

ADVISORY LETTER

AL 15 - 07

October 5, 2007

TO: ALL FIR MEMBER COMPANIES

Gentlemen and Mesdames:

Re: Internal Union Discipline and the Pension Plan

We have had several reports of USW leaders threatening individual employees with damage to their IWA-Forest Industry Pension entitlements if those individuals violate USW picket line rules. This Advisory Letter attempts to clarify some of the issues regarding these threats.

Question:

Can the Union take away an employee's entitlement to pension credits he has already earned?

Answer:

No. The IWA-Forest Industry Pension Plan is not "union-controlled" but is governed by an equal number of Trustees appointed by Industry and by the Union. The law requires that each Trustee is a fiduciary and must act exclusively for the benefit of the beneficiaries, putting their own interests completely aside. Trustees must act fairly and impartially and without conflict of interest. Furthermore, the *Pension Benefits Standards Act* of B.C. (Sec. 26 and Sec. 29) provides that, once vested, a pension is an unconditional entitlement and cannot "be less than the pension that the terms of the Plan provide for".

Question:

Can the Union expel a person from membership in the Union and wouldn't that require the employer to discharge that person and therefore cause a break in service in that person's Pension Plan?

Answer:

No. Although the USW Constitution allows for expulsion from membership as a possible penalty for a member found guilty of a "valid charge" under the Constitution, this would not result in discharge from employment. Under the Coast Master Agreement (Article III, Sec. 4) only the refusal to pay dues by the employee would force the employer to discharge the employee.

Question:

Is there any legal protection for persons who are "charged" under the USW Constitution?

Answer:

The *Labour Relations Code* of B.C., particularly Sections 9 and 10, attached, regulates internal union affairs and prohibits unions from acting in a discriminatory matter toward its members in discipline. It also guarantees "*the application of the principles of natural justice*" to members in all disputes relating to discipline by a trade union. Interested employees can contact LabourWatch at labourwatch.com if they have questions about general rights vis-à-vis union discipline through constitution and/or bylaws for failing to observe picket rules, etc.

Question:

Does the IWA-Forest Industry Pension Plan require that all active members of the Plan be USW members in good standing?

Answer:

No. A person expelled from the Union membership could still be an active member of the Plan because the definition of Eligible Employee includes "*a person who is an hourly employee of an Employing Company for whom the Union is the bargaining agent*".

Question:

Can individual employees get verification of the above answers from an independent source?

Answer:

Yes. Judith Brown is the Administrator of the IWA-Forest Industry Pension Plan, has intimate knowledge of the laws and the Plan Text, and is available to answer questions from members at: 604-454-5450.

Please contact me if you have further questions regarding this matter.

Yours very truly,



Thomas J. Getzie
Vice President, Education and
Benefits Administration

LABOUR RELATIONS CODE

Coercion and intimidation prohibited

- 9** A person must not use coercion or intimidation of any kind that could reasonably have the effect of compelling or inducing a person to become or to refrain from becoming or to continue or cease to be a member of a trade union.

Internal union affairs

- 10** (1) Every person has a right to the application of the principles of natural justice in respect of all disputes relating to
- (a) matters in the constitution of the trade union,
 - (b) the person's membership in a trade union, or
 - (c) discipline by a trade union.
- (2) A trade union must not expel, suspend or impose a penalty on a member or refuse membership in the trade union to a person, or impose any penalty or make any special levy on a person as a condition of admission to membership in the trade union or counsel of trade unions
- (a) if in doing so the trade union acts in a discriminatory manner, or
 - (b) because that member or person has refused or failed to participate in activity prohibited by this Code.
- (3) If a trade union charges, levies or prescribes different initiation fees, dues or assessments in respect of a person according to whether the person applies or has applied for membership in the trade union before or after an application for certification by the trade union to represent the person as bargaining agent, the fees, dues or assessments are deemed to be discriminatory for the purpose of subsection (2) (a).