

STEWARD NOTES

Vol. 5 • Issue 1 • February 2012



Social media – technology accelerating discipline in the workplace

Tired of all the crap that goes on at work? The unreasonable supervisor, the favoritism, the increasing workloads? How do you deal with it all? It's as simple as going to your favorite social feed and posting away your frustrations. Right? Wrong!

Facebook, Twitter, Youtube, Blogs, MySpace, FourSquare, Nexopia, LinkedIn, Google+ and other social networking forums have become the new favorite place for your employer to gather evidence that you are breaking their rules. Evidence that you voluntarily, but perhaps unknowingly, provide.

Employers are mining social media for breaches of confidentiality, criticisms of the employer, illegal acts by employees or their friends,

evidence that you were out having fun the day you called in sick, inappropriate use of the employer's computer, time theft, policy breaches, unseemly off-duty conduct, insubordination, harassment and damage to the employer's reputation – all of which can quickly turn into discipline. And arbitrators are accepting that information as valid evidence regardless of how it is obtained.

In the 2007 Ontario case, Chatham-Kent (Municipality) v. National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Local 127, the arbitrator upheld the termination of an employee who created a blog where she posted inappropriate comments about her co-

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Social media *continued*

workers, insubordinate comments about management, and published information and pictures about residents, in violation of a signed confidentiality agreement. The arbitrator found that despite the fact that she was an eight-year employee and immediately apologized to management, the decision to dismiss was proper.

In the 2008 B.C. matter of *EV Logistics v. Retail Wholesale Union, Local 580*, an arbitrator reinstated a 21-year-old employee who was terminated for creating a blog that was so offensive and racist that the police became involved. The arbitrator said there could have been a negative impact on the employer as the employer was named in the blog and discipline was therefore warranted, even though the blog was not about the employer. Only mitigating factors such as the grievor's young age, previously clean record and sincere apology saved him from termination.

Closer to home, an arbitration board in the 2008 hearing *Alberta v. Alberta Union of Provincial Employees (R Grievance)*, upheld the termination of an employee who created a blog that disparaged her co-workers and management (all of whom were identified by pseudonyms). The grievor claimed a right to blog on the basis of freedom of expression, refused to take the blog down, and threatened to continue posting after she was told that she had been terminated.

The matter was judicially reviewed at the Court of Queen's Bench in 2009, and appealed to the Court of Appeal in 2010. The Courts ultimately held the arbitrator failed to consider that the grievor had not been given the opportunity for union representation during the investigation and termination and referred the matter back to arbitration.

Nonetheless it was ultimately decided that the employment relationship was damaged beyond repair and the grievor did not return to work with this employer.

In many cases, employees believe what they are doing online is private, even though the very purpose of social networking and the internet is to share private information with the world. Remember that once something is put on the internet it may as well be posted to the employer's front door. The law in this area is still developing; don't be the test case that decides if your personal information is damaging to the employer's reputation or not.

The simple rule is – if you don't want your employer to see what you've posted, don't post it!

Six things you should know about Facebook

1. By using or accessing Facebook, you agree to their privacy policy. In 2009, Facebook users around the world were shocked when they clicked to accept a new privacy policy and found all their information was suddenly public!

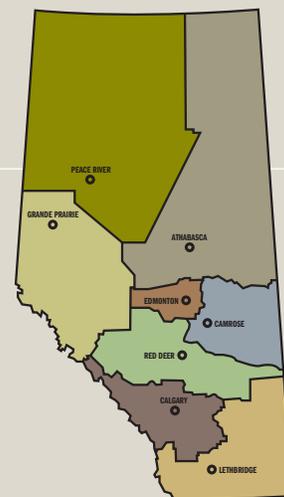
2. Limiting access to your Facebook profile is a two-step process. First, log in, click on your name in the top right or left corner, then on the next page click "Edit Profile." A little drop down menu beside each section of your profile allows you to limit access to "Friends" or "Only Me." Second, click the upside-down triangle in the top right corner and pick "Privacy Settings" from the menu. Again, set your privacy level for each option on the page.
3. You can select a privacy setting for every post you make on Facebook, but remember that you can't control the privacy practices of the friends you share your posts with.
4. When you post stuff on Facebook, you grant Facebook "a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license." In other words, any photo or text you post could be sold off for use by pretty much anyone!
5. You can edit or delete your account with Facebook, but copies of any information you once posted may remain viewable elsewhere to the extent you have shared it with others.
6. If you use an external source to publish information to Facebook (such as a mobile application or a Connect site), it can alter your privacy settings.

HAVE QUESTIONS? CONTACT YOUR MSO

1-800-232-7284, then dial

Edmonton: 1	Red Deer: 6
Peace River: 2	Calgary: 7
Camrose: 4	Lethbridge: 8
Athabasca: 5	Grande Prairie: 9

Have your local/chapter number ready so your call can be directed quickly.



Medical Documentation – Every case is different

One of the questions that comes to Union Stewards regularly is how much medical documentation an employee should provide their employer. Because there are many different types of requests that involve medical documentation, it is important for Stewards to be aware that **every case varies significantly and so do the different types and the amount of medical documentation each case requires.**

The employer cannot force an employee to produce medical information. However, the employer may withhold the medical benefit being sought if no supporting evidence is produced.

The amount of medical information required by an employer is a more complicated question and depends on the benefit being requested and the collective agreement of the worksite. Stewards need to have a solid understanding of their collective agreement and the types of benefits available in order to give members good advice on this issue. If you are unsure, always check with your MSO (Membership Services Officer).

There are no general rules about the amount of medical information an employer needs. However, enough information will be required to show the benefit sought is warranted.

Consider these examples:

If an employee wants paid time off to attend a medical appointment, the employer may require proof of the appointment, if your collective agreement says it's required. The first thing the employee (and Steward) should do is read the agreement to see if it sets out when and what information can be asked for. Also, check to see if the employer is asking for the right information at the right time.

General illness requests – in other words, days off to recover – may require more information. A note signed by a doctor saying the employee is unable to work for a specified period due to illness is an example.



Applications for short- and long-term disability will involve an insurance company and proof of disability. At this stage, the MSO should be brought into the picture. But the Steward, as the first line of contact at the worksite, should also have some knowledge of the situation. Short- and long-term disability applications involve more detailed medical information that may include confirmation of an illness or injury, a declaration that the person is unable to work, and an estimate of the return-to-work date. Depending on the case, test results and treatment plans may be necessary and a medical specialist may be involved.

Medical accommodations for employees remaining at work or returning from illness leave are often the most complicated, simply because they involve employees with a disability that interferes with their ability to perform their regular duties, but are still capable of working. There must be discussions with the employer about what the employee's limitations are, what the accommodation needs to be, what position the employee will be placed in, and the impact on other employees. These discussions must involve the union, the employee and the employer. The amount

and type of medical documentation will vary in every situation, and the accommodation process may be long and complicated. The involvement of your MSO in this process is very crucial and must begin at the early stages. If you are asked about medical accommodations, call your MSO immediately. When an accommodation is reached, the Steward and the MSO should work together to educate other staff affected by the accommodation to ensure a smooth transition for all parties.

In all of these situations, great caution is needed, as requirements will not be set in stone. The Steward's role is to communicate, be knowledgeable and to maintain confidentiality.

The Steward is the employees' advocate at the worksite. You are often the first line of contact when your coworkers have questions. You may also be given knowledge that must be kept confidential. Your professionalism in these situations is very important, and your knowledge and experience, like your familiarity with the collective agreement and your working relationship with your MSO, are invaluable resources to all employees at your worksite.

Steward Notes

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STEWARDS TRAINING



Upcoming courses and training

For more information or to register for a course, please contact your regional office.

Calgary - 1-800-232-7284, press 7

Introduction to Your Union	Jan 31
Union Steward Level 1	Feb 1-2
OH&S Advocate Level 1	Feb 8-9
Contract Interpretation	Feb 14
Respect in the Workplace	Feb 16
Union Steward Level 2	Feb 28-29
OH&S Advocate Level 2	Mar 6-7
Introduction to Your Union	Mar 20
Respect in the Workplace	Apr 4
Union Steward Level 2	Apr 11-12
OH&S Advocate Level 1	Apr 24-25
Contract Interpretation	May 8
OH&S Advocate Level 2	May 15-16
Introduction to Your Union	May 22
Union Steward Level 1	May 23-24
Union Officer Training	May 29-30

Edmonton - 1-800-232-7284, press 1

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Introduction to Your Union	Feb 14
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Respect in the Workplace	Mar 8
Union Steward Level 2	Mar 14-15
OH&S Advocate Level 2	Mar 27-28
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Union Steward Level 1	Apr 11-12
OH&S Advocate Level 1	May 9-10
Contract Interpretation	May 17

Steward Notes is published by the Alberta Union of Provincial Employees to provide information of technical interest to AUPE Union Stewards, worksite contacts and other members. Topics deal with training for union activists, worksite issues, disputes and arbitrations, health and safety, trends in labour law, bargaining and related material. For more information, contact the editor.

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The role of the Union Steward is among the most important in the labour movement. Stewards are the front line of defence for union members in the workplace.

The goal of Steward Notes is to help today's AUPE union stewards do their jobs effectively. To help us, we encourage readers to submit story ideas that deserve exposure among all AUPE stewards.

Story suggestions for Steward Notes may be submitted for consideration to Communications Staff Writer Tyler Bedford by e-mail at t.bedford@aupe.org or by mail. Please include names and contact information for yourself and potential story sources.

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