

BULLETIN

The grievance process

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Often members who file grievances which must proceed to arbitration are unsure what to expect and want to know what to anticipate as the matter proceeds towards a hearing. This is the first of a two-part series which looks at the grievance and arbitration process. It outlines the steps that must be followed when a grievance is filed, and what a member can expect to happen as the grievance works its way through the arbitral system.



What happens after I file a grievance? How long does it take?



When you have a "difference" with your employer, your collective agreement requires that you raise the issue with your immediate supervisor. In the paramedical professional collective agreement and in most of the community separate agreements, this is covered by articles 7 and 8. In the nurses collective agreement and the community health services and support agreement the relevant clauses are 9 and 10.

If you feel that your employer is in violation of the collective agreement, we encourage you to discuss the matter with your local steward before approaching an employer representative.

In cases where your problems arise as a result of the actions of your immediate supervisor, you may not wish to raise it with her or him. In this case, you may want the steward to take it to the next level of supervision. Some of the community agreements, and the nurses agreement, have special provisions for members who are claiming harassment by their supervisor, that expressly allow them to bypass their own supervisor at the first step. In any event, the problem should be discussed with the appropriate representative of the employer to see whether a resolution can be worked out (stage 1). We advise you to have your steward present at any such discussions. It's your right, and it may save you and your union representatives a lot of grief later if the subject matter or content of the discussion is in dispute.

It is important to remember to *keep working* throughout this process (unless the matter is one which presents an immediate health hazard) as the collective agreements specifically provide that employees will continue to work until the matter is settled. Remember the basic rule to *-obey now and grieve later.*" Your matter will be heard eventually, but you must protect yourself and not expose yourself to further discipline by inappropriately refusing to do your job.

If no agreement can be reached to resolve the problem, your local steward will file a written grievance (stage 2) on the appropriate form, within 21 days for paramedicals and 14 days for nurses. The employer must reply to the grievance where it is provided on the form. If the matter cannot be settled, it is then advanced to stage 3. At this point a Labour Relations Officer will meet with an employer representative. Very often these matters are resolved at this level. The employer is aware that proceeding to arbitration is a costly and time-consuming measure. It is often in their best interest to work out a resolution satisfactory to both sides rather than allow it to proceed.

If things cannot be resolved at this level, the union may then refer the matter to an arbitrator.

This is the step which may take the most time and which may sometimes cause anxiety on the part of the grievor occasioned by the necessary delay. First, both sides must agree on an arbitrator. Usually a couple of names will be discussed, the employer and the union will agree on one, and then HSA's legal department will contact the arbitrator's office in order to set a date.

HSA is careful in its choice of arbitrators; we choose only those who we feel are the best in the province, and those who are best qualified to hear the issue involved in the particular case. The best arbitrators are much in demand, and it may take anywhere from five to 10 months before dates are available. We might be able to get quicker dates if we were willing to agree to anyone as an arbitrator, but we feel that in matters of importance to our membership as a whole, we must ensure that our collective agreement is not interpreted by those who lack the necessary experience and expertise. Therefore, these things may take time.

In matters which have a more narrow application, the collective agreements provide for an expedited arbitration process. This process usually does not involve witnesses, and the argument for each side is limited to two hours. The decisions are considered to be "without prejudice," that is, they cannot be relied upon in future as having set a legal precedent.

There is one other process available; section 104 of the *Labour Code* allows a party to a grievance to have the matter referred to the Collective Agreement Arbitration Bureau where it is mandatory that the matter be set down in an expedited fashion and that it be commenced within 28 days. The drawback of this route is that we do not get to choose our arbitrator. We will discuss this option and the next steps under the collective agreements in the next issue of *The Report*.

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