

# The Steward

NEWS AND INFORMATION FOR BCGEU STEWARDS

APRIL 2001



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## Workplace Leadership in action

Local executives and stewards are creating annual action plans for steward training, worksite representation, grievance handling and union communications.

### Prince George Area

#### Local strategies

Area 11's Cross-Component Committee has set a trailblazing pace in developing workplace leadership initiatives, over the past few years. Local officer training modules have been used to effectively develop *local servicing plans*. Regular evaluations of these plans are done by local executives and stewards, not staff.

The Cross-Component Committee's increased emphasis on *community involvement* has resulted in an enthusiastic

turnout of members at local Labour Council meetings, the recent provincial budget hearings, health care rallies, and the BC Federation of Labour Campaign 2000.

Component 20's Larry Johnson has been a BCGEU member for 36 years, and until recently served as Chair of the Area 11 Cross-Component Committee.

Larry is devoting his days before retirement working in the Prince George Area Office setting up a fax/email system to improve *communications* with local members and worksites. He has also been active in *mentoring* new stewards.

"I'd like to leave a legacy to the young folk of being involved in the union," Larry says. "We are most effective as a union when we work together. Employers know you are there to protect members, and you are more respected in the community as a member of an effective union."

Local 311 is having success with *stewards' meetings* and having employers attend *contract interpretation* meetings, a key demand of members.

Michel Breton, a Local 311 steward explains: "When we had general meetings, the most members attending were from the biggest employer, and they would dominate with discussion about their contract. So now we have meetings specifically for the big worksites, and

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**W**orkplace leadership is about promoting the ideals that made unions strong in the first place, making the union a visible, respected presence in your worksite.

Our activists are finding new approaches to solving problems, new ways to connect with members, new means to deliver union services, and new strategies to motivate member involvement in the union.

Through enhanced education, mentoring, and communication initiatives, you will be supported in your commitment to do a good job as a steward.

We can be very proud of the leadership role our union takes in protecting workers' rights and fighting for social justice in our workplaces and communities.

~ George Heyman  
BCGEU President

continued from front page

separate meetings for members from the smaller worksites."

Local 411 counts a new newsletter among its *communications initiatives*.

Local 511 is meeting geographic challenges in *outreach and representation* by setting up phone lists, telephone conferences, and ensuring representatives from all communities are on the local executive.

Alana Lubenkov, an activist with Local 611 says, "Through our Workplace Leadership conference we were able to talk about our local needs. One of the needs is membership in-

volvement. One solution we talked about is *education*. We feel that if the members understand the union more they will be more apt to get involved."

Local 1211 has stepped up *networking* through more regional meetings.

Local 2011 members have been effective handling *Step 2 grievances*, and developing a *Stewards' Resource Kit*.

Brad Kope, First vice-chair, Local 2011 adds, "Some of the workplace leadership goals we've achieved include getting more members involved, whether in one-on-one conversations or having workplace meetings."

## Victoria Area

### Local 701

#### Leadership training

In Local 701 (Tourism B.C.) the stewards and activists have had training in Workplace Leadership. One training workshop has already been held with the employer present. Problem resolution and improving the ability to communicate between both parties were topics of discussion. This has led to more issues being discussed and resolved at the local level, and the solutions are sometimes more suitable as a result. These stewards and activists are doing a great job, and will receive ongoing training as required.

### Local 301

#### Effective labour relations

Local 301 presents some interesting challenges as there is such diversity in the employers and their views of the union. Stewards in 301 and management representatives have been invited to a joint training workshop at the Victoria Area Office. The agenda will include communication, building effective labour relations, process (either in grievance handling or problem resolution), the role of the joint committee, etc. Most of the stewards and management reps have responded very positively, and have confirmed their attendance. Stewards are being asked to attend a subsequent meeting to discuss their specific areas of concern and needs, which will be followed by expanded training. The local has set up regular steward meetings, where we will also be offering "mini" workshops.

## Local 1201

### Promotional appeals

Back in 1996, Local 1201 had one local executive member who was actively presenting Promotional Appeals for Government Service employees. This proved to be successful, and two years later another local executive member expressed an interest in doing the same. The two local officers developed a Promotional Appeal Manual for stewards to use. Training sessions were offered in Victoria and Courtney, which resulted in more promotional appeals being presented by stewards.

A number of stewards are now trained in Victoria to present these appeals. In the last two years they have completed 37 different appeals. The Victoria Area Office has instituted a log sheet to help track promotional appeals through the various stages.

### Grievance Handling

The Local 1201 executive has been very active in various levels of grievance handling. In 1996, local officers developed a grievance handling training plan. They identified the areas each was interested in, and training was tailored to their strengths and weaknesses.

Today, all of the 1201 executives and stewards are able to present at Step 2 of the grievance procedure. In instances where the employer has neglected to contact them first, many stewards now alert the area office when they have not received the employer's Step 2 response. Obviously, more training for the employer will be needed – and the stewards are more than happy to provide it!

### Member-Steward Contact

A system is well-established at Local 1201 that recognizes stewards as the primary link between members and staff in the local union office. When a member phones in seeking assistance – they are referred directly to a steward at their worksite. If no steward is available at a worksite, the member is referred to another steward nearby, or a local officer. This reinforces the union's presence at the worksite and, where no steward is present, gives the executive the opportunity to go to the worksite to recruit one.

### Training & Mentoring

The 1201 executive has now developed a yearly training schedule. Each training session is attached to the Local meetings. The sessions, delivered by local officers, are short and informative. Our first training took place January 9, 2001, and another on February 13, 2001. Training includes *Email and Internet Usage; STIIP and STO2 Requirements; Non-Culpable Dismissal; Probation; Special Leaves, How does Article 32.15 apply; Writing Resolutions 101; The Scoop on Substitution and Hours of work.*

The information has been well received by the stewards and membership. The local officers are also looking at a mentoring system to ensure new stewards are linked with a trained steward for assistance.

### OH&S committees

In Victoria, 1201 is in all direct government service worksites. Each of those worksites is supposed to have an OH&S committee established. Requests are often made by members and stewards for

appointments to those committees. The local has designated an officer who is the contact and registrar for OH&S committee appointments. If no members are interested, the local officer will work with the worksite members to recruit someone. Then, in consultation with the staff representative and the stewards at the worksite, appointments will be made. This provides a two-fold benefit. It increases morale and involvement in the union by bringing worksite members into direct contact with the local executive, and ensures that we have OH&S committees up and running.

### Worksite representation

In Area 01, the staff and stewards have been working together over the last five years to reduce the number of worksites which lack stewards. This collective effort has managed to reduce the number of worksites without stewards to just 18 out of 765. This has taken a lot of work but it is certainly paying off. More members are calling their stewards first for answers, and we are seeing quicker resolutions to many worksite incidents.

### Working together

The 1201 executive, stewards, and union staff have worked as a collective to assist stewards and members. Access to the membership has improved, and more members are now better informed about their rights, and the role of the union.

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More leadership stories next page

## Victoria Area

### Local 2001

#### Hours of work interpretation

The Environmental, Technical & Operational Component (ETO) was formed when various components were incorporated under the Component 20 banner. The “hours of work” language covering members in this component became a conglomerate of provisions, and is now 49 pages long!

Before a clear picture emerges regarding a member’s hours of work, further reference to other parts of the component agreement is required to determine the “appendix” applying to a worker, their travel status, etc. The ETO hours of work forms are then used, in most cases, and this requires additional knowledge.

Local 2001 has been fortunate to have Brother Russ Leech available to help with these issues, because of his experience negotiating these contracts.

Russ is a founding member of the BCGEU, and of Component 20. Last year, he stepped down from his position as Chair of Local 2001, as he is due to retire soon. The local realized Russ’s departure would leave a tremendous vacuum, particularly where the interpretation and application of the hours of work language is concerned.

The Local 2001 executive asked Russ if he would do a seminar for all interested stewards on hours of work. A member of the local executive contacted all the 2001 stewards for a meeting held in February at the Victoria Area Office.

Local 2001 members can look forward to having dozens of “hours of work” specialists and Russ, when the time is right, can retire without worry!

## North Island Area

### Cross-local workplace leadership initiatives

The local Chairs in Area 02 are taking charge and pulling together.

Local chairpersons got together in November 2000 to start planning how they wanted their workplace leadership program to work. The group collectively decided on starting with taking meetings to the stewards. The chairpersons divided up responsibility for organizing meetings to launch Workplace Leadership in the different areas. They are now taking on delivery of follow-up training.

Union staff, including Education Officer Janet Parkes, are providing resources and support. A cross-local *Facilitators Training* session was held in early March.

In selecting stewards for this training, consideration was given to Area 02 geographic representation (e.g. Port Alice, Port McNeil, Powell River, Port Alberni, Nanaimo, and Courtenay). This will ensure each of the communities will have a qualified facilitator in their area to deliver local training.

*Facing Management* has also been identified as a key course of interest to stewards. A training session on this was held in early April at the Courtenay Area office.

With these actions, and more in the works, Area 02 is renewing a strong union foundation to better serve members.



# Who stole the cookies from the cookie jar?

By Judith McCormack/CALM

**T**hink you've got unemployment insurance? Think again. Your unemployment insurance benefits are paying for the federal government's tax cuts.

This is how it works. Changes brought in over the last few years have resulted in an enormous surplus in the plan, estimated to reach \$33 billion in 2001.

This situation is brought to you courtesy of a series of amendments to the federal legislation. One of those amendments changed the system so that qualifying for benefits was based on hours, rather than weeks, of work.

The government also brought in changes that made it harder to qualify for parental benefits. In addition, people entering or re-entering the workforce faced punitive restrictions, as did seasonal workers.

The result was that only about 36 percent of people who were unemployed actually received unemployment insurance benefits. .

What kind of insurance scheme is this? A car insurance plan that refused to pay for two-thirds of its customers' accidents would be out of business in a hurry, particularly if the insurer was dipping

its fingers into the pot.

The money that should have gone to employment insurance benefits is being used, in other words, as a federal slush fund.

By a remarkable coincidence, less than a month before the federal election call, the government gave first reading to new amendments that would remove some of the restrictions for seasonal workers and re-entrants. However, the punitive hourly qualifying system remains.

And so does this question: If workers are paying so much for the piper, why aren't they calling the tune?

## Swearing a #@\*! blue streak

By Judith McCormack/CALM

**F**rom time to time, the temptation to suggest that a supervisor perform an anatomically impossible act can be overwhelming. Unfortunately, it is rarely a wise career move.

Swearing at a supervisor can be considered a form of insubordination, depending on the circumstances. A worker may be in hot water if it looks like he or she was resisting or undermining the authority of a member of management, for example.

Mere profanity in itself may not be the grounds for discipline, however – especially if it is common in the workplace. If the air is already full of blue language, a worker is less likely to be faulted for adding to it.

This is particularly true if

the swearing is part of a momentary flare-up of temper on the part of the worker. An arbitrator will also look at whether the worker's outburst was provoked and whether the supervisor in question favours the same colourful vocabulary choices.

On the other hand, if the profanity goes with a refusal to obey an order, a nasty public argument or threats, the situation will be treated more seriously. And provocation is not the same thing as saying that the supervisor deserved it. An irritating personality or terminal stupidity on the part of management is not generally considered provocation in itself.

Some kinds of graphic language may qualify as sexual

harassment as well, and be treated more severely by arbitrators.

In considering whether profanity is insubordinate, arbitrators sometimes look at whether it amounts to "insolence," a word that reflects some of the master and servant thinking that persists in labour law. It's almost as if workers are considered in the same light as impertinent children who are disrespectful to their "betters", rather than intelligent and equal adults.

Outside the strange world of labour law, respect is generally recognized as something that must be earned.

• *Judith McCormack is a former chair of the Ontario Labour Relations Board who now practices labour law with the firm Sack Goldblatt Mitchell.*

Do you have to tell the employer what was said?

# Communication between a grievor and steward – private or public knowledge?

by Ken Curry

Most people are aware that conversations between a doctor and patient, or solicitor and client are privileged. In other words, a court cannot compel the doctor or lawyer to give evidence about their communications with the patient or client. (There are, of course, exceptions to the rule.) In appropriate circumstances, communication between a steward and grievor will also be privileged, such that the employer will not be able to compel the steward to give evidence at an arbitration hearing about communication with the grievor.

## What is the reason for the privilege?

Privileged communications are excluded from evidence because of overriding societal interests. "Society has an interest in preserving and encouraging particular relationships that exist in the community at large, the viability of which are based upon confidential communications."<sup>1</sup>

In the labour context, arbitrators have ruled that there is an extraordinary relationship between a grievor and a steward which would ordinarily require the relationship to remain confidential. The basic structure of the grievance procedure would be destroyed if a steward could be compelled to disclose conversations they had with the grievor. The steward/grievor relationship has been compared to the solicitor/client relationship. Solicitor/client privilege is

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protected to foster honesty and candour so that the lawyer may properly advise the client and provide an effective defence. The same relationship based on honesty and candour must exist between a steward and grievor.<sup>2</sup>

However, society's interest in these relationships often conflicts with the general policy that requires all relevant evidence put before the court or an arbitration board so that it can properly decide the case on the merits. Accordingly, steward/grievor privilege may not apply in all situations.

## When will the privilege apply?

Generally, arbitrators will ask themselves four questions when deciding whether steward/grievor communications are

protected by privilege:

1. Did the communication originate in a confidence that it would not be disclosed?
2. Is the element of confidentiality essential to the full and satisfactory maintenance of the relationship between the parties?
3. In the opinion of the community is the relationship one which ought to be fostered?
4. Would the injury to the relationship by disclosing the communication be outweighed by the benefit gained for the correct disposal of the grievance arbitration?

Generally, communications resulting from the grievor consulting the steward about their rights under the collective agreement will be protected.

Communications before a grievance is filed may be protected if the steward was called upon to give advice in anticipation of a grievance being filed. Even if the steward is a supervisor within the bargaining unit – that will not negatively affect the privilege, as long as the person was acting as a steward at the time.

**When will the privilege not apply?**

The privilege attached to steward/grievor communications is the right of the grievor. However, the grievor may waive the privilege – by their words or actions. For example, the grievor, in consultation with a steward and or staff representative, may allow the steward to testify to their conversations. Privilege is also waived if the grievor accuses the union of wrongdoing and the union needs the steward to testify about their conversations with the grievor to defend itself.

If the communication the grievor is seeking to exclude from the arbitration hearing is evidence about a fraud the grievor either hoped to or did perpetrate against their employer, then the communication will not be protected by privilege.

Also, be aware that a steward's interview with a bargaining unit member who is a witness to the events that led to the grievance being filed will not be privileged. The employer will be entitled to compel the witness and possibly even the steward to give evidence about the interview.

**What should you do as the Steward?**

If the grievance proceeds to an arbitration hearing and the union seeks to protect communications between the steward and grievor from disclosure into evidence, the union must establish the presence of privilege. To do so, the union will need to lead some evidence relating to the four questions listed above.

**“...The steward/grievor relationship has been compared to the solicitor/client relationship. Solicitor/client privilege is protected to foster honesty and candour so that the lawyer may properly advise the client and provide an effective defence. The same relationship based on honesty and candour must exist between a steward and grievor.”**

Be prepared to advise the staff representative whether any communication with the grievor arose in confidence. Was the door to the office closed during your discussion? Did the grievor say anything to you about keeping the discussion confidential from the employer? Make notes of these or any other comments or actions regarding confidentiality.

As a steward, turn your mind

to the different roles you may be exercising between acting as a steward and a friend. In one case, the communication between the steward and grievor was admitted into evidence because the steward said that the conversation was a “friend to friend talk”. There was no evidence that the steward and the grievor talked about a grievance or the member's rights under the collective agreement.<sup>3</sup> Make notes of the fact that you discussed the grievance and/or the collective agreement.

**Exceptions:**

In certain circumstances, the presence of a third person during the conversation between the grievor and the steward may also function to waive privilege. The third person may be compelled to disclose the nature of the communication. However, at least one arbitrator has held that if the third person's presence was required to advance the union's interest, then the privilege is not waived.<sup>4</sup>

• *Ken Curry is Staff Counsel with the BCGEU.*

<sup>1</sup> *Sopinka on Evidence*, 2nd ed. page 713 and onwards

<sup>2</sup> *Government of the Province of British Columbia (Ministry of Transportation and Highways)* (1990) No. 361 -and- *Canada Safeway Ltd* (1984), 21 LAC (3d) 50

<sup>3</sup> *Allied Savings Credit Union* (1998), BCCAAA No. 149

<sup>4</sup> *Corporation of the City of Hamilton* (1978), 21 LAC (2d) 110

# Union certification and the secret ballot vote in British Columbia

Provided by the BC Federation of Labour Organizing Advisory Committee

When British Columbia workers want to form a union and negotiate a contract, one step in the process is to have their union recognized by the BC Labour Relations Board. If a union is recognized as the representative organization of the employees, the employer has a legal obligation to bargain with the employees' union for a contract. In the language of the Labour Relations Code, this recognition of the union is called "certification".

Union supporters in a workplace asking for their union to be certified must show that the majority of employees want the union to represent them. The BC Labour Relations Code allows two ways of determining the true wishes of the majority of employees in deciding whether to certify the union:

1. One method is to hold a secret ballot vote, and the results are accepted as evidence of the employees' true wishes.
2. The other method is to review statements of support for the union – membership cards signed by employees to determine whether the majority wants a union. This is the "membership evidence" method.

Employers and conservative politicians oppose the second method as "undemocratic", and say there should be a mandatory secret ballot vote. Some people accept this allegation because they aren't familiar with the reality of what often happens to workers when they try to form a union.

The following information will prove useful in responding to questions about union certification.

## ***Why doesn't the government require a secret ballot vote in every case?***

A closer look at the history of this issue holds the explanation.

Before labour laws were introduced in the World War II era, employees had to force their employer to recognize their desire to have a union negotiate for them.

Employers generally don't want their employees to gain more bargaining power and influence over working conditions – the key function and benefit of a union – so employers usually didn't volunteer to recognize the union.

This meant workers were often required to go on strike just to compel their employer to recognize and negotiate with their union.

Labour legislation was introduced in the late 1940's in order to reduce the number of "recognition" strikes and improve relationships between workers and employers. This legislation established a process for unions to prove they had the support of the majority of employees. If a union did so, these laws required the employer to recognize the union and negotiate with its employees. At first, certification had three stages:

- Employees would sign cards to show they wanted a union.

- When a majority of employees signed up, their union could apply for a vote of employees.
- A secret ballot would be held and the employees would again express their wishes.

Over the next twenty years, a number of problems were identified with this process.

The major problem was the behavior of employers in the time between the application of the union for a vote, and the time a vote was finally held. During this time, employers would frequently engage in all sorts of underhanded tactics to try to reduce employee support for unions.

Often, employers who recognized their employees were interested in a union would:

- Terrorize the employees, often firing union supporters for exercising their legal right to form a union.
- Give workers who support a union the dirty work as punishment.
- Encourage and help certain employees to fight against a union.
- Circulate slanderous stories about the union, and mislead employees about issues like union dues.
- Threaten to shut down the firm if they had to negotiate with their employees' union.

Employers would employ all kinds of stalling tactics to delay the employees' vote so the bosses would have more time to undermine the employee support for the union.

This type of employer interference – common even today – didn't allow the employees to make a free and democratic decision for themselves.

Many individual workers were fired for union activity and left unemployed for long periods while unions fought to get the employer to give these workers their jobs back, either through legal action, or in the first round of negotiations.



Negotiations for the first contract would also be much more difficult after an anti-union campaign poisoned the atmosphere.

These problems were addressed in the early 1970's by legislation introducing a second method for the Labour Relations Board to determine employee support for a union – acknowledging the act of signing union membership cards was strong evidence of employee support for their union.

With this second method, the Labour Relations Board would review the signed cards and if a significant majority (55% or more) clearly indicated their support, the union would be recognized. Where less than 55% indicated support for the union or other reasons for significant doubt remained about the employees' true wishes, the

Labour Relations Board would order a secret ballot vote be held.

This dual system was in place until 1984 when the Social Credit government reinstated the requirement for a secret ballot in all cases. Hiding behind the rhetoric of democracy, the agenda of Social Credit and their employer supporters was to restore the opportunity for employers to use unfair pressure tactics before a vote to stop their employees from forming a union.

Not surprisingly, the return to a mandatory vote was accompanied by a huge increase in unfair labour practices by employers – especially firings and discrimination against union supporters, contrary to their lawful right to form unions and bargain collectively.

The Minister of Labour appointed a committee in 1992 to conduct a comprehensive review of labour relations legislation. This committee recommended government reinstate the membership evidence method of determining employee support for a union. Their report documented this pattern of mistreatment, as did other academic studies. The dual method of deciding majority support has been in place since then.

### ***Why do employers continue to attack the membership card method of certification?***

Not surprisingly, employers continue to raise doubt about the validity of using membership card evidence because they have one goal – to frustrate attempts by employees to form unions.

Employers don't acknowledge there are many safeguards in place to make sure the true wishes of the employees are known, or that the membership card system is a mechanism to protect workers from employers.

Employers aren't interested in workplace democracy. They want a return to the mandatory secret ballot vote because they know it will increase employer opportunities for anti-union activities.

### ***Wouldn't it be more democratic to return to a secret ballot vote? Why do unions like the membership card system better?***

Genuine democracy isn't just a matter of having a secret ballot vote.

In a democracy, individuals have to feel free to express their true beliefs. Coercion and intimidation tactics undermine real democracy.

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For example, no one would think a government election was democratic if the voters were bullied and terrorized by representatives of the ruling party. In those circumstances, you could have a secret ballot, but it would be questionable whether the result reflected the true will of the people.

During the membership card sign-up process, workers aren't subjected to the same degree of employer pressure, although they usually feel some pressure if the employer has found out about their interest in forming their own union. Instead, the debate about having a union is kept mainly between employees, who are relatively equal.

But when a secret ballot vote is ordered, too many employers use that delay to intervene and coerce employees, exercising their power over the workplace and their right to fire and discipline employees to attack union supporters.

The main reason unions prefer the use of signed membership cards as evidence of support is to prevent the harassment and firing of workers who the employers suspect are supporters of the union.

In addition, union – and many labour law experts – believe it is more democratic to use a system that minimizes the opportunities for employers to interfere in the decisions of employees regarding whether they have representation in negotiating the terms of their employment.

### ***Aren't workers subjected to pressure tactics by a union during the card signing process?***

The risk to workers is small. There is a significant difference between a union supporter asking you to join a union, and your employer trying to stop you from doing so.

By law, union organizers are prohibited from intimidating or coercing workers into joining a union. Even without the law, there is a strong disincentive for unions to use high-pressure tactics to get members to join. For the union to succeed in the long term, it needs your active support. Unions don't gain the support of new members by intimidation or high-pressure tactics.

### ***Isn't there a risk a union might forge employee signatures on cards to gain certification, just to get workers to pay dues?***

This situation is very unlikely for two reasons.

First, there is no gain to falsifying support for a union. Gaining recognition as a union is just the first step in the process of unionizing – the real goal

is to negotiate a contract. If a union doesn't have the genuine support of the workers, you won't achieve a first contract. And since you don't start paying union dues until your contract is in place, the union doesn't benefit financially from this type of tactic.

Second, there are independent controls in place to safeguard the integrity of the process.

In all cases, Labour Relations Board Officers scrutinize the membership cards submitted by a union. They conduct random audits of the cards to make sure the employees' signatures match, and may contact individuals confidentially to verify they did sign a union card.

As well, during the Labour Relations Board screening of an application, an employee can raise an objection if they believe someone may have falsified their name on a union membership card.

### ***Are employees clear about the significance of signing a union membership card?***

The wording required by law makes the purpose of signing the membership card very clear. In order to be valid, a union membership card must state:

"In applying for a membership I understand that the union intends to apply to be certified as my exclusive bargaining agent and to represent me in collective bargaining."

Every day, individuals sign cheques, mortgages and wills that may be used to indicate their wishes to the courts. Why should it be any different when it comes to joining a union?

### ***Is BC the only place that uses membership cards to determine union support?***

No – seven of the eleven Canadian government jurisdictions use a membership card system. Some use a lower percentage than BC's 55 percent threshold while others are higher.

Manitoba is higher, requiring 65 percent of workers to sign union membership cards.

Quebec, Saskatchewan, Prince Edward Island and the Federal jurisdiction Labour Boards must grant certification to the union if 50 percent plus one of the workers sign union cards.

In New Brunswick, the Labour Board may certify a union with 50 percent plus one support, and must certify if support is 60 percent or more.

• *This information was provided by the BC Federation of Labour Organizing Advisory Committee, with thanks to Holly Page.*



# Confidentiality of e-mail

by Ken Curry

In a recent arbitration, an arbitrator found that an e-mail sent from one union member to a union bulletin board was not confidential, and could be used against the grievor to support a termination.

Several years previous to the arbitration, the Canadian Union of Public Employees (CUPE) had arranged to have a "chat group" set up on the employer's e-mail system. There had been poor attendance at union meetings and the union wanted to increase debate on current issues.

The employer said that they had the right to monitor all e-mail, as it was the employer's e-mail system.

The arbitrator considered that – as the employer had the ability to monitor the e-mail, and that e-mail is easily copied and forwarded "the nature of the medium does not support a claim of confidentiality."

The arbitrator relied on an earlier case that found there is not the same reasonable expectation for personal privacy for those employees who use the employer's e-mail system as there would be for those employees who communicate by private letter or by private telephone conversation.

• Ken Curry is Staff Counsel with the BCGEU.

## A TIP FOR THE BOSSES:



### The STEWARD

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