

In This Issue:

- Violence in the Workplace Legislation
- Some Thoughts on Interest Arbitration
- The Departing Employee
- Information on some free resources on important issues
- A quick guide to what **JM Box Consulting Services** can offer you



Inside this issue:

- Dealing With the Departing Employee **P.3**
- Downloadable Diamonds **P.3**
- An Overview of Our Services **P.4**
- Kind Words From Our Clients **P.4**

VIOLENCE IN THE WORKPLACE LEGISLATION— IS YOUR ORGANIZATION READY?

On June 15, 2010, the changes to Ontario's *Occupational Health and Safety Act* will come into effect. They call for employers to have in place policies and procedures in place dealing with the identification of potential for violence as well as how each organization will deal with violence and harassment within their work environment. More specifically, Bill, 168, the legislation changing the *Occupational Health and Safety Act*, calls for the following:

- Preparing, posting (where there are five or more employees), providing employee instruction on, and implementing Policies on Violence in the Workplace (including domestic violence provisions) and Harassment in the Workplace.
- Conducting a risk assessment of the workplace, including circumstances common to similar workplaces and specific to your workplace.
- Designating a Workplace Coordinator for violence and harassment in the workplace, and proscribe the duties of the Workplace Coordinator.

If you have not already instituted changes within your workplace, now is the time to start. **JM Box Consulting Services** has already begun to provide clients with policies, procedures and training in this area, and would be pleased to discuss what it can do for you in these areas.



WHY INTEREST ARBITRATION ISN'T ALWAYS OF INTEREST

The following article by John Box appeared on the *Financial Post* website on April 15, 2010, and is reproduced here with permission.

Many are familiar with the concept of interest arbitration, particularly when it comes to essential services, such as police, fire, emergency medical services and hospitals.

The concept of providing a binding dispute resolution system where employees do not have the legal right to strike makes sense on a theoretical level. What is troubling about interest arbitration as it is currently being practiced in many jurisdictions is that it does not contain the element of risk that makes for successful dispute

resolution.

As it stands today, legislated interest arbitration often results in awards that satisfy either only one or neither of the parties. It often is based on precedent from other settlements within the sector, ignoring the history behind them and the concept of

(Interest Arbitration, continued on page 2)



“So how can interest arbitration be made more acceptable to both parties? By equalizing the risk factor.”



(Interest Arbitration, continued from Page 1)

‘ability to pay’.

This kind of result has turned interest arbitration into an uneven playing field. Bargaining units, knowing this long-standing trend, bargain from a position of greater strength, know that the odds are in their favour if they don’t get what they want in negotiations.

Employers, also familiar with the potential outcome, often decide to take a tough stance for public consumption, and then blame the arbitrator for an unrealistic award. This combination of dual fatalism does not make for constructive collective bargaining.

Recently, there have been a number of strike situations where, after the strike has gone on longer than expected, binding interest arbitration was raised by one party or the other. In 2008, York University and CUPE Local 3903 were involved in a bitter strike.

Eventually, the University called for binding interest arbitration. Local 3903’s response was that the University’s call was, according to their website, “...an underhanded way of deceiving the public and refusing to negotiate with us. Binding arbitration is not a viable option as it does not resolve the issues.” In 2009, it was CUPE’s turn to call for binding interest arbitration, as a way of resolving the longest strike in Windsor history, involving the City of Windsor and its inside and outside CUPE workers. At that time, Ontario CUPE leader Sid Ryan stated that “In extremely rare cases, perhaps one in 100, the right thing to do is for the deadlocked parties to put their respective bargaining positions before an arbitrator.” The City of Windsor did not agree, and the strike went on for a total of 101 days.

What do these examples tell us about the current state of interest arbitration? That it is currently perceived by negotiating parties as a format that favours one party over the other only to be seen in a positive light when the potential benefits of going to arbitration far out way the potential risk of going to arbitration.

So how can interest arbitration be made more acceptable to both parties? By equalizing the risk factor. This can be accomplished through the adoption of the concept of final offer arbitration. This concept, used for years in major league baseball, and recently adopted as part of the Framework of Fairness by Magna and the CAW as a way of avoiding strikes and lockouts, takes away the need for an interest arbitrator to craft an award, but rather mandates that the arbitrator chose either the proposal of management or the bargaining union.

This can be done on a complete package basis or on an item by item basis. This forces the negotiating parties to bargain far more realistically and bring to the table something more acceptable. The risk is that if your proposal is not deemed to be the more reasonable one by the arbitrator, you will lose.

This is not to say that final offer interest arbitration will make arbitration more acceptable to all parties. There still needs to be legislative review regarding guidelines, such as the ability to pay. The switch to final offer arbitration would at least put more responsibility for successful collective bargaining on the parties themselves, without the benefit or fear of an interest arbitration system that does not serve the public’s interest.



DEALING WITH THE DEPARTING EMPLOYEE

Your day, which hasn't been going well, just got worse.

Your best employee, your protégé, the person that you have been mentoring for the past five years as your replacement for when you finally get promoted, has just left your office after resigning. She said that while she loved being a part of this organization, she feels that it's in the best interests of her career to move on to another organization, where she can get more exposure to operational aspects not available to her here. Your anger is only offset by the fact that you have been toying with doing the exact same thing, for exactly the same reasons. Now what?

Your first consideration should be how you are going to publicly react to this new development. While you would like to put all of her personal belongs on the sidewalk while she is at lunch, and then tell her to forget the three weeks' notice she gave you because she is leaving today, take a break and think about it. What message would that send to your staff, and what would it say about your organization? Perhaps the smart move would be to consider why she is leaving, and deal with that issue. For many employees these days, the priority is career over loyalty. This, as the experts have pointed out, is not the result of a lack of work ethics, but rather a reflection of the new reality. Many organizations cannot or will not provide long term career security, so it is incumbent on the individual to look out for herself. If an organization recognizes this, it can deal with it. As the result of the age of staff, previous cutbacks, and all the other challenges that have been faced, organizations often find themselves infected with promotional stagnation, whereby employees are stuck in their current positions for years, and have stopped learning anything new. The change in structure, where structural levels have been eliminated, may have also resulted in the loss of intermediate stages for an employee's progression. That means that either the employee has to wait longer to get the 'big' promotion, or gets promoted without the mid-level experience that the job really requires. In many cases, this lack of exposure is compensated for by the organization's bringing in someone from outside. And so your employee sees leaving as the best career move.

What can an employer do about this kind of scenario? Start by discussing with the employee her career objectives, and seeing how they can best be accommodated within the organization. In some cases, these objectives can be met through lateral moves, permanent or temporary, as well as special assignments. Consideration could even be given to allowing employees leaves of absence to work in other organizations on a short term basis, such as a parental leave, just to allow them to develop (and bring back) new skills. Employee exchanges could be arranged with appropriate organizations, so that relevant experience could be gained. An examination of how the organization deals with the aspirations of its current employees can go a long way to reducing the temptation for them to leave.

Back to your departing employee. Your cooler head has prevailed, and you have been able to accept her argument that she is doing the right thing for her. When you see her after lunch, you wish her well, and say that you will always be available to her as a mentor. Perhaps, someday, she would like to return to your organization, and you will do whatever you can to assist her in doing that. This last comment surprises her, and she enthusiastically agrees that she would like to do that. Your positive response becomes the topic of conversation throughout the organization, and you realize that you have just embarked on a new and more positive direction with regards to staff development and retention.



“While you would like to put all of her personal belongs on the sidewalk...”

Downloadable Diamonds

The purpose of this section of our newsletter is to alert readers to some resources available from the internet that they might not be aware of.

The Human Resources Professionals Association of Ontario is providing content for a Human Resources section on the Financial Post's website. You can access some interesting information related to Human Resources issues at

www.financialpost.com/executive/hr



519-903-5634

info@
jmboxconsulting.com

Check out our website at
www.jmboxconsulting.com



An Overview of Our Services

JM Box Consulting Services provides innovative, cost-effective Human Resources support and services that assist clients in dealing with their issues and challenges with confidence. Together, we will resolve issues one at a time, either through consultation, training or working together on necessary projects. These services are designed to be of greatest service to small to medium size organizations, including the municipal, health care, charitable, not-for-profit and small business sectors. Based in Windsor, Ontario, **JM Box Consulting Services** can meet the needs of clients throughout the Province.

JM Box Consulting Services takes the approach of meeting client expectations by identifying the gap between the desired goals and current realities, to discover the best ways of eliminating that gap- not just for the present, but for the future as well.

Services

E-Consulting- providing clients with quick, cost-effective access to Human Resources expertise through the use of e-mail and telephone communications, without the expense of or supplemental to internal Human Resources staff.

Project Management Services- to provide project management and expertise on matters such as job evaluation/pay equity, wage/salary administration systems, policy and procedure review and development, and organization redesign and restructuring.

Training Services- to address client needs that are best addressed through training specific to the needs of the organization, such as Violence in the Workplace, Working in a Respectful Workplace, and Organizational Community Presence.

KIND WORDS FROM OUR CLIENTS

"John's many years of experience in the municipal environment is evident as he brings to the table expertise and knowledge of a variety of Human Resource challenges as they relate to public sector employers. John has provided us with timely, knowledgeable responses to our needs for great value. He is a pleasure to work with."

Carol Nussey, Human Resources Officer
Corporation of the Town of Lakeshore

"As a small employer, The Alzheimer Society Windsor-Essex County has benefited from **JM Box Consulting Services** ability to provide a cost effective way of supplementing our in-house Human Resources expertise. The E-consulting format, which gives us the ability to get quick answers, suggestions, and guidance on HR topics, has worked well for us."

Sally Bennett Politidis
CEO, The Alzheimer Society Windsor-Essex County