

THE CUPE CONNECTION

Official Publication of the Canadian Union of Public Employees, Local 38
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The Day Before and After

Every year we get a number of phone calls regarding the rules around Sickness and Accident (S&A) time the day before and day after a statutory holiday. The language in Article 203.03 of the agreement is rooted in the employment legislation and is a well-known provision to deter people from “stretching” a holiday into a two to three day absence from work. Given this rationale, the intent of the clause is to ensure that, should an employee be ill the day prior or day after a statutory holiday, that this illness is legitimate.

The language of the agreement says that if the individual is absent they will not receive the stat holiday pay “unless he has prior permission, or produces proof of illness....” This wording was at the center of a recent arbitration case.



In this case, the employee was sent home by their supervisor since they were not looking well. Under direction of the supervisor, the employee went home on the Tuesday, and called in Wednesday and Thursday to indicate to the supervisor that they were still ill. Friday was the Good Friday holiday. The employee returned to work the following week.

The employee understood it that they had “prior permission” to be absent from work, as they were directed to go home by the supervisor, and thus did not require a doctor’s note. Subsequently, the City argued that they did not have to pay the Stat holiday pay since the employee did not provide a note.

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Young Albertans at Risk

Most Albertans will hold a job at some point during their teen years. Jobs provide teens with money, a sense of accomplishment and useful vocational skills. Yet teens employed in Alberta also face widespread illegality and injury on the job. Research suggests that:

- up to 70% of adolescents (12–14) may be employed in illegal occupations
- teens (12–17) routinely face wage theft and are employed for more hours than they are legally allowed to work
- more than half of all employed teens experience work-related injuries each year.

This widespread injury and illegality in teen employment reflects that Alberta does not effectively enforce the employment laws that are supposed to protect teen workers, including the Employment Standards Code and the Occupational Health and Safety Act. Employers face almost no chance of being caught violating these laws. And, if they are caught, they are unlikely to be penalized for noncompliance.

There are many factors that contribute to the government’s historical unwillingness to enforce the laws it has passed. Teen employment is often thought of as a character-building experience with wage theft and injury — endemic features of employment in Alberta — being framed as educational experiences. The close relationship between the former Conservative government and Alberta’s business community also created reluctance on the part of legislators to sanction meaningful enforcement of employment laws.

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Scholarships Awarded

For the last ten years CUPE Local 38 has awarded two scholarships to either members or children of members in good standing who are enrolled in a post-secondary institution. The applicants must write a 1,000 word essay on a chosen theme.



We had a total of sixteen (16) submissions and the Local's Public Relations and Education Committee chose the two winning essays. We are proud to announce the names of this year's scholarship recipients; Haley Brett and Jane Rea.

The Committee would like to thank all of those who submitted essays and wish them the best of luck in their studies.

Young Albertans at Risk

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As Alberta revisits the content and administration of its employment laws, the following changes could significantly improve the working lives of Alberta teens:

1. Require employers to have permits for workers under the age of 18. Permitting creates an opportunity to educate employers about their obligations as well as provides data to drive policy decisions and enforcement activity.
2. Increase the awareness of teens about both their workplace rights and how to use those via curricular change in Alberta schools.
3. Increase the monitoring of teen employment by hiring additional workplace inspectors and tasking them with random and targeted inspections of workplaces employing teens.
4. Increase the reputational and financial costs of employer noncompliance with teen employment laws by ticketing noncompliant employers, refusing them permits to hire teens in the future, and publicizing their names.

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The Day Before and After

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In the arbitration, the City took the position that the Supervisor (Management Exempt) could not provide prior permission since the Supervisor is not qualified to make a medical determination. The arbitrator found this argument “confusing and not persuasive.” In fact, the arbitrator took issue with the City’s position to a point wherein he indicated that the employee had “no history of abusing leave, is well known by his supervisor and it did not take a physician to recognize that the grievor was ill and should go home. It is my view that in normal circumstances such convincing evidence should be accepted as objective evidence proving illness.”

Ultimately, this case shows that the City is looking to save every nickel and dime, oft times at the expense of our members. The City has even resorted to a confusingly contradictory position that Manager’s can determine when to label a sick day as suspicious, but cannot give prior permission if someone is visibly ill, defies common sense. Someday, perhaps, we may reach a point in time when the City approaches their employees from a position of trust rather than make the automatic assumption that everyone is trying to abuse the system.

**Come join the CUPE 38
Social Committee
at the Annual
Calgary Hitmen
Teddy Bear Toss!**

December 6, 2015 at 4:00 pm

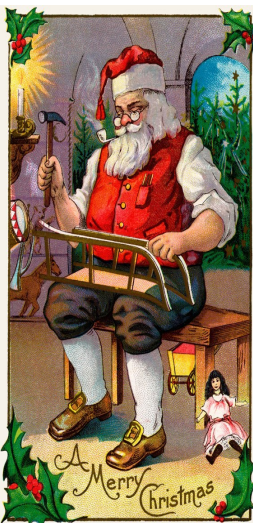


Tickets on sale from
November 9–27, 2015

Tickets are \$5.00 per person /
Maximum 4 tickets per member

See www.cupe38.org for tickets
sellers in your area

***Children’s Christmas Party
Application Enclosed***



*The application for the 2015
Children’s Christmas Party to be
held on Saturday, December 5th is
inserted into this issue. If you are a
card carrying member of CUPE
Local 38 and have a child/children
born in 2005 or later, please com-
plete and remit the form to Mail
Code: 132 no later than November
13th, 2015.*

*If you require a union card or fur-
ther information, please contact the
union office at 403-233-2700*

***THOUGHT FOR THE
MONTH***



**The person who says it
cannot be done should
not interrupt the person
who is doing it.**

~ Chinese Proverb

REGULAR MEETING



Tuesday, October 27, 2015

7:00 p.m.

Union Office

1439—9th Avenue South East

BUSINESS: Regular

Elections:

- 1. One (1) member to Social Committee.**
- 2. Six (6) eligible Delegates to the AFL/CLC Weeklong Winter School - January 17-22, 2016 in Jasper.**