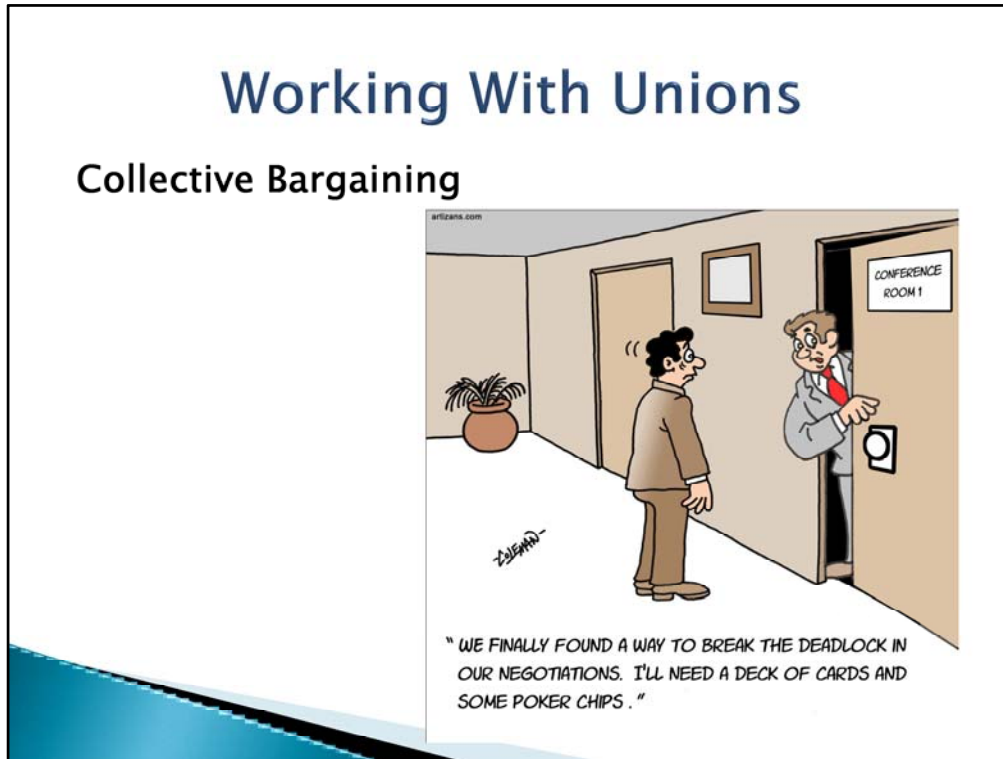


Working With Unions

Collective Bargaining



Notes for PBC Workshop for Account Managers - Collective bargaining - The Law

Unlike England, labour law in Canada and BC make a greater distinction between unionized workers, and non-union workers and managers. Generally the latter are covered by Common law and Provincial Employment Standards Acts, or separate Employment Standards provisions in the Canada Labour Code (for workers who fall within the federal Jurisdiction),

While Employment Standards legislation, and individual employment contracts deal with issues similar to those in Collective agreements - like statutory holidays, annual vacations, working hours, unjust dismissals, Pay/ minimum wages, and severance pay, they are only enforceable under common law, and provide no rights to bargain collectively or individually for that matter.

While an Employers rights are not totally unfettered in a non-union setting, they have no obligation to bargain, and may legally refuse to bargain.

Meanwhile, Employers in a unionized setting (under either the BC labour Code, or The Canada Labour Code for federally regulated employers such as a bank, telecommunications company or interprovincial transportation company) are legally required to Bargain with the union representing their employees, and are restricted from bargaining with individual union members.

Such employers must also bargain in good faith, and refrain from committing unfair labour practices. While this does not prevent an employer from hard bargaining, or seeking concessions, it does restrict employers from refusing to discuss union bargaining proposals, or from bargaining to impasse on issues like union certification, or who should be in or out of the bargaining unit. Use some examples

Collective Bargaining - Process and Reality - Aside from pre-bargaining work of preparing the proposals and developing strategies and tactics (which often includes surveying members on issues, Collective Bargaining usually involves three distinct stages.

The first Stage involves exchanging and explaining proposals. Either or both parties may bring specialist (like Job evaluation officers or Reps) to the table to facilitate this process.

The second stage involves narrowing the issues on the table and identifying the critical issues. It is common during this stage for the Parties to separate the non-monetary and monetary issues, dealing with the non-monetary ones first. If there hasn't been agreement on the costing formulas for the monetary proposals during the first stage, it will be done here. While they may required help of a mediator during stage two, mediation more commonly occurs during the third stage.

The Third stage of bargaining is where the final settlement will be crafted. In mature relationships, where there are positive labour relations, the negotiators know each other well, and the bargaining climate is positive, this may happen very quickly, and without mediation or the threat of a strike or lock-out. Occasionally the labour management relationship and/or issues of the day are such that unless the negotiators are very skilled a strike or Lock-up may not be avoidable. Whether it is a short or long one depends on a variety of factors. Although a settlement may be preceded preceded by a strike and or Lock-out vote (which must be conducted according to rules set out in the labour code) that does not mean there will be one. In fact, strikes and Lockouts are not as common as most people think.

Contrary to popular belief, in BC - well over 90% of all negotiations of union contracts result in settlements without a strike or Lock-out taking place. And many BC employers and union locals have never had a strike or lockout over a collective agreement. Excluding political protests, there has not been a long really a large scale dispute since the one in forestry back in 1986 involving the IWA (now Steel Workers). That dispute involved over 10,000 workers at its peak and lasted 6 months. There was also a CUPE dispute around the same time involving thousands of workers in the Okanogan and Vancouver island. Both disputes were over contracting out.

Although BC has a reputation of being a province with a high degree of union militancy, and where collective Bargaining disputes are common, BC has consistently had fewer and shorter labour disputes than other provinces including Quebec or Ontario. The differences are statistically even greater when you factor in Union density and factor out political protest. While this is due to a number of factors, I believe the key factor is the high degree of skill of BC's union and employer negotiators, and mediators. With the high degree of turnover among negotiators and mediators taking place now, it is hard to say if this will be the case in the future.