consist of delegates that will be attending convention and they make recommendations to the convention of either Concurrence or Non-concurrence on each resolution. The resolutions submitted are divided by topic for each committee: Finance, General, By-laws and Collective Bargaining.

We encourage all first time delegates to take the PSAC Convention Procedures course to help them prepare for the Convention.

Look for more information on the convention on our website and through your local executives.

*Betty Bannon
National President*

(*see reminder on bottom of page three)

UTE

UPCOMING EVENTS

January 14 - 16

National Equal
Opportunities

Conference (Ottawa) **(New Dates)**

March 7 - 13

Executive

Council & Presidents' Conference

April 21 - 24

Pre-Convention

Committees

(Crowne Plaza)

USE OF EMPLOYMENT EQUITY AS A PLACEMENT CRITERION

A review of a number of Notice of Job Opportunities advertised by the Canada Revenue Agency (CRA) reveals that in many cases, managers are establishing employment equity as one of the various criteria which will be relied on for placement. While on the surface, this criterion looks to be in compliance with the CRA Staffing Program and appears to be a legitimate placement criterion, it may only be used for placement in very specific circumstances.

Pursuant to the CRA Staffing Program and its related directives, employment equity may only be used as a placement criterion when **all** of the following conditions are met:

- There must be a **demonstrated under-representation** in the designated equity group within the **occupational group being**

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staffed and in the **region or province** where the placement is being made.

- There must be an Employment Equity Plan in place to address and correct this under representation.
- The Notice of Job Opportunity and/or Statement of Staffing Requirements must advertise at the outset that employment equity may or will be used as a placement criterion.

Once again, all three of the above noted criteria must be met in order to use Employment Equity for placement. Where any of these conditions are not met, we suggest that members who are eligible for placement, but who have not been placed, exercise their right to recourse in accordance with the CRA Staffing Program.

D.Shane O'Brien



IMPORTANT REMINDER

Dead line to submit resolutions
for the UTE Triennial
Convention is **noon**
Saturday March 12, 2005

the president's corner

I think it would be safe to say that no one is "happy" about the latest tentative agreement. It was a very hard decision for your negotiating team to come to an agreement to put this out to the members for a vote. Frankly, I doubt many members would have wanted to be in their position

Before we came back to the table in October, this employer ignored the Conciliation Report recommendations and had tabled their final monetary offer of 2.25%, 1.75% and 1.5% and absolutely refused to discuss anything in regards to Term employees and said no to our WFA demands and everything else. That was September 7th. We then commenced our strike activities, which forced the employer to improve its offer.

I want to thank all the members, executive and staff for their support and efforts during this period. We never wanted a strike. When forced into it we did what needed to be done, and some locals came up with very unique and creative strike activities.

Special recognition must go to the members from the Mailrooms, Client Services, Cash sections and Call Centres, who were out on strategic strike on behalf of the rest of us.

We can all discuss whether or not the tentative agreement was worth the strike action but I am confident in saying that we would not have even accomplished what was in the tentative agreement without the strike action.

Our Website www.ute-sei.org is full of photos from the strike actions which I encourage you to visit.

**Thank you for your support. We are stronger
when we stand together.**

Betty Bannon

A few comments about the bargaining process

(Excerpts from Brother Denis Lalancette's letter to Alan Nymark of November 12, 2004)

Over 2,354 hours have passed since the Notice to Bargain of August 1, 2003. This estimate is based on 7½ hours per day, though we know this rule is not adhered to when we are in negotiations. Your bargaining team and ours met face to face for approximately 41 hours, not counting conciliation and the conciliation board. If we include them, the total is no more than 130 hours. Since you seem to be, first and foremost, an administrator, can we talk efficiency and cost-effectiveness?

We can easily put forward the figure of \$1.7 million for miscellaneous expenses and the wages of two bargaining teams during this period of negotiation. We could extrapolate and multiply that amount, adding to it the costs incurred by the CRA and the PSAC to support the bargaining teams.

Let us not forget the loss of productivity during the period of conflict (2,354 hours X 23,000 members), which would allow me to state without risk of error, that several million unproductive dollars might have served a more just cause, true recognition of the work of CRA employees, our members, and present a respectful, negotiated agreement not one imposed by the Treasury Board of a government astir with cost effectiveness.

...You have just transformed a period of conflict, which we have tried to shorten, into a period of discontent and discouragement that will last four years.

Can we place a value on this period of discontent and discouragement? It can be expected that work, interpersonal and family relationships will be affected. In addition to a lack of productivity, the absenteeism rate will climb and some families will break up. I leave it to you to put a dollar value on that. A value that would take into account your declaration in *Congratulations on five years as an Agency!* "The organization's **greatest value** is the *dedication, enthusiasm and determination* of its employees." They are also the ones who ensure your future and that of the agency.

I am merely conveying to you my vision and the understanding I have of CRA employees vis-à-vis the bargaining process and their value that (you) have never demonstrated at the bargaining table.

..."The first condition of happiness is that man (persons) may take joy in his (their) work". One has to believe that André Gide (1869-1951) had a futuristic vision. I will leave you to ponder that, so that one day we will have the right to free bargaining and the notion of respect.

CHANGE OF ADDRESS

Please note that all address changes should be done via e-mail to Sylvie Bastien (basties@ute-sei.org) at the National Office. 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:

233 Gilmour Street, Suite 602, Ottawa ON K2P 0P2.

DIARY OF A NEGOTIATING TEAM MEMBER

(In honour of our negotiating team)

October 12th, 2004 3:27 A.M.; I am sitting in a board room at the Public Staff Relations Board wondering what it was that had brought us to this point. Thanksgiving had come and gone. Here we are, the seven members of the CRA Negotiating Team, still sitting in a room waiting. Our families had all called, dinner was great, we missed you, when are you coming home? Thanksgiving, is a time to reflect on your life and give thanks. At 3:30 in the morning it is hard to give thanks. Thanks to the employer for agreeing to come back



to the table, but causing us to miss a holiday with our families. Thanks to Treasury Board for interfering in our negotiations or maybe a time to focus on the positive. Thanks to the locals and the members out there who are striking while we try to hammer out a deal. At this time of the morning, reflection seems a better idea than giving thanks. Our frustration level does not lend itself to being very thankful, but it definitely makes one reflect about what brought us here.

It has been a long 17 months. It is hard to believe that the process for the team actually began May 21st, 2003.

Reflecting back upon the months and the meetings one must examine the process we went through. From May 21-25, 2003 the UTE National Bargaining Committee was called into Ottawa to review the numerous bargaining demands submitted by the locals. There were 327 demands and the team had to determine which 25 were the most critical to our membership. The team had determined from the beginning that a shopping list of demands would not be prudent, if we wanted to realistically arrive at a tentative agreement with this employer in a reasonable time frame.

The more demands on the table the more delays we could expect from the CCRA. How does one prioritize one demand over another? Eight Council Members and two local Presidents reviewed demands, debated what is important, what is attainable, and how we can achieve an agreement. Seems like an impossible task but we did it, 25 demands going forward to the PSAC on behalf of the UTE membership.

Next, deciding which members will be sitting on the actual CRA Negotiating team and then they must meet with the CEUDA Representatives. CEUDA has been in a similar process and they are also bringing 25 demands from their membership. Now the teams must get together and determine what 25 will represent the bargaining demands of both components. The PSAC has advised that the team composition will be six UTE members and three CEUDA members. The UTE negotiating team members will be selected by the National President, the 2nd Vice President and the co-chair of the standing bargaining committee.

May 25, 2003 the Team members have been determined, now we must prepare ourselves for the next step. We are scheduled to meet July 12-16th with the CEUDA Negotiating Team members and move a step closer to the negotiation process.

Anticipation is the main feeling now. Balancing our demands and CEUDA's to reflect the interests of both groups is critical. It can be done. We have done this in the past. We now have a clear understanding of the diverse interest of both groups: VSSA's vs. compressed, ports vs. offices and the list goes on. The next few days are spent reviewing the demands of both components. We face the difficult decision of narrowing 50 demands down to 25. It seems like this would be an easier task than narrowing over 300 down to 25, but now the task is more complicated, because we have a vested interest in the choices each component originally made. The task is accomplished and both sides walk away feeling like we have worked in the best interest of the membership.



August 1st, 2003, 90 days prior to the expiration of our collective agreement we serve notice to bargain. Rob Wright on behalf of the CCRA had promised that this time the employer was willing to begin negotiations prior to the expiration of the agreement. We are optimistic that the negotiations will be starting very shortly. False expectations once again lead to more frustrations. Rob Wright is no longer in charge. It does not matter what his commitment was, the CCRA does not want to start negotiating early. The team is hanging in limbo as the politicians try to sort things out. Time moves slowly but we agree to electronically exchange demands on the 19th. The employer agreed to meet with us August 25 -27.

The team arrives in Ottawa to begin negotiations but there is another delay. The employer is willing to exchange and review the respective demands, seeking clarification if required. They are not prepared to actually start negotiations. The team expresses their frustration to the employer. The team believed we were to begin the actual process not explain demands that for the most part are either self explanatory or that have seen before. The employer refuses to budge. They have set aside these two days and that is it. The team members return to their respective offices and then receive notification that the employer will be prepared to have negotiations Sept 29-Oct 5, 2003 and Nov 10-14th.

This is all the employer will commit to, but we wanted a commitment to stay till the job was done. The expiration of the collective agreement is only a month away. We do not feel that we are any further ahead; even though the employer had committed to a more expedient process.

When we get to the table we are advised that the employer is willing to commit to two additional days in November. If unsuccessful this week then we will meet again Nov 10-17.

During the week we meet with the employer each day at 2:00 in the afternoon. We would spend an hour discussing demands and then wait 23 hours for a response. It was a long slow week. The two exceptions during the week were a two hour discussion Wednesday morning with Darrell Mahoney regarding ACS and then on the weekend we actually had a without prejudice discussion on several demands, that took several hours. The team felt we had accomplished more on the weekend than we did the prior five days. Sunday afternoon we were done, with no agreement and a month before we could get together again. How does one explain this to the locals and the membership? Yes we were away for 7 days but we really only met for a few hours.



Bargaining is a strange process in the Federal Government. So much for the movies we have all seen. What did we accomplish this week? The teams agreed to sign off on all the articles where there were no bargaining demands, and agreed to editorial changes in article 8 and small modifications in articles 34.09 and 34.10. There was no great sense of accomplishment at the end of this week.

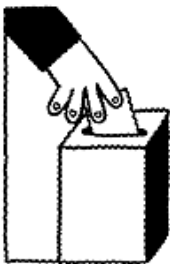
November 10-17, 2003: November 10th has arrived and we meet with the employer from 1:40 until 2:40 to hear their responses on several of our bargaining demands, articles 18, 14, 17, 10 and 36 as well as the Mobility issues. They give a lot of reasons why they cannot accommodate our requests, but they just do not seem to want to listen to the rationale of why we are requesting these changes. We would not have bargaining demands on these articles if all was well in the workplace. We resumed talks with the employer at 3:50 and took 20 minutes to again try and explain why some of these articles needed to be changed.

Tuesday November 11th, a day of Remembrance for the membership, hope they remember where we are. We meet with the employer at 10:35 for 20 minutes and then took a break to observe two minutes of silence to honour those who fought for us. At 1:20 back meeting with the employer, then at 2:10 the employer advises us that they will not be able to provide a comprehensive monetary package, until they have established rates of pay for the new ACS standard. *They stated "We are not going to be ready this week, the project is moving forward. We are not in a position to provide a package".*



“Our principles have contacted your principles about a meeting in a few weeks”. Even though the employer had stated they wanted ACS as part of this agreement and they had committed to meet until the 17th, they came to the table with no intention of getting resolution. The team is now faced with yet another delay and a difficult decision. Do we stay at the table for an extra few days when the employer has advised they are not prepared to table any monetary issues?

The team had a caucus with Nycole Turmel and then meet again with the employer for an hour on the 12th. The employer stated at 4:50 “It is difficult to provide a response to your wage package when there is a component of the wage package that is not ready. My expectation that this work will be completed in the next week/month. We are not in a position to table a package with you prior to the end of December”.



The team was left with no choice. We advised the employer that this process was not a good use of our time. The employer agreed, stating we should look at establishing some dates in January. Strike votes are called and will be run from November 17th until December 17, 2003.

In the middle of our strike vote (December 12th) the Government creates a new Agency and moves all CBSA members back over to Treasury Board and Table One. The team is scheduled to meet January 12-16th but what are the impacts on negotiations of what the Government has just done? No worries, the employer advises us on January 9th that they will not be ready to meet on the 12th, let's reschedule until February 15th, great Valentine's Day present though. The team decides we need to request a Conciliation Officer to assist with the process.

Now into February and we had such high hopes that with the assistance of a conciliation officer maybe we would see some progress. It was not to be. After three days of delays and lack of progress, even the Conciliation Officer decided that there was no point in continuing our meetings. There was no progress to be made.

The union filed an application for the appointment of a conciliation board. Glitches in the system regarding the designation process delayed the application, but we were finally successful in getting the PSSRB to approve a Conciliation Board. The three members are named and finally we have a hearing scheduled for August 7-10th.

August 7th, the beginning of the Conciliation Board and the first time we have been in this position. We are not too optimistic but willing to give the process a chance. The life of bargaining was summed up by Thomas Kutner (the Chairperson) in his opening remarks, “Bargaining is like a marriage except you never get to divorce”. Wow and by the end of the process he was right. We did see some small progress and were able to get resolution on some of our demands, article 18.01, small changes to article 22 health and safety, and agreement in principle to article 45.

Again one has to wonder why it takes so long to make such small changes, but at least we were seeing some progress. The chairperson requested that we spend the first few days in mediation but then on the 9th we were required to move into the formal presentations to the Board. The 9th and 10th were at least long days, seeing the teams make presentations late into the evening. At least we felt like we were working. At 9:50 P.M. on the 10th we were finally finished. All that was left was to wait the two weeks for the Board Report.

Two weeks pass. We should have realized that nothing ever gets done when it is supposed to in Bargaining. The Board granted an extension to the Chair and now we were going to have to wait until the 27th to see the report.

The Report is issued and the team is quite pleased with what it says. No, we did not get agreement on everything we wanted, but we believed this could be the basis for settlement. The team is called to Ottawa by the PSAC on September 1st and contact is made with the employer: "Are you willing to meet to discuss the report?" After several meetings of the politicians and the employer on Sunday September 5th, we agree to meet on the 6th and 7th, with a deadline coinciding with our Strike Deadline. So much for Labour Day!

2:45 September 6th 2004: Meeting with the employer commences and they proposed renewals on all articles mentioned in the board report. The employer then indicated they needed to see a very strong indication of willingness to settle well below the board recommendation, "in absence of our willingness to move it will be very difficult for us to achieve a deal."

The employer then revised their monetary offer: Nov 1, 2003 2.25%, Nov 1, 2004 1.75% and Nov 1, 2005 1.75%. The employer advised that this reflects a *virtual end point of their flexibility*. After several subsequent meetings with the employer, at 8:37 P.M. on the 7th of September we were required to advise the employer that we had moved a long way in the last year, and that we have no further movement. The consequences are very serious as we have 30,000 members in a legal strike position in three hours time. We are unable to proceed any further.

At 9:00 on September 7th the team was unable to reach a collective agreement. Now we must ask our membership to commit to the vote they had given us so long ago. Strike action is now upon us.

Being a negotiating team member on the picket line was interesting. Members did not want to see you as they wanted you back at the table. However the sense of support that I felt from the members was overwhelming. They supported the team's decision, and only wanted a fair and reasonable offer from the employer. Four weeks of strike activities, rotating, strategic and general, all served to create havoc with the employer. It still did not do what we wanted. There was no call, to get back to the table.



Then October 4th came, Treasury Board Tables were all going to be in a legal strike position and they were called back to the table. PSAC made a call that all the teams would be called in, in anticipation of willingness on the employer's side to try and reach a settlement.

Oct 6th. Back in Ottawa and we were to start meeting with the employer in the morning. Thus starting another weekend of waiting around, meeting with the employer for an hour, then waiting for responses for several more hours. The weekend came and went as did Thanksgiving Day. We did not see any real progress at the table and found ourselves requesting the intervention by Hassan Yussuff of the Canadian Labour Congress. Finally after several hours of meetings between Hassan and the Cabinet Ministers, several calls over to the employer, and several frustrating days of waiting, the employer presented their final offer.

5:30 October 13th The employer is at the table and provided an offer for Final Settlement. There is no room for any more negotiations. This is it, accept the offer or stay on strike. The Team needed to caucus. We called a break so everyone could consider their options and determine what direction we needed to go in, keeping in mind that Table 2 and Parks had already settled.

Our negotiator advised that we had two key decisions to make;

Do we believe we can get more

Do we believe the members would accept the offer

After much soul searching at 6:35 P.M. our negotiator advised the employer that we accepted the offer.

Linda Cassidy
RVP Atlantic

