

UNION MATTERS

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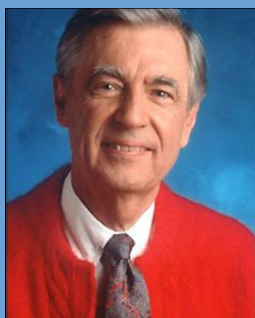
SEPTEMBER/OCTOBER 2016

*My local works
because I participate*

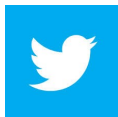
"Part of the problem with the word 'disabilities' is that it immediately suggests an inability to see or hear or walk or do other things that many of us take for granted. But what of people who can't feel?

Or talk about their feelings? Or manage their feelings in constructive ways? What of people who aren't able to form close and strong relationships? And people who cannot find fulfillment in their lives, or those who have lost hope, who live in disappointment and bitterness and find in life no joy, no love? These, it seems to me, are the real disabilities."

~ Fred Rogers ~



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President's Podium

Accommodating Disabilities in the Workplace

For each of us finding and maintaining a healthy work/life balance is a fundamental necessity to achieving wellness. For those individuals challenged by mental or physical disabilities the work/life balance is critical. The impact of stress on all workers is a complex issue; however, stress will exacerbate both the functionality of individuals already struggling with a disability. Statistics Canada states that workers who define their work days to be excessively stressful are three times more likely to experience a major depressive episode, in comparison to those workers who define their work days to have lower levels of general stress.

If you have a disability you have the legal right to request certain accommodations in your worksite and within your job description that will ensure your continued employment. While you are under no obligation to disclose your diagnosis to management, you must provide documentation from your primary care physician on what accommodations you may require. In most cases, an accommodation is determined based on what has been identified as an individual worker's limitations and/or restrictions.

It is critical that CUPE Local 1169 members requesting an accommodation work with their union representatives because they have the experience and training in requesting a workplace accommodation.

Privacy laws and human rights legislation can be a frustrating barrier to effective accommodations; as a result, management may be reluctant or unable to obtain supporting documentation for workers who may display outward signs of either a mental or physical disability.

Duty to accommodate

The law, while supportive, of the

duty to accommodate is not unlimited. Management is only legally bound to accommodate "up to undue hardship". This means that if management has demonstrated that they are unable to identify a "reasonable" accommodation for a worker and that it is impossible to do more, management can then be excused from the "duty to accommodate". Additionally, if there are bona fide occupational requirements linked to a worker's occupation the worker must meet those requirements and management cannot be held to accommodate a disability.

Duty to disclose

The Supreme Court of Canada is very clear that the worker must be an active participant in the accommodation process by sharing their own disabilities that impact on their ability to perform the requirements of their position. This means that the workers are held accountable in communicating to management information on any disabilities that will impact either their judgement or ability to properly perform the requirements of their position.

Duty to inquire

Management will be held accountable if it can be proven that they willfully turned a blind eye to the performance of a worker who exhibits behaviours that could be symptomatic of a disability that may be affecting their health.

Duty to prevent harm

Occupational health and safety legislation throughout Canada imposes legal obligations on management to provide safe working conditions for their staff. This means that management can be legally held



to take every reasonable precaution to protect their workers.

With all of the information and jurisprudence available to management the responsibility lies with them to take practical steps to ensure they have dealt justly and promptly with a worker suspected of concealing a disability.

As a worker you should expect management to make available a confidential reporting process to those workers who want to discreetly disclose medical information. Furthermore, management needs to ensure that workers have access to and are fully informed on how to apply for benefits, disability insurance, and employee assistance and wellness programs.

Management should never overlook their responsibility to continuously assess and follow up on unusual behaviours exhibited by workers as the risk in willfully ignoring those behaviours can be catastrophic in terms of both financial accountability and the potential of physical and emotional harm to co-workers. When a worker is displaying behaviours that create a negative environment for themselves and other workers it is management that has the legal obligation to initiate reasonable inquiries in order to demonstrate an attempt to make

an accommodation.

Our current management team is not effectively trained for taking action in swiftly dealing with any negative implications from a suspected disability issue in their worksites, especially in dealing with mental health issues. Management has no plan for a reasonable or prompt isolation or removal of a worker who may be posing a real risk to themselves or to co-workers.

Our workers have not been effectively trained in identifying and assisting co-workers who have a disability, and there is no information readily available for workers inquiring about workplace accommodation.

If you as a worker are in need of pursuing an accommodation contact your union office as soon as possible. If you have or are approaching management to discuss a disability ensure that all your communications are documented. Documentation is supporting evidence that an accommodation has been requested and that you are making every reasonable effort to follow the process.

*In solidarity,
Rh'ena Oake, President CUPE Local 1169
Calgary and Cochrane Public Library Workers*

Contract Corner: know your rights under the collective agreement



Article 8.02 Personal Harassment

(a) The Board agrees that no employee shall be subjected to personal harassment. Personal harassment shall be defined as repeated, intentional, offensive comments and/or actions deliberately designed to demean and belittle an individual and/or to cause personal humiliation. This will not prevent Management from disciplining or terminating for cause.

could lead to a mediation meeting involving the member, the union, and HR. The goal of this meeting is to resolve the situation, and for all those involved to agree on a solution. This can be a difficult process for the accuser but it is the only way to ensure that the harassment is brought into the open and dealt with. Report **ALL** such incidents to your union.

To access and/or download the Collective Bargaining Agreement go to www.cupe1169.ca.

*Respectfully submitted by,
Terrill Budd, Chief Steward CUPE Local 1169*

What does this mean?

We should **never** be subjected to harassment from our managers, our supervisors or our co-workers. All reports of harassment are taken seriously and will be investigated by the union and Human Resources. This

Date and time of General Membership meetings are posted at each worksite and at www.cupe1169.ca

CUPE LOCAL 1169 AFFILIATES



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For comments regarding the newsletter, contact the union office

